



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 25 August 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

A handwritten signature in black ink, appearing to read 'Paul Hickey', with a long horizontal line extending from the end of the signature.

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

The National Anthem will be performed by Nick Wheeler.

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 Jeff Johnson 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 28 July 2011 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 28 July 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 - August 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	Determination Pending
2010/278	6/11/2009	Ardill Payne & Partners	To Establish a dwelling/house site – No. 263 Sneebys 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 - August 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	Being Assessed
2010/892	05/10/2010	Ardill Payne & Partners	Residential subdivision comprising 73 lots and 2 residual lots, construction of roads and associated infrastructure works - Unara Parkway & Pacific Highway, Cumbalum	Awaiting Additional Information
2010/1056	14/12/2010	D Loosemore & N McGarry, C/-sj Connolly 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	Awaiting Additional Information
2011/48	04/02/2011	J & H Hughes	Extension to Existing Industrial Building, No. 3/176-178 Southern Cross Drive, Ballina	Awaiting Additional Information
2011/124T	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	Awaiting Owners Consent
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,	Determination Pending

8.1 Development Applications - Work in Progress - August 2011

DA No.	Date Rec'd	Applicant	Proposal	Status
			Ballina	
2011/150	06/04/2011	GeoLink	2 x Lot Boundary Adjustment Subdivision, Nos. 42 & 44 Owen Street, Ballina	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 Adjustment Subdivision - No. 9 Martin Street, Ballina	Determination Pending
2011/188	28/04/2011	P & A Isaac	Two Lot Torrens Title Subdivision, No. 110 North Creek Road, Lennox Head	Being Assessed
2011/210	13/05/2011	Ardill Payne & Partners	Boundary Adjustment Subdivision between 2 lots to create 2 modified lots - Albert Sheather Lane, Cumbalum	Determination Pending
2011/231	01/06/2011	Macphail & Sproul Architects	Change of Use from Art Gallery/Studio to Deli, associated works and creation of a Right of Carriageway to the Harvest Café driveway, No. 22 Old Pacific Highway, Newrybar.	Awaiting 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	Awaiting Additional Information
2011/234	02/06/2011	Ballina Shire Council C/-	Two Lot Boundary	Determination Pending

8.1 Development Applications - Work in Progress - August 2011

DA No.	Date Rec'd	Applicant	Proposal	Status
		Landpartners Ltd	Adjustment Subdivision to create 1 x 1.58ha and 1 x 9.5ha allotments, Skennars Head Road, Lennox Head	
2011/260	17/06/2011	Chris Abbott Surveying	To Undertake a Boundary Adjustment Subdivision between Lot 1 and Common Property - Unit No.1 & Common Property in No. 334-336 River Street, Ballina	Awaiting Additional Information
2011/264	20/06/2011	Ardill Payne & Partners	To Construct the NSW Rural Fire Services Depot/Shed with ancillary car parking and building identification signage - Ross Lane, Lennox Head	Awaiting Additional Information
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	Referred to Government Departments
2011/311	19/07/2011	Aspen Communities Property Fund	To erect 1 x Pole Sign - No. 12 Corks Lane, Ballina	Awaiting Additional Information
2011/312	19/07/2011	W, S, M & A Sullivan	To erect a shed - No. 4 Ronan Place, West Ballina	Determination Pending
2011/314	20/07/2011	Ardill Payne & Partners	To Undertake Alterations & Additions to the Existing Airport Terminal Building - Southern Cross Drive, Ballina	Being Assessed
2011/320	22/07/2011	Ballina Shire Council c/- LandPartners Ltd	To change the method of extraction of an existing Extractive	On Exhibition

8.1 Development Applications - Work in Progress - August 2011

DA No.	Date Rec'd	Applicant	Proposal	Status
			Industry "Ballina Airport Sandpit" from dry (excavation) to wet (dredging) and to change the end use of the pit from a landfill for dry/inert waste to the retention as a flooded pit as part of the rehabilitation works - (Ballina Airport Sandpit) Southern Cross Drive, Ballina	
2011/321	22/07/2011	Chris Longergan - Town Planner	To construct toilet amenities and erect an awning to an existing shed and use part of existing shed for recreational No. 440 South Ballina Beach Road, South Ballinapurposes -	Referred to Government Departments
2011/323	26/07/2011	Donnelly & Hughes Pty Ltd	To Undertake Extensions/Alterations to a Commercial Building - No. 23 Commercial Road, Alstonville	Being Assessed

Regional Development (Determined by Joint Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
NIL				

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	Minister for Planning & Infrastructure have approved modification 8/8/2011. (received at Council 11/8/11) The Minister's Approval is being reviewed.
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 August 2011.

Attachment(s)

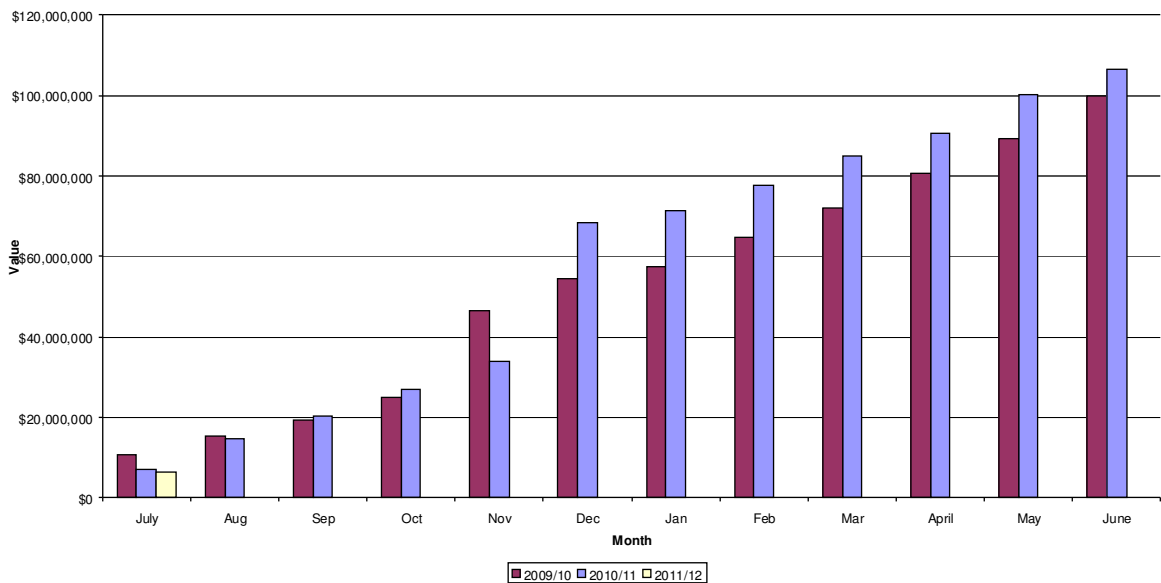
Nil

8.2 Development Consent Statistics - July 2011

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

Number of Applications	Value of Work
31 Other Building Related	\$ 1,257,000
16 Dwelling/Duplexes/Residential Flat Buildings	\$ 5,165,000
2 General Developments	\$ 0
Total Value	\$ 6,422,000

The following chart details the cumulative consent figures for 2011/12 as compared to 2010/11 and 2009/10.



RECOMMENDATION

That Council notes the contents of the report on development consent statistics for 1 July 2011 to 31 July 2011.

Attachment(s)

Nil

8.3 Voluntary 'Scores on Doors' Trial

File Reference	NSW Food Regulation Partnership
CSP Linkage	Transparent and accountable governance
Delivery Program	Environmental & Public Health
Objective	To inform Council about the state wide voluntary 'Scores on Doors' program and to have Council decide on its involvement in a State-wide 12 month trial.

Background

A scheme has been developed by the NSW Food Authority in conjunction with local councils to publicly rate retail food business compliance with food safety standards.

A six-month pilot of a voluntary scheme known as 'Scores on Doors' was carried out last year by 20 local councils and 266 retail food businesses throughout NSW. An evaluation of the pilot resulted in the recommendation that a state-wide trial of the 'Scores on Doors' scheme be undertaken to allow further assessment and participation. Councils are being encouraged to sign up for participation in the trial, which commenced on 1 August 2011 and will continue for a period of 12 months.

Key Issues

- Benefits and costs

Information

Council already undertakes mandatory food safety inspections for compliance under the Food Act. The scheme would allow the level of compliance of participating businesses to be rated and displayed by the proprietor.

It is believed that participation in a 'Scores on Doors' program would

- a) help in improving overall food safety practices throughout the retail food sector
- b) help raise the level of awareness of food safety practices within food businesses and
- c) to assist consumers to make informed decisions about where they dine.

The scheme may also act as a counterbalance to enforcement actions such as the 'Name and Shame' register which details food businesses that have been fined for not complying with the food standards.

Programs that rate food businesses according to their level of compliance with food legislation have been introduced in other countries and appear to have a positive effect on food safety.

The NSW trial has been undertaken on a voluntary basis for businesses and councils. For food businesses to be able to take part their council must also participate.

Councils would utilise a standard food premises assessment report that is already in use by local councils. The standardised report has been modified for this scheme so that levels of compliance can be rated against the food safety standards. The report highlights critical food handling practices (such as adequate hand washing, temperature control and pest control) and rates these accordingly.

The NSW Food Authority has published a number of Media Releases in relation to the trial program and details are available from their website www.foodauthority.nsw.gov.au . An example summarising the Scheme is attached. The Authority will continue to promote the scheme during the trial 12-month period.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Council participation in the trial may help promote awareness of food safety within food businesses. As awareness about the program increases it may assist consumers make informed choices about where they dine. Industry competition may push up food safety standards as food businesses gain recognition for their level of compliance.
- **Economic**
Food businesses cannot participate unless the Council for that area agrees to participate in the program. There would be some additional cost to Councils who wish to participate depending on how actively they choose to engage. Costs would be more significant for Council if it actively promotes the program.

Legal / Resource / Financial Implications

NSW Food Authority's legal branch has prepared the standard agreement to be signed by food business proprietors.

Resources/Financial – The resources required will depend on Council's level of participation. NSW Food Authority is expected to meet some costs and it is anticipated that basic participation would have minimal financial burden. Should Council support full promotion then costs will be more significant. Council does not have the funding allocated to engage in full promotion. This is estimated to cost in the order of \$10,000.

Consultation

The NSW Food Authority has consulted with (a) local councils through the State Food Liaison Group, Northern Rivers Regional Food Liaison Group (b) the retail food industry through the Food Regulation Forum and (c) the community during forums, since the inception of the scheme about two years ago. We chose not to participate in the earlier pilot. A number of modifications have been made to the program following input from these groups, and have been incorporated into the state-wide 12-month trial.

Food Authority representatives have held briefing sessions on the 'Scores on Doors' program for local councils interested in participating in the trial. Council's environmental health staff attended the session scheduled earlier this month for the Northern Rivers group of councils, held in Ballina. At this session the finer points of the scheme including the rules applicable to businesses awarded a score were explained.

Options

1. Council not participate.
2. Council participate at a basic level. Promotion would not be carried out however businesses could approach Council if they wish to participate. Inspections would be carried out as per the current inspection schedule but in addition a 'star' rating would be assigned as per the program guidelines, reflecting their level of compliance and a certificate issued.
3. Council participate as per two above, but engage in full promotion to encourage participation by local food businesses.

The scheme has merit and it is expected that a number of our food businesses would want to participate. For Council to not to participate would deny these proprietors the opportunity. There will be minimal additional administrative costs to be part of the scheme if we do not spend time and utilise resources to actively promote it. If Council wishes to adopt the third option it will need to be prepared to budget an estimated \$10,000 to permit this to occur. Given the resources available it is recommended that option two be adopted.

RECOMMENDATIONS

That Council participate at a basic level in the "Scores on Doors" Scheme in conjunction with the NSW Food Authority. Minimal promotion would be carried out and businesses could approach Council if they wish to participate. Inspections would be carried out as per the current inspection schedule but in addition a 'star' rating would be assigned as per the program guidelines, reflecting their level of compliance and a certificate issued.

Attachment(s)

1. Scores on Doors Scoring Food Safety
2. Scores on Doors Certificate – Food Safety Result

9. Strategic & Community Services Group Reports

9.1 LEP Amendment Request - Woolworths Oxygen (Masters)

File Reference	LEP Amendment Request – Woolworths Oxygen (Masters)
CSP Linkage	Diverse and balanced land use
Delivery Program	Strategic Planning
Objective	To seek direction from Council with respect to a request to amend Ballina Local Environmental Plan 1987 in relation to land fronting the Pacific Highway, West Ballina.

Background

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

The request was reported to Council's Ordinary Meeting held on 23 June 2011 with a recommendation to decline the request to proceed with the preparation of a Planning Proposal. The recommendation was made on the basis that the proposal is inconsistent with planning for the locality, particularly the Far North Coast Regional Strategy and Council's West Ballina Planning Study and Structure Plan.

Council resolved at its Ordinary Meeting held on 23 June 2011 [Minute No: 230611/10] to defer the matter to a Council workshop with the workshop to include a presentation from the applicant.

The workshop including a presentation from the applicant was held on 3 August 2011.

Key Issues

- Request to amend the Ballina Local Environmental Plan 1987 (BLEP 1987)
- Presentation to Council
- Consistency of LEP amendment request with planning policy

Information

Request to amend the BLEP 1987

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

The proposal relates to part Lot 11 DP 1011575 which has a total area of approximately 17 hectares and is located on the corner of the Pacific Highway and Teven Road, Ballina. The site adjoins the Ballina Pacific Highway Bypass road works, and the western portion of the land is subject to a recent development consent for a highway service centre.

More specifically, the LEP amendment request relates to an area of approximately 3.6 hectares in the eastern portion of Lot 11 DP 110575 (**Attachment 1**). Plans of the proposed scheme accompanying the request submitted to Council indicate a total gross floor area (GFA) of 13 897m² and car parking for a total of 377 vehicles.

Presentation to Council

A workshop, including a presentation from the proponent, was held on 3 August 2011. The presentation team included the Senior Development Manager from Woolworths, consultant planners Urbis Pty Ltd, and specialist technical advisors in relation to retailing / economic impacts and engineering issues.

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

The presentation to Councillors outlined the site selection process undertaken by the proponent and the basis for the decision to proceed with the proposal on the subject site. The presentation also addressed technical issues including flooding, stormwater management and geotechnical constraints. The potential positive economic impacts of the proposal were also detailed in the presentation.

Consistency of LEP amendment request with planning policy

As addressed in the report to the Ordinary Meeting of Council held on 23 July 2011, the potential positive economic impacts of the proposal are recognised by Council staff.

Notwithstanding the opportunity for positive economic impacts associated with the proposal, the potential of the subject land for urban development was considered by Council as part of the preparation of the West Ballina Planning Study and Structure Plan. The West Ballina Planning Study and Structure Plan was adopted by Council at its Extraordinary Meeting held on 17 March 2011 [Minute No:170311/2] as a basis for local urban land release planning and land management policy in the West Ballina locality.

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

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

In adopting the West Ballina Planning Study and Structure Plan, Council also resolved to seek its incorporation into the Far North Coast Regional Strategy (FNCRS) which has recently been reviewed by the Department of Planning & Infrastructure (DP&I) in consultation with local councils.

The FNCRS is intended to guide the region's land use over the next 25 years. The Strategy includes Town and Village Growth Boundaries which identify potential areas for urban development to meet the region's urban housing and employment needs until 2031.

It is noted in the FNCRS that not all land identified within the Town and Village Growth Boundary can be developed for urban uses, and that more detailed investigations will determine the capability and yield of the land.

While that part of the subject land zoned 2(a) Living Area Zone is presently located within the Town and Village Growth Boundary for Ballina, the incorporation of Council's adopted policy under the West Ballina Planning Study and Structure Plan into the FNCRS would result in this portion of land being removed from within the Town and Village Growth Boundary. No other part of the land is currently located within the FNCRS Town and Village Growth Boundaries for Ballina Shire.

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

Conformity with the sustainability criteria would require further and more detailed consideration should Council resolve to allow the LEP amendment request to proceed further.

It should also be noted that an RU2 Rural Landscape zone has been applied to the entire area of the subject land under the exhibited draft Ballina Local Environmental Plan 2010. This is consistent with the adopted West Ballina Planning Study and Structure Plan.

Sustainability Considerations

- **Environment**

The land to which the proposal relates is subject to geotechnical issues and flooding.

- **Social**

Additional retailing choice for shire and adjacent residents would be provided if the development was undertaken.

- **Economic**

It is acknowledged that the proposal identifies substantial positive economic benefits associated with the proposed development including employment opportunities for the local area and reduction of escape expenditure.

Legal / Resource / Financial Implications

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

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

Consultation

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

Options

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

1. Proceed with the Planning Proposal

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

progress to this step requires substantial Council resources and may involve further substantial expenditure by the proponent.

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

2. Defer the further consideration of the rezoning request pending the outcome of the Ballina Shire Bulky Goods and Large Format Retailing Land Use Audit and Analysis presently being undertaken by Council

The report to Council's Environmental and Sustainability Committee held on 17 May 2011 in relation to the draft Ballina LEP 2010 recommended that Council undertake a review of the 2004 Retail Showrooms and Bulky Goods Study, and that the review include consideration of emerging forms of retail development (e.g. "big box" proposals). The report also recommended that following the review Council consider the zoning of existing and approved bulky goods premises as well as alternative sites.

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

Council is in the process of engaging consultants to undertake a Bulky Goods and Large Format Retailing Land Use Audit and Analysis. The timeline for the completion of the project is 3 – 4 months.

The deferral of the subject rezoning request would enable the proponents to be engaged as stakeholders as part of this process (it is noted that engagement with the proponents in this process can also occur in the event that Council resolve to proceed with Option 1 or Option 3).

This option is not preferred by Council staff on the basis that the use of the subject site for the requested purpose is not consistent with Council's current planning policy and this approach may indicate otherwise to the proponent.

3. Not proceed

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

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

As previously reported to Council, it is acknowledged that the establishment of the new facility, as foreshadowed with the rezoning request, would reinforce Ballina as a significant retailing destination within the region and would provide significant additional employment opportunities for the shire in both the short and long term. However, these social and economic benefits need

to be balanced against the importance of Council adhering to its recently adopted strategic land use plan for the West Ballina locality.

In the event that the Bulky Goods and Large Format Retailing Land Use Audit and Analysis results in a change to Council's planning policy framework that is favourable to the Woolworths Masters proposal, the proponent is able to lodge a fresh LEP amendment request for Council's consideration. This approach allows Council to consider its overall policy content prior to making site or proposal specific adjustments.

RECOMMENDATIONS

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

Attachment(s)

1. Locality Plan

9.2 Farmers' Markets

File Reference	Farmers' Markets
CSP Linkage	Diverse and balanced land use
Delivery Program	Economic Development
Objective	To present options relating to farmers' markets in Ballina for the Council's deliberation.

Background

Council received a report at its Ordinary Meeting held on 17 December 2009 relating to the establishment of a regular farmers' market on Saturday mornings either at Fawcett Park or on the grassed area at Missingham Park. At that meeting the Council resolved:

- 1. Council approves, in principle, the establishment of a Farmers' Market to be held at Fawcett Park or on the grassed area of Missingham Bridge Park, Saturday mornings from 8am to 12 noon, subject to further consultation and all relevant approvals being obtained.*
- 2. That subject to all approvals being in place, the Farmers' Market is to be managed within existing staffing levels, with any request for additional resources to be subject to a further report to Council.*

This project had previously been managed by Council's Economic Development Unit. Due a change in staff arrangements and the reallocation of Council's Economic Development project functions to the Strategic and Community Services Group, it was considered prudent to invite the Council to consider further the issues relating to farmers' markets in Ballina.

The key matter arising from the previous Council resolution is the need to affirm Council's preferred location/s for farmers' market in Ballina. Following this, further work can be undertaken to consider site issues in detail as part of the preparation of a development application.

It is noted that Councillor Brown presented the following notice of motion to the July Ordinary Meeting:

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.

In relation to that matter, Council resolved that the key issues raised can be assessed in this report.

The purpose of this report is therefore to advise Council of the outcome of consultation recently undertaken with the current market stallholders. This report also aims to provide further information to Council regarding the site and operational options available for farmers' markets, to support the Council's deliberations on this matter.

Key Issues

- Consideration of the suitability of potential sites
- Frequency and scheduling of the farmers' markets; and
- Outcome of consultation with farmers' market stallholders.

Information

The value of markets

The regional network of markets is a valued feature of North Coast lifestyle and feature prominently in local tourism marketing. Markets can also add to the vibrancy of town centres, evident in the case of the Byron and Bangalow markets.

Markets also support local economic development by keeping money within the local economy and promoting local employment. The sale of local produce at markets has a number of additional benefits, in promoting the consumption of fresh fruit and vegetables, supporting local food security and reducing greenhouse gas emissions due to high 'food miles' (transportation).

There are various 'types' of markets within the region, varying by the stallholders, crafts people and produce sold. Dedicated *farmers' markets* are also a feature with successful markets in Bangalow, Byron Bay and Lismore.

Missingham Bridge Farmers' Market

The farmers' market located at Missingham Bridge has occurred on Crown Land adjacent to Kingsford Smith Drive for a period of approximately 15-20 years. During this time the market has operated without development consent. There is no Plan of Management presently applying to the land.

Issues associated with the current location of the markets include poor surface condition, a lack of formalised car parking, potential conflicts between pedestrians and vehicles and limited potential to expand.

Recent drainage problems on the site had been caused by the movement of sand within the Richmond River blocking the outlet of the stormwater pipe draining the area. While this drainage issue has been resolved, the uneven surface and informal access arrangements remain. Further budgeting and civil works will be required to formalise the car parking arrangements and improve the surface conditions of the site. A preliminary assessment by Council engineers indicates that the formalisation of the parking arrangements may be undertaken for a cost of approximately \$65,000.

The current site of the farmers' market has been included in the market location options below.

Market Management

As outlined the existing Missingingham Farmers' Market is managed by Council within existing resources. This involves little by way of day to day management. It is envisaged that management will ultimately transfer to an external market manager in a manner consistent with other markets in the shire and the region. Advantages in having an external market manager might include:

- greater opportunity for active promotion and marketing
- potential to expand the number of stallholders (by active management) and
- closer day to day management and attendance to potential public safety risks that might arise during the operation of the market.

A report presented to the Council at the 27 March 2008 Ordinary Meeting canvassed a number of management options available at the time. At that meeting the Council resolved to invite the Ballina East Lions Club to take on the role of market manager. The Lions Club declined the invitation, however, on the grounds that the surface and drainage condition presented public safety (and liability) concerns and that site constraints limit the potential expansion of the market required to maintain the viability of the market management.

Following the resolution of the siting issues with the farmers' markets, further consideration will be given to market management, and a further report presented to the Council on this matter.

Scheduling and Frequency

There are a number of factors to be considered in the scheduling of the markets including consultation with existing stallholders and the broader community, the current market schedule for the shire and the region, potential for traffic and car parking conflicts and potential for conflicts with other uses of the sites.

The Proposed Farmers' Market - Business Plan (December 2009) includes details of a survey undertaken in 2009 regarding community views about farmers' markets. A total of 256 people responded to the survey which was advertised in the Ballina Advocate, distributed to the Chambers of Commerce within the shire and distributed to Council staff. Participants were asked a number of questions including their preferences for the scheduling and frequency of the farmers' markets.

The preference for the frequency of the farmers' markets was for the markets to be held on a weekly basis (215 respondents). In relation to the preferred day, the following responses were received:

- | | |
|-----------------------|-----|
| • Weekday (Mon – Fri) | 59 |
| • Saturday | 115 |
| • Sunday | 82 |

It is acknowledged that this is only a small sample of opinion about the community's preferred days of operation for the market and therefore no firm conclusions should be drawn from it.

Council resolved at its Ordinary Meeting held on 17 December 2009 to hold the markets between 8am and 12 noon on Saturdays. Stallholder concerns regarding changes to the time (and location) of the markets are outlined below.

Market location options

The Farmers Market Business Plan (October 2009) previously reported to Council included a broad assessment of potential farmers' market sites in Ballina. This assessment has been reviewed following recent consultation with the current stallholders, and a more detailed assessment of the characteristics of each of the sites.

Correspondence has also been received from a local business owner requesting that the current farmers' markets and Canal Road markets be moved to Fawcett Park to support the town centre. The correspondence suggests that there is general support for this among business owners in the town centre locality.

Don Page M.P. (local Member for Ballina) has also recently made representations on behalf of several constituents encouraging Council to establish a 'night market' on Fawcett Park.

The following table provides a preliminary assessment of the potential farmers' market sites in Ballina. It is noted that the following assessment includes sites in addition to those recognised in Council's resolution (i.e. Fawcett Park and Missingham Park). A map identifying the sites outlined below is provided as Attachment 1.

The sites considered are:

- Current market site near Missingham Park
- Missingham Park adjacent to the Amphitheatre
- Commemoration Park
- Pop Denison Park
- Fawcett Park

Each of these sites has been assessed with respect to their accessibility and parking, visibility and other features. This assessment is outlined in the following table.

Table One: Potential Farmers' Markets Sites

Site	Accessibility & parking	Visibility	Other site features
Current farmers' market location	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> lack of formalised parking <input checked="" type="checkbox"/> intermixing of pedestrians, market stalls & vehicles. 	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> highly visible to passing traffic on main arterial road (Kingsford Smith Drive). 	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> poor surface condition (pitted & uneven). <input checked="" type="checkbox"/> limited capacity to expand number of stall-holdings. <input checked="" type="checkbox"/> little shelter from wind. <input checked="" type="checkbox"/> long history of use, high level of community awareness. <input checked="" type="checkbox"/> proximity to toilets, play ground & BBQ facilities.
Missingham Park	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> adequate parking (on existing market site). <input checked="" type="checkbox"/> parking area distance from market site may be an issue with some market goers. <input checked="" type="checkbox"/> potential to separate pedestrians, market stalls & vehicles. 	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> visible to passing traffic on main arterial road (Kingsford Smith Drive, Bentinck Street & Missingham Bridge). 	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> potential to conflict with other events at amphitheatre. <input checked="" type="checkbox"/> potential to 'value add' to other events at amphitheatre. <input checked="" type="checkbox"/> close to existing market site. <input checked="" type="checkbox"/> grass surface may hamper wet weather use.
Commemoration Park	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> adequate on street parking. <input checked="" type="checkbox"/> lack of safe vehicle turn-around for vehicles travelling from eastern end of Bentinck Street. <input checked="" type="checkbox"/> parking area distance from market site may be an issue with some market goers. <input checked="" type="checkbox"/> potential to separate pedestrians & vehicles. 	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> visibility to passing traffic on main arterial road (Bentinck Street & Missingham Bridge) although somewhat obscured by trees. 	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> good drainage. <input checked="" type="checkbox"/> some capacity to expand number of stall-holdings. <input checked="" type="checkbox"/> some shelter to wind. <input checked="" type="checkbox"/> close to existing market site. <input checked="" type="checkbox"/> proximity to toilets, play ground & BBQ facilities. <input checked="" type="checkbox"/> grass surface may hamper wet weather use.
Pop Denison Park	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> adequate off street parking. <input checked="" type="checkbox"/> potential to separate pedestrians & vehicles. 	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> poor visibility from passing traffic on Compton Drive and Fenwick Drive. 	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> capacity to expand number of stall-holdings. <input checked="" type="checkbox"/> toilets and shade available. <input checked="" type="checkbox"/> insufficient infrastructure in place. <input checked="" type="checkbox"/> poor drainage.

Site	Accessibility & parking	Visibility	Other site features
Fawcett Park	<input checked="" type="checkbox"/> potential on-street car parking availability would depend on scheduling. <input checked="" type="checkbox"/> potential issues associated with vehicular access to stalls for stallholders.	<input checked="" type="checkbox"/> limited visibility in terms of passing traffic however it is considered that the reasonably high profile of the site would enable effective marketing to respond to this issue.	<input checked="" type="checkbox"/> capacity to expand number of stall-holdings. <input checked="" type="checkbox"/> opportunity to support / increase activity within the Town Centre. <input checked="" type="checkbox"/> grass surface may hamper wet weather use. <input checked="" type="checkbox"/> exposed to wind. <input checked="" type="checkbox"/> parts shaded during winter.

As a generalisation, it is understood that it is important for stallholders to have handy access to their vehicles, both in terms of setting up and dismantling the stalls and for re-stocking during the course of their trading.

Crown Reserves

Any activity that occurs on a Crown Reserve must be consistent with the purpose of the reserve. All the Crown Reserves, in this case, are reserved for the purpose of "public recreation". Crown Lands (formerly LPMA) has advised Council that farmers' markets are considered as being consistent with the purpose of the reserve.

Land Use Planning Considerations

Farmers' markets are not defined for the purposes of the Ballina Local Environmental Plan 1987. As a consequence markets fall into the category of 'any other purpose' in the land use table.

The permissibility of farmers' markets for the sites identified are outlined below.

Table Two: Land Use Planning and Permissibility

Site	Planning controls
Current farmers' market location	<ul style="list-style-type: none"> Zone No. 6(a) Open Space Zone Advertised Development – only with development consent
Missingham Park	<ul style="list-style-type: none"> Part Zone No. 6(a) Open Space Zone Advertised Development – only with development consent Part unzoned land, some of which is road reserve. The provisions of State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) enable development to be carried out by a public authority without consent on a public road that is unzoned land (Clause 98).
Commemoration Park	<ul style="list-style-type: none"> Part Zone No. 6(a) Open Space Zone Advertised Development – only with development consent

Site	Planning controls
Pop Denison Park	<ul style="list-style-type: none"> Part Zone No. 6(a) Open Space Zone Advertised Development – only with development consent
Fawcett Park	<ul style="list-style-type: none"> Zone No. 3 Business Zone Permitted with development consent.

The sites identified are all Crown Reserves with the exception of Fawcett Park which is Council owned 'Operational' land. In relation to Crown Reserves, the provisions of State Environmental Planning Policy (Infrastructure) 2007 provide for land uses identified in a Plan of Management (POM) to be undertaken without development consent.

As no POM applies to the subject sites, the provision of the ISEPP enabling development without consent does not apply.

With respect to the exhibited draft Ballina LEP 2010, 'market' is a defined land use meaning *'an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.'*

With respect to the zoning of the land parcels considered all are proposed to be zoned RE1 Public Recreation in the terms of the exhibited draft Ballina LEP 2010. Development for the purpose of a 'market' is proposed to be permissible, with consent, within the RE1 zone.

As a consequence, a development application will be required to support the Council's decision with respect to the preferred location for a farmers' market in Ballina, for whichever location is selected.

Consultation with Stallholders

Council staff recently met with the farmers' market stallholders (on 4th July 2011). The stallholders presented a unified view with respect to their strong preference for retaining the existing location and day/time scheduling for the market.

The reasons given for preferring the current location include:

- High visibility to passing traffic (for both residents and tourists) and
- The site is well established and so enjoys broad awareness within the community.

However, the poor surface condition, lack of formalised parking and safety concerns (due to intermixing of pedestrians and vehicles) were acknowledged.

It is understood that the preference for retaining the existing day/time is due to:

- being well established, the day has been incorporated into residents' weekly schedules
- not conflicting with weekend sport events

- fitting with the farmers' on-farm schedules, with respect to harvesting and packing produce the day before, without conflicting with other markets or activities.

The option of having several farmers' markets operate, as an alternative to relocation, was discussed. Whilst there was general commiseration with the desires of main street businesses to encourage further activity within town centres, concerns were raised that having multiple markets spread throughout the week for the same locality simply presented additional trading commitments for farmers for the same financial return.

Preferred Option

In terms of locational characteristics, the existing farmers' market site appears to have advantages over the other sites assessed above, in terms of accessibility and visibility. The key limitations of this site, however, relate to site conditions, which could be improved with civil works and the rearrangement of stalls and parking on the site.

Further consideration will need to be given by the elected Council, however, with respect to funding such improvements. A remaining disadvantage of the existing site is the limited capacity to expand the market, however this might also be improved by site rearrangement.

Another key consideration here is the actual allocation of sites to operators. Essentially this has been on a first in basis and no new stall holders have been allowed to operate in recent years. Therefore the equity of the allocation must be debated, especially if Council allocates significant public funds to this locality.

Notwithstanding these comments, it is evident that there is support from some business owners within the town centre for markets of some form within the town centre to stimulate additional activity. The provision of a farmers' market in Fawcett Park is also consistent with Council's resolution of 17 December 2009.

On the basis of the above it is considered that the following option provides the opportunity to respond to both the stallholder views and the representations made by town centre businesses:

- Retention of a weekly Sunday farmers' market at the existing market site adjacent to Kingsford Smith Drive; and
- Investigate the trial of a twilight market to be held on (say) Thursday afternoons / evenings during daylight saving at Fawcett Park.

The retention of the existing farmers' market on land adjacent to Kingsford Smith Drive as a preferred location, subject to development consent matters being resolved, acknowledges the past use of the site and minimises the disturbance to stallholders and market-goers. Should this option be pursued, a development application addressing the issues affecting the site, outlined above, would be required to be submitted to Council.

The provision of a market in Fawcett Park during daylight saving on a trial basis would enable Council and the stallholders to ascertain the level of support from the community for an evening market in town. A recent trial at Lismore was apparently very successful and was extended following the initial trial period.

Whilst Council may consider the concept of a trial twilight farmers' market on Fawcett Park has some merit, the reality is that there is likely to be insufficient time to enable a competent development application to be prepared, assessed and determined, and for promotion and co-ordination to take place (assuming there is sufficient interest from enough stallholders) to enable operation during the forthcoming daylight saving 'window'. If Council did wish to pursue this option it would need to be focussing on the latter part of 2012 to commence the trial.

It is envisaged that a suitably qualified market manager would be engaged to coordinate the delivery of the market on ground, including the identification of traders, the collection of stall fees and site management during the duration of trading, with full management to transfer to an external appropriate community organisation as envisaged in Council's Markets Policy.

Further consideration regarding market management issues for both farmers' markets will be provided in a further report to Council in due course.

To enable the above to proceed to the submission of a development application the following work is required in relation to both of the proposed market sites:

1. Investigate site layout options having regard for issues including, but not limited to:
 - a. access and parking, including impact of manoeuvring vehicles on reserve
 - b. stall siting
 - c. available infrastructure
 - d. potential conflicts with other reserve uses; and
 - e. availability of facilities.
2. Identification of preferred layout.
3. Preparation of development application documentation for submission to Council.

In the case of the existing farmers' market site, it is proposed that further consultation with stallholders will occur to discuss site issues in more detail. Following this consultation, it is proposed that site arrangements and improvement works, including consideration of funding options for such works, would form the subject of a Council workshop prior to the finalisation of a development application for the site.

In the case of the Fawcett Park twilight market trial, it is proposed that consultation would be undertaken with the Ballina Chamber of Commerce and Industry and businesses within the CBD to confirm their support for a trial market commencing with the start of daylight saving in 2012. A further

Council workshop would be convened to discuss the issues arising prior to the lodgement for a development application for the site.

Sustainability Considerations

- **Environment**
The provision of a local farmers' market is considered to be consistent with ESD principles.
- **Social**
The continued support for a farmers' market is likely to result in positive social impacts on the local community.
- **Economic**
Positive economic impacts are likely to result from the farmers' market. It is also considered that the provision of a trial market in the town centre has the potential to result in positive economic impacts on the town centre.

Legal / Resource / Financial Implications

Formalising the arrangements for markets, with respect to obtaining appropriate development approvals and improving site issues will reduce legal risks associated with farmers' markets in Ballina.

The financial implications of any site improvement works that may be required as a result of formalising the site arrangements for the markets will be the subject of a further report to the elected Council.

Consultation

Details of consultations undertaken in relation to this issue are outlined in the body of this report.

Options

Council has several options available in its further consideration of this matter.

It is open to Council to conclude that the concept of dedicated farmers' markets, involving the offering for sale of fresh produce grown within our shire/region, does not warrant further consideration. In doing so Council would be sending a message to those growing and harvesting the produce that they should seek to rely on conventional supply and distribution chains for their enterprises or alternatively, seek to participate in other structured markets which operate routinely within the shire and region. This is not the preferred or recommended option.

Alternatively, Council can continue to recognise farmers' markets as legitimate activities which are highly valued by residents and visitors in our shire. There are some conventional retailers who believe they are trading at a distinct disadvantage because of the substantially reduced overheads that stallholders benefit from. However, on balance it is suggested that there are

broader public benefits to be derived from the regular conduct of farmers' markets, in social, economic and environmental terms. For these reasons the recommendations that follow support the retention of the existing market and the trial of a new market on Fawcett Park.

RECOMMENDATIONS

1. That Council approves the lodgement of a development application, for a weekly Sunday farmers' market on Crown Land adjacent to Kingsford Smith Drive, with a Councillor workshop to be held prior to lodgement to review the various options available for the site.
2. That Council approves the establishment of a trial for a twilight market at Fawcett Park to be held on Thursday afternoons/evenings during daylight savings with an aim of commencing the market during the latter part of 2012.
3. That in respect to point two, Council receive a further report concerning this proposal following an assessment of the availability/interest of potential stall holders, identification of a market co-ordinator and liaison with key stakeholders within the Ballina Town Centre.

Attachment(s)

1. Map 'Potential Farmers' Market Sites'

9.3 Coastal Zone Management Plan - Richmond River Estuary

File Reference	Estuary Management Committee
CSP Linkage	A healthy natural environment
Delivery Program	Strategic Planning
Objective	To present to Council information concerning the finalization of the Coastal Zone Management Plan for the Richmond River Estuary.

Background

Council received a report in April this year concerning the draft Coastal Zone Management Plan (CZMP) for the Richmond River Estuary. At this meeting it was resolved that Council provide a formal submission to the Richmond River County Council (RRCC) on the draft CZMP. RRCC is coordinating the CZMP process on behalf of constituent councils; Ballina Shire, Lismore City, Richmond Valley and Richmond River County. Council has recently received a letter from RRCC indicating that the full draft of the CZMP is now complete and outlining the necessary steps for its finalization (see attachment).

The development of a CZMP has been a staged process and follows guidelines set out in the NSW Government Estuary Management Manual (1992). The CZMP is synonymous with an Estuary Management Plan as described in the Estuary Management Manual; however the CZMP terminology has been adopted to provide consistency with amendments to the *Coastal Protection Act 1979*. The CZMP is the culmination of the Estuary Management process and has been developed from the outcomes reported in the Estuary Management Study (EMS).

A copy of the document has not been included in this report as it is approximately 500 pages in total. Copies are available from the Strategic and Community Services Group.

Key Issues

- Finalization of the Coastal Zone Management Plan for the Richmond River Estuary.

Information

Following the April 2011 Ordinary Meeting, Council provided a submission relating to the draft CZMP to RRCC. During the public exhibition period RRCC received a total of 18 submissions concerning the draft plan. Each of the items included in Council's submission were considered by the CZMP Technical Team (made up of representatives from each of the local and State Government agencies to be involved in the implementation of the plan). It is pleasing to note that most of Council's suggested changes have been included in the revision of the draft document.

Although a substantial component of the draft EMS and CZMP were prepared prior to finalization of the new NSW Government guidelines for preparing CZMPs, the draft plan has been amended following public exhibition to ensure consistency with the minimum requirements of these guidelines.

These required changes were provided in a submission to RRCC from the Office of Environment and Heritage (OEH). Although many of these comments were editorial in nature, a number of these necessary changes to the draft document warrant further explanation.

In recognition of the new guidelines, the CZMP now needs to be a stand-alone plan. In order to meet this requirement, some information outlined in the EMS has been duplicated in the CZMP. As a result the two volumes to be submitted to the Minister's office for consideration will now be named:

Coastal Zone Management Plan for the Richmond River Estuary:
Volume 1 CZMP
Volume 2 Estuary Management Study

To comply with the minimum requirements of the new guidelines, an additional action has been included in the plan under the climate change adaptation strategy requiring Council to assess and map tidal inundation extent including potential sea level rise. This action will be dealt with through the current floodplain risk management planning process and progress on this action will be reported back to Council through the development of that plan.

Two new actions regarding the monitoring, evaluation and review of the CZMP have also been incorporated into the draft plan. This has been done to comply with the minimum requirements of the guidelines which require specific actions relating to the monitoring and reporting of the plan's implementation.

It has also been identified through the submission process that an additional action was required in the plan regarding the formation of a "CZMP Implementation Committee", and that this should precede the action regarding a review of the estuary governance and administration.

The formation of this committee has been assigned the responsibility of Ballina Shire, Lismore City and Richmond Valley Councils. The CZMP Implementation Committee will be responsible for overseeing those actions that were previously listed against the Estuary Management Committee (EMC) in the draft plan. This will avoid confusion with the EMC which was set up at the beginning of the process to oversee the development of the EMS and CZMP.

Each of the submissions received (copies attached), including the OEH submission have been considered by the CZMP Technical Team and suggested changes incorporated into the draft plan where appropriate. RRCC has also received letters from a number of the public authorities listed as lead organisations in the draft plan, indicating they are aware of their commitments in implementing the plan.

RRCC has written to Council advising that the full draft CZMP is now complete and is awaiting endorsement by constituent councils so it can be forwarded to the Minister for certification (copy attached).

The CZMP was adopted by RRCC at its August 2011 meeting, where the Council resolved to *adopt the CZMP acknowledging that the county is not financially viable for the implementation of the Plan.*

Council will appreciate this document provides a “roadmap” for the future management of the estuary and is similar in its intent to other plans of management that Council has adopted for public areas such as Shaws Bay and Lake Ainsworth.

In adopting this plan Council understands that funding for these actions will be determined through a review of the governance and administration model for the implementation of the CZMP. This action is listed as a fundamental and priority action of the draft CZMP. Once models have been determined, funding for the implementation of CZMP actions will need to be balanced along with other competing priorities through the budget allocation process.

RRCC now requests, in accordance with the guidelines, that the other constituent councils formally adopt the draft CZMP so RRCC can proceed, on behalf of constituent councils, to submit the draft plan to the Minister for certification under the *Coastal Protection Act, 1979*. This will ensure the submission of a plan which has the endorsement of the constituent councils responsible for its implementation.

Sustainability Considerations

- **Environment**

The CZMP outlines strategies aimed at increasing the resilience of the estuary as well as protecting and enhancing the ecological values of the Richmond River Estuary (such as healthy water quality and habitat and species diversity).

- **Social**

The CZMP outlines strategies aimed at protecting and enhancing the social values of the Richmond River Estuary (such as cultural heritage, recreational activities and scenic amenity).

- **Economic**

The CZMP outlines strategies aimed at protecting and enhancing the economic values of the Richmond River Estuary (local and regional economic activities such as agriculture, commercial fishing and tourism).

Legal / Resource / Financial Implications

Although shared across a number of agencies, the significant costs associated with implementation of various strategies outlined in the plan will have implications for future budgets. As outlined above it is anticipated that the scope and allocation of the funds associated with the plan will be further refined through the review of the administration and governance model for the plan.

Council's recurrent budget provides essentially no funding for the types of works identified in the CZMP, besides our annual contribution to RRCC. It is hoped that these funds will be applied to works identified in the CZMP.

Future Council budgets may well need significant increases in this contribution to allow the CZMP to be implemented in a timely manner.

One other option that has previously been suggested was the possibility of all three constituent councils (Ballina Shire, Lismore City, Richmond Valley) applying jointly to the Minister for Local Government for a special rate that would be implemented for the term of the plan (i.e. 10 years). This rate could be shown as a separate item on the rate notice and linked directly to the works in the plan. There may be some level of community support for such a proposal due to the importance of the Richmond River to all three constituent councils.

The key issue is that to allow the CZMP to be implemented, additional revenue contributions from the three constituent councils is needed.

Consultation

The CZMP has been formulated through extensive liaison with a multi-stakeholder committee, constituent council staff, agency consultation, and public exhibition.

Options

1. Council may resolve to adopt the draft CZMP for the Richmond River Estuary: Volume 1 and Volume 2 as a strategic plan for the long term management of the estuary, thus allowing RRCC to forward the draft CZMP to the Minister for certification under the Act, acknowledging that the Minister may or may not certify the plan. If substantial changes are required by the Minister these changes will need to be addressed through the CZMP Technical Team and a further information report to Council may be necessary.
2. Council can choose not to adopt the draft plan.

Option one is the preferred approach as the finalisation of this plan represents a strategic and collaborative approach to planning for the long term management of the Richmond River Estuary.

The finalisation of the CZMP will also allow constituent councils to access funds through the Estuary Management Program to implement CZMP actions. To finalise the plan all constituent councils are required to adopt the plan.

RECOMMENDATIONS

That Council adopts the draft Coastal Zone Management Plan for the Richmond River Estuary: Volume 1: Coastal Zone Management Plan and Volume 2: Estuary Management Study and that Richmond River County Council be advised accordingly.

Attachment(s)

1. CZMP Submissions
2. Letter from RRCC regarding CZMP finalization

9.4 Section 94 - Heavy Haulage Contributions Plan

File Reference	Heavy Vehicle
CSP Linkage	Diverse and balanced land use
Delivery Program	Financial Management
Objective	To invite Council to adopt the draft Heavy Haulage Section 94 Contributions Plan 2011 following the plan's public exhibition.

Background

At its Ordinary Meeting held on 23 June 2011, Council received and considered a report relating to a draft Section 94 Contributions Plan pertaining to heavy haulage. Upon its adoption, this new plan would replace a similar plan which has operated since February 1996 in relation to new developments.

The purpose of this plan is to enable Council to recoup a reasonable proportion of the costs incurred in reinstating the condition of roads which have deteriorated due to the activities of heavy haulage vehicles.

Following its consideration of the report Council resolved to place the draft Heavy Haulage Contributions Plan on exhibition for public comment. This report provides the outcomes of that public exhibition process.

It is noted that a copy of the draft plan was distributed to Councillors as an attachment to the June 2011 Ordinary Council Meeting Agenda.

Key Issues

- Cost apportionment for reinstatement of public infrastructure.
- Improved governance arrangements.

Information

The draft Heavy Haulage Contributions Plan and associated documentation was placed on public exhibition in accordance with the requirements of the Environmental Planning and Assessment Act. The exhibition period commenced on 7 July 2011 and concluded on 8 August 2011. Whilst enquiries were received about the plan, no submissions were received in response to the exhibition.

Sustainability Considerations

- **Environment**
Not Applicable

- **Social**

The additional funds raised through the new plan will assist Council to fund the maintenance of some sections of the public road network which is impacted by the regular use of heavy haulage vehicles. This maintenance will improve safety for other motorists.

- **Economic**

The draft plan more accurately identifies the cost of heavy haulage traffic on the life of local roads and therefore reduces the subsidy that would otherwise be provided by ratepayers to repair roads or the decline in levels of road service experienced by local motorists. It is acknowledged that the plan imposes an additional cost on the heavy haulage operators and this is passed on through their product pricing structures.

Legal / Resource / Financial Implications

The draft plan has been prepared and exhibited for public comment in accordance with the relevant provisions of the Environmental Planning and Assessment Act. It establishes an equitable basis for requesting contributions for road maintenance from new developments which give rise to early deterioration of sections of the network.

Once adopted, the new plan will apply to some new developments for which consent is granted. The existing plan will continue to apply to those developments which are currently required to make contributions under its provisions.

Consultation

As mentioned above, the draft plan has been exhibited for public comment as required. Council did not receive any submissions in response to the exhibition.

Options

Council may decide to adopt the new plan, defer its consideration, modify its provisions or reject it. The recommendation is to adopt the plan in the public interest.

RECOMMENDATIONS

That Council adopt the Draft Section 94 Heavy Haulage Contributions Plan 2011, as exhibited for public comment.

Attachment(s)

Nil

10. General Manager's Group Reports

10.1 Use of Council Seal

File Reference Use of Seal

RECOMMENDATIONS

That Council affix the Common Seal to the following documents.

US11/19	Crown Lease Agreement with The State of New South Wales for Lots 2, 5, 6, 7 & 8 DP 758047, River Street, Ballina known as Ballina Community Centre River Street Precinct. Lease No. RE 485718 for a term of 20 years commencing 04/09/11 and terminating 03/09/31. Note: Council has been negotiating with Department of Lands for a number of years regarding the terms of the Lease. The main conditions that have now been resolved include the term period, the rental amount and the rental rebate applicable. The term period is 20 years, the market rent has been set at \$92,000 and a 50% rebate is currently applicable to recognise the community use of the building. Numerous efforts by Council have not been able to reduce the amount of the lease.
US11/20	Administration Sheet - Plan of Subdivision for Lot 132 DP 1047320 - DA 2010/563 - Dedication of Council residual land to allow extension of Kays Lane, Wollongbar to create road frontage to Lot 121 DP 871897 owned by Newhais Pty Ltd (Russellton Industrial Estate). This dedication is part of Council's future planning for the Russellton Industrial Estate.

Attachment(s)

Nil

10.2 Investments Summary - July 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 July 2011.

Council's investments are all in accordance with the Local Government Act, the Regulations and Council's Investment Policy.

The balance of investments as at 31 July 2011 was \$62,238,000. This represents an increase from June of \$5,433,000.

The balance of the cheque account at the Commonwealth Bank, Ballina as at 31 July 2011, was \$1,815,463.

Council's investments as at 31 July are at an average (weighted) rate of 5.86%, which is 0.86% above the 90 Day Bank Bill Index of 5.00%.

The majority of the approximately \$62 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%

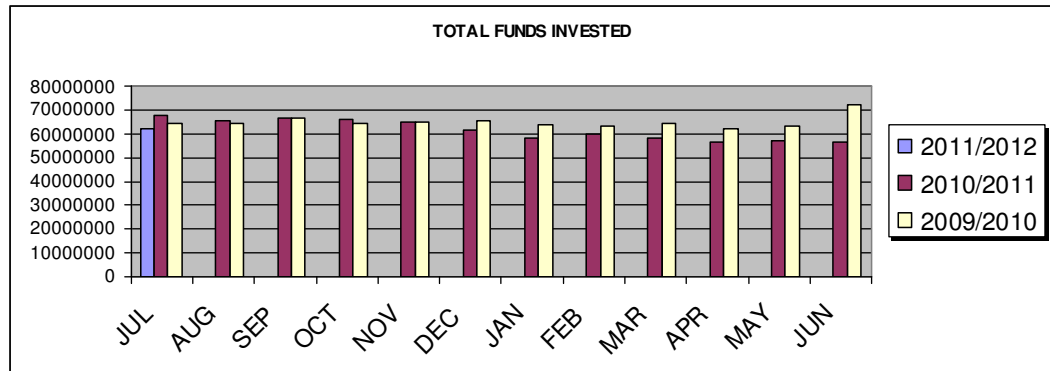
* Based on reserves held as at 30 June 2010

Information

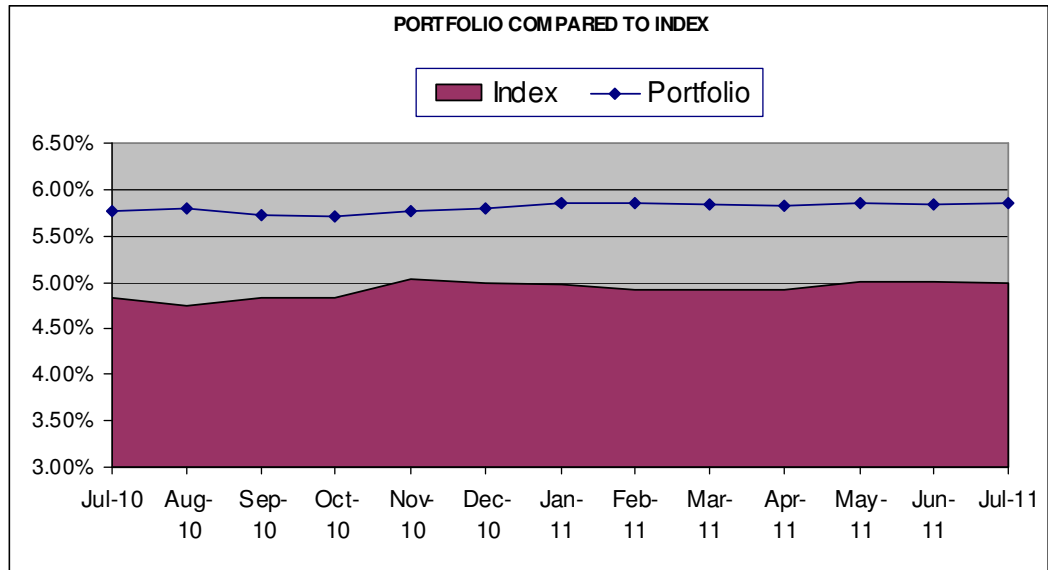
A. Summary of Investments by Institution

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	3.2	
Bendigo Bank Ltd	BBB	No	1,000	1,000	1.6	
Deutsche Bank	A+	No	4,000	4,000	6.4	
Goldman Sachs	AA-	No	1,000	1,000	1.6	
Heritage Building Society	BBB	No	3,000	3,000	4.8	
HSBC Australia	AA-	No	1,000	1,000	1.6	
Local Govt Fin Service	A	No	5,000	5,000	8.0	
Longreach Capital Markets 23	AA-	No	1,000	1,000	1.6	
Longreach Capital Markets 28	AA+	No	1,000	1,000	1.6	
Morgan Stanley	A	No	2,000	2,000	3.2	
National Australia Bank	AA	No	1,788	1,788	2.9	
National Wealth M'ment Holding	A	No	2,000	2,000	3.2	40%
Rated Institutions						
ANZ Bank	AA-	No	0	1,001	1.6	
Bank of Queensland	BBB+	Y-\$1m	3,000	5,000	8.0	
Bank of Western Australia	AA	Y-\$m	3,666	2,958	4.8	
Commonwealth Bank of Australia	AA	Y-\$2m	6,330	7,380	11.9	
Credit Union Australia	BBB+	Yes	1,000	2,000	3.2	
Illawarra Mutual Bld Society	BBB	Y-\$1m	6,000	4,000	6.4	
National Australia Bank	AA	No	1,000	1,000	1.6	
Members Equity Bank	BBB	Y-\$1m	1,000	1,000	1.6	
Newcastle Permanent Bld Soc	BBB+	Y-\$1m	2,000	4,000	6.4	
Suncorp Metway Bank	A	Y-\$1m	7,111	8,111	13.0	58%
Unrated ADI's						
QLD Country Credit Union		Yes	1,000	1,000	1.6	2%
Total			56,895	62,238	100%	

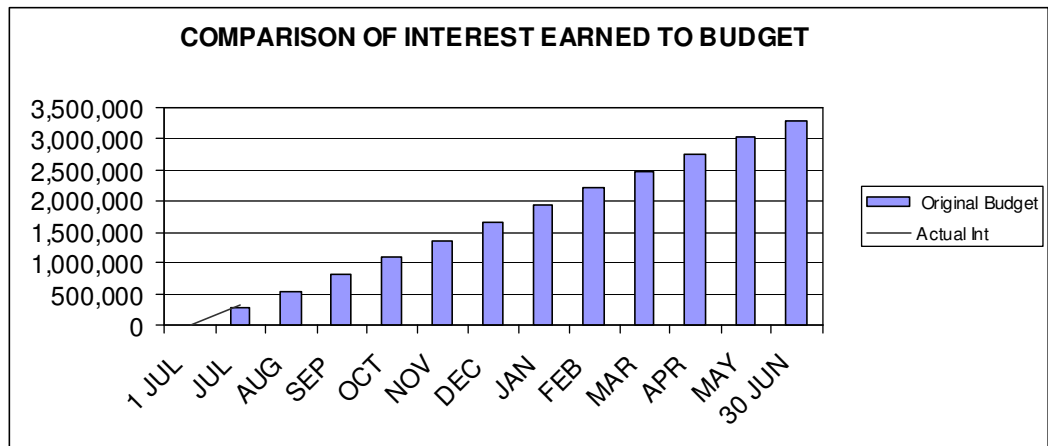
B. Monthly Comparison of Total Funds Invested



C. Comparison of Portfolio Investment Rate to 90 Day BBSW



D. Progressive Total of Interest Earned to Budget



Comment

The RBA left the cash rate on hold at 4.75% at its 2 August 2011 meeting.

Since the release of the June quarter CPI number in late July, which came in higher than expectations at 3.6% pa, the board has become more aggressive in its attitude to tightening rates.

Compare the final paragraph in last months' (July's) statement which read: "At today's meeting, the Board judged that the current mildly restrictive stance of monetary policy remained appropriate. In future meetings, the Board will continue to assess carefully the evolving outlook for growth and inflation," to the final paragraph in the August statement: "At today's meeting the Board considered whether the recent information warranted further policy tightening. On balance, the Board judged that it was prudent to maintain the current setting of monetary policy, particularly in view of the acute sense of uncertainty in global financial markets over recent weeks. In future meetings,

the Board will continue to assess carefully the evolving outlook for growth and inflation.”

Clearly, the RBA is worried about inflation and only held back from an increase this month because of the fragile USA/Europe scene. More commentators are now predicting a rise in the next two or three months.

E. Investments Held as at 31 July 2011

Purchase Date	Issuer	Type	Rate %	Call or Maturity Date	Purchase Value \$'000
23/04/04	Deutsche Bank	FRN	5.96	23/04/14	2,000
23/04/04	Deutsche Bank	FRN	5.96	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	5.48	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	6.14	18/10/12	1,000
18/10/07	ANZ Bank	FRN	5.59	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	6.14	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
01/03/11	Bank of Queensland	TD	6.35	01/09/11	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
05/07/11	Queensland Country Credit Union	TD	6.05	02/11/11	1,000
05/07/11	Bank of Queensland	TD	6.10	02/11/11	2,000
05/07/11	Newcastle Permanent Bld Society	TD	6.02	04/10/11	2,000
11/07/11	Illawarra Mutual Bld Society	TD	5.95	10/10/11	1,000
11/07/11	Suncorp-Metway Bank	TD	6.22	09/01/12	1,000
12/07/11	Illawarra Mutual Bld Society	TD	6.00	10/10/11	1,000
14/07/11	Credit Union Australia	TD	6.08	11/11/11	1,000
19/07/11	BankWest	TD	5.85	16/11/11	1,958
20/07/11	ANZ Bank	FND	3.70	At call	1,001
Total:					62,238
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 July 2011.

10.3 Write Offs - Rates, Charges and Interest

File Reference	Rates General
CSP Linkage	Transparent and accountable governance
Delivery Program	Financial Management
Objective	Provide Council with details of rates, charges and interest written off during the 2010/11 rating year

Background

Clause 131 of the Local Government (General) Regulation 2005 (LGGR) and section 607 of the Local Government Act 1993 (LGA), outline procedures that councils must follow to write off certain rates, charges, and interest.

Essentially, write offs not covered by specific sections of the LGA must be carried out by Council resolution, unless the General Manager has been provided with delegated authority by the Council.

The existing Council delegated authority for the General Manager provides authority to write off general debts to a maximum of \$1,000 per debt.

Furthermore, Council adopted the Concealed Water Leaks policy on 24 February 2011, and this policy also provides the General Manager with delegated authority to approve any water charges written off in accordance with the policy's guidelines.

The General Manager has also provided the Rating and Customer Service Coordinator delegated authority to write off interest amounts, pursuant to section 567 of the LGA, up to the value of \$100 per assessment as well as delegated authority to approve any water charges written off in accordance with the Concealed Water Leaks policy.

Sub clause (6) of clause 131 also requires the General Manager to inform the Council of any amounts written off under delegated authority. This report complies with that clause.

Key Issues

- Compliance with clause 131 (6) of the LGGR.

Information

In accordance with clause 131 of the LGGR, details of the 2010/11 rates, charges, and interest, written off under delegated authority, are provided in table one. Detailed information regarding individual assessments is recorded in Council's rating files.

Although not required under clause 131 of the LGGR, table two has also been provided for information purposes. Table two contains all other rates, charges, and interest amounts written off during 2010/11 in accordance with specific sections of legislation.

All rates, charges and interest written off during the period 1 July 2010 to 30 June 2011, totalling **\$5,308.03**, are also required to be included in Council's annual report (clause 132 LGGA).

Table One - Write-offs - Under General Manager's Delegated Authority

472 Assessments	\$241.73	Small balances (less than \$1.00 per assessment) uneconomical to collect - Section 567 LGA.
Assessment 172132	\$1,524.56	Water charges written off in accordance with Council's Concealed Water Leaks policy. 9 Range Street East Ballina
Assessment 277788	\$669.56	Water charges written off in accordance with Council's Concealed Water Leaks policy. 1 High Street Alstonville
Assessment 278962	\$519.84	Water charges written off in accordance with Council's Concealed Water Leaks policy. 15 Scenic Court Alstonville
Assessment 119273	\$557.84	Water charges written off in accordance with Council's Concealed Water Leaks policy. 5 Sapphire Court Lennox Head
Total:	\$3,513.53	

Table Two - Write-offs - Required by Specific LGA Legislation

6 Assessments	\$1,794.50	Year six write off of postponed ordinary rate and interest charges - Section 595 LGA - Postponements typically relate to a single dwelling house that is zoned for multiple occupancy - The Valuer General supplies a land value for the highest potential - Upon application for postponement the Valuer General supplies an attributable value (i.e. extra value due to subdivision or higher potential) and Council levies but postpones the attributable component. Interest is also charged - After five years the postponed amount and interest is written off. If entitlement to postponement ceases at any time, any amounts not written off become due.
Total:	\$1,794.50	

Legal / Resource / Financial Implications

The 2010/11 budget allowed for write offs required under specific legislation. As a result, the amounts not budgeted for were the \$271.95 small balance write offs and the \$3,271.80 in water charges written off under the new Concealed Water Leaks policy.

Consultation

Provided for public information.

Options

This report is provided for noting purposes only

RECOMMENDATIONS

That Council notes the rates, charges, and interest written off under delegation of the General Manager for the 2010/11 rating year, pursuant to clause 131 of the Local Government (General) Regulation 2005, as outlined within this report.

Attachment(s)

Nil

10.4 Community Donations

File Reference	2011/2012 Delivery Program/Donations Program
CSP Linkage	Transparent and accountable governance
Delivery Program	Governance
Objective	To determine whether Council wishes to approve two community donation requests.

Background

Council approved a number of general and capital assistance donations at the July 2011 meeting for the 2011/2012 financial year. Since that time an additional request has been received. Generally Council staff advise the applicants to reapply next financial year. However there are certain requests that are considered meritorious for the current year and on that basis, as per the Council policies, they are submitted to Council for consideration.

Two such requests are considered in this report.

Key Issues

- Nature of request
- Community benefit
- Funding available

Information

Details of the new requests are as follows:

Ballina & District Equestrian Club

This request is to waive development application fees for their proposed Overnight Camping Approval and Land Fill Material. A copy of the request is included as an attachment to this report.

This development application has not yet been lodged, however Regulatory Services have done a quotation and the fees are as shown below. Fees charged that are passed on to another agency and fees that are related to a direct cost (ie; advertising fees) have not been included for consideration.

- Fees to Council \$250.30

Council has an adopted policy titled "Donations - Assistance with Council Fees for Community Groups". The Ballina & District Equestrian Club meets the guidelines in this policy as they are a not for profit group and the facility being provided is on Council land and will therefore become a community asset.

Ballina High School - Marine Discovery Centre

They require the Council to float the marine truck to Lismore for registration purposes. Previously this work was undertaken by the RTA in Ballina however the work must now be carried out in Lismore.

- Hire Cost based on Council hire charges - \$360 (two hours)

Council has a long history of supporting the marine discovery centre with Council's workshop often working on their equipment after hours.

Sustainability Considerations

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

Legal / Resource / Financial Implications

The current status of the donations budgets for 2011/2012 is as follows:

Items	Budget	Expended	Balance
Donations (General)	65,000	56,000	9,000
Donations (Halls)	40,000	37,500	2,500
Donations (DA Fees)	2,000	0	2,000

Consultation

The annual donations program is subject to formal public exhibition and generally Council attempts to ensure that all donations are considered at the same time to ensure there is equity in the allocation process. However there has been no specific consultation in respect of these applications.

Options

The options are to approve, or not approve, the donations.

As the Equestrian Club application complies with the policy the recommendation is to approve the donation.

Similarly Council has had a long relationship with the Marine Discovery Centre and it is recommended that we support their application.

RECOMMENDATIONS

1. That Council approves the donation of the Council development application fees for the Ballina & District Equestrian Club's proposed Overnight Camping Approval and Land Fill applications. The estimated value of this donation is \$250.
2. That Council approves the donation of the floating of the marine truck to Lismore for the Ballina High School Marine Discovery Centre. The estimated value of this donation is \$360.

Attachment(s)

1. Letter from Ballina & District Equestrian Club

10.5 Legal Cases - Status

File Reference	Legal Action
Sustainability Plan	Transparent and accountable governance
Delivery Program	Governance
Objective	To provide an update on legal cases involving Council.

Background

As a public authority Council is regularly involved in legal matters. This report provides an update on matters that have been subject to court action or may result in court action.

Key Issues

- Type and cost of litigation

Information

This report provides an opportunity to examine legal matters in which the Council is, or has been, involved, with particular reference being to the last two years.

The report has been provided in open Council to ensure the information is available to the public.

If Councillors wish to discuss matters in detail it may be necessary to resolve into confidential session to ensure the discussion does not prejudice any on-going legal action.

Brief details on all legal cases involving Council where matters are still to be finalised, or additional information is available since the last legal status report, are as follows.

Clarissa Huegill & Associates	Rich and Rich v Lennox Palms Estate and Ballina Shire Council	Land & Environment court - ref. no. 2009/40275 - Kellie Ann Crescent, Lennox Head - Interpretation of development consent - Class Four	\$40,000	\$17,000
Comments				
Plaintiff attempting to ensure access road from Lennox Palms Estate is complete to allow subdivision of Plaintiff's property. This was largely a matter between two separate property owners. Council was joined as the second respondent and entered a submitting appearance Matter then determined with Plaintiff's case being dismissed. This matter was then appealed by the Plaintiff as per the next item.				

Clarissa Huegill & Associates	Rich and Rich v Lennox Palms Estate and Ballina Shire Council	Court of Appeal - ref. no. CA 2010/242	\$5,000	\$0
<p>Comments</p> <p>The Court of Appeal judgment was delivered on 22 September 2010 with the Plaintiff's claim being dismissed and Council awarded costs. However as Council only entered a submitting appearance we were not in a position to claim any costs.</p>				
Maddocks Solicitors	SJ Connelly v Ballina Shire Council	Land & Environment Court - ref. no. 2010/40457 - Temporary stockpile interpretation - Class Four	\$50,000	\$66,000
<p>Comments</p> <p>Differing interpretation as to whether development for temporary stockpile was Designated Development. Matter heard and case awarded against Council with Council responsible for the Plaintiff's costs. A cost reimbursement of \$40,000 has been paid to the Plaintiff.</p> <p>The Local Government and Shires Association (LGSA) approved a request by Council to seek reimbursement of costs from other councils, due to the legal precedent set by this case. Under the LGSA policy Council pays the first \$20,000 and it is hoped that the balance will be recouped from contributions from other councils.</p> <p>Council has now received a reimbursement of \$43,731 from the LGSA significantly reducing our costs for this case.</p>				
Blake Dawson	Oshlack v Ballina Shire Council & Ors	Land & Environment Court - ref. no. 2010/40570 - Challenge to approval of Marom Creek fluoridation plant - Rous Council and Lismore also joined in this case - Class Four	\$100,000	\$159,000
<p>Comments</p> <p>Mr Oshlack is appealing the process followed by Rous, Lismore and Ballina councils in approving fluoridation. Rous Council engaged Blake Dawson Solicitors and Ballina staff have agreed for that firm to also represent Ballina Council with costs to be shared, as this should result in cost savings. Lismore Council has engaged a separate firm to act as their solicitors.</p> <p>The costs for this legal action are sourced from Council's water budget.</p> <p>The initial defence of the appeal included seeking a decision of the court regarding a preliminary point of law. This motion, which was pursued by Ballina and Rous Councils, was heard by the Court on 14 March 2011. The point of law examined the relative powers of the Fluoridation Act and the Environmental Planning and Assessment Act and in doing so argued that the broader question of any environmental issues associated with the addition of fluoride has been dealt with by the Government and is an assessment beyond the capacity of the Council. If a decision in response to this point of law was favourable then the appeal would no longer proceed. Both Ballina and Rous were subsequently unsuccessful in respect to this preliminary point of law.</p> <p>The hearing of the appeal was conducted in late June 2011. The decision of the court is yet to be published. In terms of the proceedings completed to date, no further funds are expected to be expended.</p>				

Legal / Resource / Financial Implications

This next section of this report provides an update on final legal costs for 2010/11, along with a comparison to the previous two financial years.

Description	2008/09 Paid	2009/10 Paid	Revised 2010/11 Budget	2010/11 Paid
Planning Legals				
Avalon	86,000	0		0
Bryson and Blake	33,000	57,000		0
Greenwood Grove	53,000	44,000		7,000
Lennox Head Apartments	0	26,000		0
Ramada	0	51,000		364,000
Rich and Rich	0	16,000		1,000
Simpson	125,000	0		0
Stockpile - Temporary	0	0		66,000
Advice - Riverside Suites	95,000	35,000		4,000
Advice - North Angels	0	7,000		4,000
Advice - Service Centre	0	0		37,000
Advice - Miscellaneous	44,000	43,000		61,000
Sub Total	436,000	279,000	600,000	544,000
Property Legals				
Gunundi	139,000	23,000	3,000	3,000
Homeworld - Sec 96	52,000	0	0	0
Homeworld - BLEP	163,000	110,000	5,000	4,000
Sub Total	354,000	133,000	8,000	7,000
Water Legals				
Oshlack - Fluoride	0	0	100,000	159,000
Total Expenses	790,000	412,000	708,000	710,000
Expenses Recouped				
Freedden	52,000	0		0
Jacobson / McMillan	103,000	0		0
Simpson	6,000	0		0
Stubberfield	0	29,000		29,000
Gunundi	0	0	Property (264,000)	71,000
Homeworld	0	0	Planning (20,000)	190,000
Ramada	0	0	Health (29,000)	8,000
Greenwood Grove	0	0		15,000
Stockpile Temporary (1)	0	0		37,000
Miscellaneous	0	0		3,000
Total Income	161,000	0	313,000	353,000
Net Cost	629,000	412,000	395,000	357,000
Fund Summary				
General Fund	629,000	412,000	295,000	198,000
Water Fund	0	0	100,000	159,000

(1) In addition to the \$37,116 received during 2010/11 Council has also received \$6,615 in 2011/12, resulting in a total reimbursement of \$43,731

Total legal expenditure for 2010/11 in the last legal status report to Council (May 2011) was \$587,000 therefore there has been an increase of \$123,000 for the quarter.

The major contributor to this has been the Oshlack case where expenditure has increased from \$72,000 to \$159,000 (\$87,000 increase). This expenditure is funded from the Water Fund therefore it has no impact on the General Fund bottom line, albeit that the cost of this action is still becoming significant.

In respect to the General Fund, expenditure during the quarter has mainly related to general advice, with no legal cases currently active. Actual **planning** legal expenses incurred (\$544,000) have only increased by \$48,000 from the \$496,000 which was the figure presented in the legal cases report to the January 2011 Ordinary meeting (period of six months).

Since that date Council has not been actively involved in any legal cases and the additional expense has related only to legal advice.

It is pleasing to note that with all the expenses recouped during the year the net General Fund result (cost of \$198,000) is well below the budgeted figure of \$295,000.

Options

This report is provided for information.

RECOMMENDATIONS

That Council notes the contents of the legal status report as at August 2011, including the final 2010/11 income and expense figures.

Attachment(s)

Nil

10.6 Ballina Coastal Country Music Festival

File Reference	Public Events / Festival and Event Support Program
CSP Linkage	Transparent and accountable governance
Delivery Program	Community Planning
Objective	To obtain Council approval to change the applicant for the Festival and Event Support Program funding from Paradise FM Community Radio Inc. to Ballina Coastal Country Music Festival Inc.

Background

At the February 2011 Ordinary meeting, Council resolved to fund through the Festival and Event Support Program, Paradise FM Community Radio Inc as the co-ordinating body for the Ballina Coastal Country Music Festival. The benefits of using Paradise FM meant that administrative issues such as insurance, accounting, GST etc, could all be co-ordinated through Paradise FM's existing infrastructure.

Since the initial submission, the festival organisers have lodged an application to become an incorporated body; therefore Paradise FM, as an oversight organisation, is no longer needed.

The purpose of this report is to obtain approval to change the applicant of the Festival and Events Support Program from Paradise FM Community Radio Inc. to Ballina Coastal Country Music Festival Inc.

Key Issues

- To ensure the organising body has measures in place to successfully coordinate the Ballina Coastal Country Music Festival.

Information

Ballina Coastal Country Music Festival Inc have formally requested in writing for the applicant of the Festival and Event Support Program to be changed from Paradise FM Community Radio to Ballina Coastal Country Music Festival in June 2011. A copy of that request is attached. The request states many reasons for the change of applicant, the most significant being that all licences, insurances, bank accounts, invoices and receipts are held in the name of Ballina Coastal Country Music Festival Inc.

Council has also received a letter on 20 July 2011 from Paradise FM Community Radio stating that it endorses the change of applicant, and that they will remain a sponsor of the event.

Ballina Coastal Country Music Festival Inc. became an incorporated association on 4 May 2011 with an incorporation number of INC9895206. In order to apply to be an incorporated body, the organisation must prove that it is not-for-profit. The organisation fits the eligibility criteria for the Festival and Event Support Program.

Ballina Coastal Country Music Festival Inc has also registered for an Australian Business Number on 1 April 2011.

Carol Stacey and Lyn Rankin (the festival organisers) have signed statutory declarations detailing the event's income and expense. The organisations current bank balance is \$15,400 and they are anticipating an operating profit of under \$5,000 which will remain for the 2012 event. The festival budget as at 20 July 2011 is as follows.

Income	Cash	In-kind
Ballina Shire Council support	20,000	
Sponsorship	50,200	13,000
Ticket sales	15,650	
Merchandise		200
Other (Raffle)	15,000	
Council bond/s return	1,000	
Total	101,850	13,200
Expenditure		
Volunteer hours		60,000
Administration	4,732	
Materials	5,683	2,000
Transport	5,000	2,000
Promotion	4,500	
Insurances	3,246	
Traffic & Waste Management	5,750	1,000
Artist Fees	55,500	
Prizes	1,000	
Production	10,910	
Security	2,000	
Total	98,321	65,000
Surplus / (Deficit)	3,529	N/A

Sustainability Considerations

- **Environment**
Environmental, social and economic factors all form part of the assessment criteria for allocating the initial funding.
- **Social**
As above

- **Economic**
As above

Legal / Resource / Financial Implications

As outlined in the information section of this report.

Consultation

The allocation of the Festival Funding was subject to a public consultation process.

Options

The options are to support or not support the change of applicant. There appears to be no reason not to support the proposal therefore the change in applicant is supported.

RECOMMENDATIONS

That Council supports the change of applicant as part of the 2011/12 Festival and Event Support Program from Paradise FM Community Radio Inc to Ballina Coastal Country Music Festival Inc. for the 2011 Ballina Coastal Country Music Festival.

Attachment(s)

1. Letter from Festival organisers
2. Letter from Paradise FM

10.7 Budgets Carried Forward and Reserve Movements

File Reference	Financial Management Reporting
Sustainability Plan	Transparent and accountable governance
Management Plan	Financial Management
Objective	To advise Council of works carried forward into 2011/12 and also transfers to reserves included in the finalisation of the 2010/11 results.

Background

At the conclusion of the 2010/11 financial year there were a number of projects that were either not commenced or completed. The first section of this report is to advise Council of those works and to obtain approval to carry funding forward to the 2011/12 financial year.

The second section of this report provides details on funds that have been transferred to reserve for future use. These items relate to either Council's business operations or to internal reserves that assist in financing the ongoing operations of Council.

Key Issues

- Sources of funding and works carried forward.

Information

It is important for Council's budgeting purposes that any incomplete projects, and the matching funding, are carried forward to the next year. This then ensures that the next year's budget reflects the totality of the works program.

Table one provides details of the items to be carried forward from 2010/11 to 2011/12.

All of these projects have been approved by Council and the designated funding source will be carried forward with the project.

Table two represents funds transferred to reserve to meet future commitments. These commitments may be in the form of known liabilities, future works or working capital for a business.

The amounts carried forward and transferred to reserve include Council funds, grants and section 94 contributions. In some instances the figure in the amount column may include one or more of these funding sources.

A number of the figures are consolidated and if further information is required please contact Council's Finance section.

Table One - Summary of Items Carried Forward

Description	Dollars	Comment
STRATEGIC & COMMUNITY SERVICES		
Strategic Services		
Indigenous Heritage Study	6,200	Works in progress
Rezoning Reserve	127,000	Works in progress
Heritage Fund	8,800	Works in progress
New LEP	137,500	Works in progress
Section 94 Plans Review	37,000	Works in progress
Strategic Planning Studies	29,000	Works in progress
Community Services		
Crime Prevention	30,000	Grant received for plan
Economic Development	25,000	Ongoing projects
Art Gallery		
Art Prize	4,000	Grant received for prize
Strategic Services Group Total	404,500	
REGULATORY SERVICES GROUP		
Public & Environmental Health		
DECC Water Efficiency	5,300	Works not commenced
Regulatory Services Group Total	5,300	
CIVIL SERVICES GROUP		
Ancillary Transport Services		
Footpaths Reserve	733,000	Various works in progress
Alstonville Town Centre Upgrade	1,483,300	Works in progress
Wardell Town Centre Upgrade	669,000	Works in progress
Ballina town Centre Upgrade	22,500	Works not commenced
Street Lighting Project	166,000	Works not commenced
Gateway Signage	32,600	Works in progress
Lake Ainsworth Car Park	82,400	Works in progress
Town Centre Roundabouts	298,000	Works not commenced
Traffic Signs	12,300	Works in progress
Asset Management		
Climate Adaption Grant	8,500	Works in progress
SES Building Extension	9,600	Works in progress
Stormwater Plan	15,000	Works not commenced
Ferry, Wharves & Jetties		
Civil Works (Wharves) Reserve	89,900	Emigrant Creek and ramps, Fawcett Park pontoon
Parks and Gardens		
Newrybar Septic	15,000	Works in progress
Civil Works (Open Spaces) Reserve	135,000	Various works in progress including Pat Morton Lookout
Lennox Foreshore Plan	50,000	Works in progress from section 94 reserves

10.7 Budgets Carried Forward and Reserve Movements

Description	Dollars	Comment
Crane Street War Memorial	44,600	Works in progress
Vegetation Management		
Various Grant Based Works	137,800	Works in progress
Pine Avenue Revegetation	45,000	Works in progress
Sporting fields		
Saunders Oval Extension	194,000	Works in progress from section 94 reserves
Hill Park Site Screen	10,000	Works in progress
Fripp Oval Lights	131,000	Works in progress
Roads & Bridges		
Roads Capital	2,874,000	Cumbalum Way/Hutley Drive funded from sect 94
Bridges	3,705,000	Works in progress; i.e. Teven Bridges / Yellow Creek
Roads & Traffic Authority		
SIC Reserve	81,600	Surplus from RTA contracts
Regional Roads Grant	8,100	Unexpended Grant
Rural fire service		
Unexpended Operating Budget	35,800	Account owing 2010/11
Stormwater & Environmental Protection		
Coastal Hazard Study Grant	73,300	Works in progress
Ballina Flood Risk	56,500	Works in progress
Ballina Flood Study Actions	30,000	Works in progress
Shaws Bay Gross Pollutant Trap	9,200	Works in progress
Stormwater	610,000	Works in progress
3 rd Party Modelling	23,600	Works in progress
Emergency Action Sub Plan	5,000	Works not commenced
Newrybar Flood Model	12,000	Works not commenced
Domestic Waste		
Purchase of Plant	900,000	Purchase not commenced
Landfill and Resource Recovery		
Leachate Pumps	57,000	Works not commenced
Chemical Storage Area	12,000	Works in progress
Organics Processing Pad	15,000	Works not commenced
Cover Recycling Area	56,000	Works not commenced
Civil Services Group Total	12,948,600	
GENERAL MANAGER'S GROUP		
Financial Services		
FAG Reserve	846,500	2011/12 payment received in advance
Property Names and Address Project	25,000	Works in progress
Governance		
Transfer to Community Donations Reserve	16,600	Acquittals in process

10.7 Budgets Carried Forward and Reserve Movements

Description	Dollars	Comment
Information services		
Transfer to Trim Project Reserve	39,000	Works in progress
Libraries		
Library Special Projects	54,200	Grant funded works
General Manager's Group Total	981,300	
Water		
Water Section 64 Plan Review	83,500	Works in progress
Water GIS Layer	40,000	Works in progress
Water WD18 Wollongbar Boosted Area	200,000	Works in progress
Water Total	323,500	
Sewer		
Strategy	53,000	Works in progress
Seamist Pump Station	177,000	Works in progress
Pumping Stations Various	147,000	Works in progress
WUEA Underbores	4,000	Works in progress
SP 3106 Gravity Main	15,000	Works in progress
SP 3110 Gravity Main	98,000	Works in progress
Skennars Ridge Rising Main	116,200	Works not commenced
WUEA Gravity Main	94,000	Works in progress
Open Space Reuse	1,125,000	Works in progress
Backlog Program Alstonville	16,000	Works in progress
Telemetry Program	18,000	Works in progress
Mains Renewals Inflow Contract	300,000	Works in progress
Ballina Treatment Plant Upgrade	317,000	Works in progress
Ballina Upgrade Contract	962,000	Works in progress
Lennox Treatment Plant Upgrade	632,000	Works in progress
Lennox Upgrade Contract	563,000	Works in progress
Technical Consultancies	120,000	Works in progress
Sewer Total	4,757,200	
Totals	19,420,400	

The following table provides details of transfers to reserve that relate to discreet business sections and recurrent reserves. Figures relating to business operations such as domestic waste, landfill and resource recovery, plant, cemetery, quarry etc. represent the net movement of the reserve.

Figures shown for recurrent reserves such as section 94 contributions and the renewable energy fund are exclusively the transfer to reserve.

Table Two - Summary of Transfers to Reserve

Description	Amount \$	Comment
STRATEGIC & COMMUNITY SERVICES		
Strategic Services		
Section 94 Contributions and Interest	3,048,000	Contributions & interest earned
Community services		
Community Services Administration	100,000	Contr for admin expenses regarding community centre
Renewable Energy Fund	11,200	
Strategic Services Group Total		
REGULATORY SERVICES GROUP		
Public & Environmental Health		
Environmental Health Project	5,000	Reserve to fund project based works
Cat Shelter Reserve	25,000	Project on hold pending further investigations
Health Technical Equipment Purchases	6,000	Purchase of water testing equipment and health measures
Regulatory Services Total		
Civil Services Group		
Cemeteries		
Cemeteries Reserve	32,000	Cash surplus on operations
Landfill and resource recovery		
Business Reserve	1,260,000	Cash surplus on operations.
Domestic Waste Management		
Waste Reserve	15,000	Cash surplus on operations.
Plant Operations		
Plant Reserve	90,000	Cash surplus on operations
Quarry Operations		
Quarry Reserve	285,000	Cash surplus on operations
Stormwater & Environmental Protection		
Canal Dredging	15,000	Reserve to enable meaningful project each few years
Newlog		
NEWLOG Reserve	22,000	Net surplus on operations
Civil Services Group Total		
GENERAL MANAGER'S GROUP		
Governance		
Elections Reserve	20,000	Election allowance
Human Resources & Risk Management		
ELE Reserve	(345,000)	Net reduction. Refer to comment below
General Manager's Group Total		
COMMERCIAL SERVICES UNIT		
Property Management		
Commercial Opp/Industrial land Reserve	479,000	Repayment of loans by plant waste, flat rock and airport.
Commercial Property		
Crown (Property Rents)	78,000	Income from crown reserve

10.7 Budgets Carried Forward and Reserve Movements

Description	Amount \$	Comment
Community Infrastructure Reserve	80,000	Rental surplus Fawcett St Café
Community infrastructure/Industrial Land Res	232,000	Rental surplus ARC
Community Infrastructure Reserve	659,400	Rental surplus 89 Tamar St
Transfer to Wigmore Refurb Reserve	30,000	Provision for improvements
Community Infrastructure Reserve	248,000	Interest income
Commercial Opportunity Reserve	524,300	Interest income
Industrial Land Reserve Southern Cross	702,400	Deposits taken of land sales
Industrial Land Reserve Southern Cross	115,000	Rental income Norfolk Homes
Community infrastructure Reserve	878,300	Recoupment's from section 94
Industrial Land Reserve	247,000	contributions for works completed by Council
Commercial Opportunity Reserve	6,000,000	Internal transfer to Industrial Land Res to balance three property reserves
Total Commercial Services Unit		
Water Supply		
Refurbishment Reserve	(778,400)	Net reduction to the reserve
Section 64 Reserve	1,121,000	Net increase to the reserve
Sewer Services		
Refurbishment Reserve	(5,114,000)	Net reduction to the reserve
Section 64 Reserve	(548,000)	Net reduction to the reserve

Other Matters

Employee Leave Entitlements (ELE) reserve

The accounting procedure for wages expense includes the costing of ordinary hours to the section or project on which the staff member is working. When staff take leave the expense is costed to leave expense budgets within the Human Resources section of Council.

The budget for operational sections assumes that on average staff will take 4 weeks annual leave plus estimates of time for sick and long service leave. Hence if staff take more leave than estimated, there will be a saving to budget in operational areas and an over expense in comparison to budget in respect to the leave expense.

During the year staff have been encouraged to take leave entitlements that have accumulated to proportions that exceed award directives. Staff have been required to provide leave management plans that outline how the leave balance will be reduced. This has contributed to substantially more wages being costed to leave expense than was forecast.

Together with requirements to reduce leave balances, retrenchments, retirements and pay outs of entitlements for accumulated sick leave have resulted in it being necessary to transfer \$703,000 from the ELE reserve. This is over and above the \$2 million that was originally forecast to meet leave expense for the year.

However within numerous wages budgets across the organisation there has also been significant savings in comparison to budget. Hence there is a transfer to reserve of \$358,000 that looks to return wages savings to the reserve and represents an increase of \$308,000 in comparison to the original budget.

The net movement of the reserve (transfer from \$703,000 and transfer to \$358,000) is a decrease of \$345,000. The reserve balance at the start of the year was \$1,956,000 and it will fall to \$1,611,000. Subject to the finalisation of end year accounting work the leave liability is in the order of \$7,074,000 which means the reserve is funding 23% of the liability.

To have the reserve funded in excess of 20% would normally be an acceptable benchmark. However given that we know there will be abnormal calls made on the reserve due to leave management plans and retirements of baby boomers it is likely that this reserve will struggle to meet commitments.

General Fund Working Capital

The report to the July meeting provided early information in respect to the results of programs in comparison to budget. The finalisation of reserve movements allows further advice in respect to budget outcomes whereby, subject to the finalisation of accounts, a cash surplus of approximately \$160,000 will be recorded in General Fund.

The forecast position at the March review was a deficit of \$186,000 so it has been a good improvement. Some the larger variations in comparison to budget that contributed to this change are described below.

Lennox Head Community Centre: A saving in comparison to net cost of \$37,000 which is due to the Centre commencing operations later in the year than was anticipated.

Development Services: Budget for legal expenses was increased substantially during the year and at year's end there was a saving to budget of \$56,000. Also legal costs were recouped in the last quarter of the year with an additional \$40,000 being received.

Building Services: Income received was \$762,000 which is \$73,000 less than forecast.

Depot: Operating expenses at the depot were \$520,000 which is \$44,000 more than budget. This budget was increased during the course of the year however it was not sufficient.

Open Spaces and Reserves: End year result for this program was a saving to budget of \$55,000 however the budget was increased in March by over \$200,000.

Financial Services: Income from funds invested that is attributed to general revenue was \$851,000 which is \$100,000 more than forecast. This is mainly attributable to capital expense not occurring at the rate forecast.

Information Services: Operating expense amounted to approximately \$1.2 million which exceeded budget by \$54,000. Increasing costs associated with the provision of hardware and software account for the over expense.

Human Resources: A net saving to budget of \$185,000 due to less than forecast expense regarding superannuation and public liability insurance. Also income from internal oncosts and grants in respect to training programs exceeded budget.

The General Fund cash outcome over the final quarter reflected a sound improvement from the March forecast and a surplus was recorded following adjustments for reserve movements. However it does need to be noted that this result is supported by dividends taken from Quarry \$250,000, property \$422,000 and cemeteries \$50,000.

Sustainability Considerations

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

Legal / Resource / Financial Implications

There are no net financial implications from this report as the report details movements between years and surplus funds going into reserves.

Consultation

Provided for public information.

Options

This report is designed to ensure Councillors are informed on the transfers to reserves.

RECOMMENDATION

That Council approves the projects carried forward and reserve movements as outlined in tables one and two of this report.

Attachment(s)

Nil

10.8 Deferral of Development Contributions - Ferngrove

File Reference	Development Contributions
CSP Linkage	A diverse and prosperous economy
Delivery Program	Commercial Services
Objective	To consider a request to defer the payment of development contributions and payment plans for subdivision works

Background

Council was approached by the developers of the Ferngrove Estate at North Ballina in 2009 with a request to defer the payment of developer contributions associated with the development until the sale of individual lots, rather than prior to granting of a Subdivision Certificate for each stage of the development.

Council at its Ordinary meeting of 28 May 2009 resolved

1. *"That Council authorises the General Manager to negotiate a deferral of developer contributions in accordance with the terms and conditions outlined in the draft policy as attached to the report, for the Ferngrove development.*
2. *That Council authorises the exhibition of the draft policy for public comment."*

Council's Commercial Services staff arranged for the payment program to be implemented with the developers, Rayshield Pty. Ltd. following negotiations regarding terms and conditions relating to the policy. This process was conducted over the last financial year whereby Rayshield released 44 lots of land and were able to pay the contributions as the lots were sold.

Prior to the end of the financial year Rayshield arranged for the outstanding balance of contributions for Stage 1 to be paid and all bank guarantees relating to this agreement were returned.

In the last few weeks Rayshield have gone into receivership with the appointed Receivers and Managers, Deloitte approaching Council with a request to be able to make arrangements similar to Rayshield for the deferral of the developer contributions to enable them to continue selling the land at Ferngrove for Stage 2 which comprises of 58 lots.

The now adopted Council policy requires that any new applications for deferral of developer contributions are to be determined by the elected Council. A copy of the policy and correspondence is attached.

Key Issues

- Direct and indirect costs to Council
- Benefits to developer
- Benefits to community

Information

As discussed previously, the developers of Ferngrove Estate at North Ballina, Rayshield were able to negotiate a deferral of developer contributions for the release of Stage 1 of the Estate.

The payment schedule was over a twelve month period being the last financial year. Rayshield released 44 blocks to the market as Stage 1 of which they sold 32 lots.

Deloitte's are now requesting to make arrangements similar to Rayshield for the deferment of the developer contributions to enable them to continue selling the land at Ferngrove for Stage 2 which comprises of 58 lots.

There is also a debt owed by the developers, Rayshield for sewer works to the value of \$107,000. A request has been received by the receivers to formalise a payment plan to repay this amount over a twelve month period with payments each quarter.

Sustainability Considerations

- **Environment**
Not applicable
- **Social**
Not applicable
- **Economic**
With economy currently struggling assistance with land development activities can help to ensure that adequate and affordable land is provided to the community.

Legal / Resource / Financial Implications

The total cost of developer contributions for Stage 2 is estimated to be \$783,986. In addition to this, there is also an amount of \$220,168 for Rous Water that is paid directly to Rous Water and does not make up part of the deferred contribution application.

Council previously arranged bank guarantees with Rayshield for Stage 1 as well as a deed of agreement regarding a payment schedule. It is envisaged that a similar arrangement would be applicable if Council agrees to Deloitte's request.

Consultation

Council have met with the receivers, Deloitte as well as consulted with other sections within Council.

Options

1. To accept the request from Deloitte for deferral of developer contributions for Stage 2.
2. Decline the request from Deloitte for deferral of developer contributions for Stage 2.
3. To accept the request from Deloitte for a payment plan for the outstanding amount of \$107,000 for sewer works to be negotiated by the General Manager.
4. Decline the request from Deloitte for a payment plan for the outstanding amount of \$107,000 for sewer works.

Option 1 and 3 are the preferred options as this would enable the receivers to continue to develop and sell the residential lots within Ferngrove. It is considered that this proposal meets the requirements of the policy through the current economic downturn and the land being provided is considered relatively affordable for Ballina Shire.

In respect to the debtor of \$107,000 there is some level of dispute between Council and Ferngrove in respect to this amount as it relates to private works. If Council is able to receive payment in full within 12 months this is considered to be a good outcome and therefore the payment plan is supported.

RECOMMENDATIONS

1. That Council authorises the General Manager to negotiate a deferral of developer contributions with the developer of Ferngrove in accordance with the terms and conditions of the Deferral of Developer Contributions Policy.
2. The Council authorises the General Manager to negotiate a payment plan for the outstanding sewer works debt of \$107,000 based on a maximum 12 month repayment period.

Attachment(s)

1. Letter from Capland Real Estate Advisors.
2. Deferral of Developer Contributions Policy.

10.9 Richmond-Tweed Regional Library

File Reference	Regional Library
CSP Linkage	People attaining health and wellbeing
Delivery Program	Libraries
Objective	To confirm what direction Council wishes to pursue in respect to the management of the Richmond Tweed Regional Library.

Background

At the December 2009 Ordinary meeting Council considered a report that advised that the existing governance model for the Richmond-Tweed Regional Library (RTRL), which provides library services to residents of Ballina, Byron, Lismore and Tweed local government areas, was untenable.

The background to this was that the then operating arrangements had evolved from three separate service agreements from the 1970s however the RTRL was not recognised as a legal arrangement under the Local Government Act 1993 or the Library Act 1939.

Due to these concerns the council delegates to the RTRL had approved an external consultancy to assess what is an appropriate business model for the RTRL. That consultancy was completed by the AEC Group and the report to December 2009 meeting highlighted that there were three models that could be adopted to ensure that every council's legal responsibilities were met. The three options were:

- a) The formation of a county council
- b) The administrative model. This model involves one council taking control of all staff (approximately 60 EFT) and all the functions of the library. The model then relies heavily on that council providing the regional library services based on service level agreements (SLAs) with all the member councils. The SLAs would need to be negotiated between all members and the administrative council would when charge the members for the provision of the library services.
- c) The shared services model. Under this model one council delivers specific elements of the library service. These elements could include items such as centralised procurement, operation of the mobile library service etc. The member councils would then provide the remaining elements and an example could include the direct employment of staff.

The option that had been identified as the preferred option by delegates to the RTRL and the member council's Mayor and General Managers was option b) - the administrative model.

Council subsequently resolved as follows:

"That Council notes the contents of the report in respect to the on-going discussions regarding the preferred business model for the Richmond Tweed Regional Library".

Even though Ballina Council only resolved to note the report since that date Lismore City Council has moved forward on the administrative model by ensuring that all staff who work for the RTRL are now employed by Lismore Council. This action was taken as it was Lismore who was at the highest risk of the non-compliant governance structure, as Lismore was considered to be the council overseeing the operation of the RTRL by all members.

Lismore has also taken responsibility for all budgeting and the co-ordination of meetings to further advance discussions on the preferred governance structure.

Since the December 2009 report the NSW Library Act has also been changed through the Library Amendment Bill 2011. The major change to the Library Act is the inclusion of the following clause:

12A Other arrangements relating to local libraries

(1) Without limiting section 12, 2 or more local authorities may, with the approval of the Minister, enter into an arrangement for the provision, control and management of any library, library service or information service in the area of any local authority that is a party to the arrangement.

(2) The Minister is not to approve such an arrangement without the agreement of the Minister for Local Government.

Effectively this allows councils to enter into joint arrangements for the provision of library services and still receive funding under the Library Act. Prior to this change it was debateable whether councils could receive library funding if acting as a joint authority.

The report that now follows seeks Council's direction as to which option it wishes to pursue in respect to future management options for the RTRL.

Key Issues

- Administrative options
- Effective service delivery

Information

The AEC report, as presented to the December 2009 Ordinary meeting, provides a good overview of the issues that need to be resolved and the options available. That report has been included as an attachment to this report.

The three options canvassed in that report are the county council, administrative and shared services models with the administrative model being the preferred course of action.

It should be highlights that the recent change to the Library Act may now allow a fourth option, which would be a legal entity set up under Corporations Law. It is common practice for many public organisations to establish companies limited by guarantee to allow partnerships to occur that may not be able to operate under their normal charters.

It is understood that under the current NSW Local Government Act the Minister for Local Government must approve any incorporation. It is also understood that unions associated with local government often object to the establishment of such entities as allows staff to be employed under non council related awards.

In respect to the county council, administrative and shared services models the AEC report provides a sound overview of the benefits of each option.

In brief the county council model is seen as unlikely to be achieved in the near term as the general push from State Governments is to reduce councils. There is also debate about whether the level of bureaucracy required for a county council could be justified for a relatively standardised service such as the provision of libraries.

The shared services model relies on the member councils providing some of the services. For example one council could provide information technology services, another employment of staff and another management of books. It is generally considered that it is preferable for one organisation to be managing all of these services in a consistent fashion and on that basis, with the county council model unlikely to occur in the short to medium term, this left the administration model as the preferred option, so long as one council was prepared to take on the entirety of the library services. Also as the RTRL has always employed all the staff it did not seem practical for each of the councils to integrate those staff into their individual councils.

Based on this background, Lismore Council, through on-going consultation with the other member councils, has advanced the administrative model option by transferring all the staff and all other administrative functions of the former RTRL under their umbrella.

For this administrative model to now progress it is critical that there are adequate agreements in place between the member councils and the administering council (Lismore).

To achieve this, through consultation with the RTRL delegates, the Mayors and the General Managers a draft RTRL agreement has been prepared to ensure that both the member councils and Lismore City Council are fully aware of their responsibilities.

This draft agreement has been prepared by Lindsay Taylor Lawyers on behalf of Lismore City Council. Even though the agreement has been prepared directly for Lismore the agreement has been reviewed and amended by representatives from all councils through a series of workshops / meetings.

The draft agreement now presented is considered to satisfy all the essentially requirements for Ballina Council.

Key points of interest in the agreement include:

- The Administering Council is Lismore City Council
- The Participating councils are the members (Byron, Ballina, Tweed). Whether or not all of these councils participate is a matter for each council.
- Delegation - Clause 3 states that the participating councils delegate to Lismore all library functions allowed under the Local Government Act. This is essential as library is the organisation operating the library.
- Clauses 5 and 6 highlight the operational and reporting responsibilities for the Administering Council. Clause 5 also mentions a service level agreement. It is this agreement that will clearly define the level of service requested by each participating council and those agreements are still be finalised.
- Clause 7 highlights the need to employ an appropriately qualified library manager.
- Clause 8 outlines that assets must be adequately recorded and the participating councils will own a defined percentage of those assets. Final agreement on the appropriate percentage ownership of those assets is still to be finalised as this information has not been adequately recorded over the many years the RTRL has been operating.
- Clauses 8.4 and 8.5 highlight that the main assets of the RTRL, being the land and buildings, cannot be sold without the prior written agreement of the participating councils. This clause was included to satisfy individuals who had complained that Lismore Council could sell of these major assets without the councils' approval.
- Clause 12 clarifies the need for the Participating Councils to provide adequate premises.
- Clauses 16 and 17 ensure a library committee still exists, although it performs an advisory function only.
- Clause 20 allows 12 months notice for termination.

Overall the library agreement is considered to address all matters that have been raised by both Councillors and community interests and from a staff perspective there is no objection to Council proceeding to sign the agreement. Matters such as the asset allocation / distribution will need to be finalised prior to signing and this will form the basis of a further report to Council.

There has been debate on moving forward with this model through certain sections of the community, most notably the former Library Director, Mr Martin Field. Many of these objections appear to relate to Lismore City Council's performance and concerns that the member councils will be charged too much for the service; assets will be sold and absorbed into Lismore City Council's finances and the overall standard of service will level.

It is the opinion of staff that these concerns are unfounded in that the operations of the library will be directly reported to the member councils and the library committee and through the agreements in place all member councils will have a fair say.

It is true that under this model Lismore City Council has to make the final decision as they have the delegated authority, however if the member councils believe that Lismore City Council is acting inappropriately, which is extremely unlikely, the agreement can be terminated with 12 months notice. The onus, as it has always been, will be for all councils participating to monitor the performance of the library service to ensure the level of service is cost effective and satisfactory to our communities.

In attempting to determine whether Council should proceed with this administrative model it is also important to consider how other libraries are operating throughout the State. The speech that presented the Library Amendment Bill into Parliament stated that there were 19 arrangements between councils currently in place for the provision of library services.

Each of these arrangements has been researched and a brief summary of the operating structure for each is as follows.

1. Central Murray Regional Library (Deniliquin, Conargo and Murray Shires)

Administrative Model - Deniliquin Council is the host Council and employs all library staff. All other regional councils contribute an annual fee.

Library Committee in place - one Councillor elected annually from each council. Committee also comprises a citizens representative from each council area (nominations called annually), the General Manager and Finance Manager from Deniliquin, the General Manager from Conargo (he does the accounts), and the Corporate Services Manager from Murray.

2. Central Northern Regional Library (Tamworth Regional, Liverpool Plains, Narrabri, Uralla and Walcha)

Administrative Model - Tamworth Council is the host Council and employs all library staff. All other regional councils contribute an annual fee.

Library Committee in place - one Councillor elected from each Council for the whole term. Two meetings held per year - one in November (AGM) and the other in February when the budget is "adopted". Process with budget is - draft budget prepared by Tamworth Regional Council (TRC), submitted to Library Committee members at the November meeting - they have until January to make comments, any comments are passed onto TRC and incorporated into their budget. Any decisions made by the Committee are "advisory" decisions only.

3. Central West Regional Library (Orange, Blayney, Cabonne, Cowra and Forbes)

Administrative Model - Orange Council is the host Council and employs all library staff. All other regional councils contribute an annual fee.

Library Committee in place - Two delegates elected annually from each Council. One delegate has to be a Councillor, the other can be a Councillor or a senior council officer. Committee meets twice a year.

4. Queanbeyan-Palerang Regional Library (Queanbeyan and Palerang)

Administrative Model - Queanbeyan Council is the host Council and employs all library staff. All other regional councils contribute an annual fee.

Library Committee in place - Two Councillors elected annually from each Council. Committee also comprises staff from both councils.

5. Macquarie Regional Library (Dubbo, Narromine, Warrumbungle and Wellington)

Administrative Model - Dubbo Council is the executive Council and employs all library staff. The regional library (Library Director) manages its own budget. All councils contribute an annual fee.

Library Committee in place - Two Councillors elected from each member Council.

6. Newcastle Region Library (Newcastle, Dungog, Gloucester and Port Stephens)

Shared Services Model - Each individual council separately administers its own library/s (including the employment of staff). They are separate entities with separate budgets. All libraries in the region share books only and all councils contribute to this. (Staff who work at Newcastle Library are employees of Newcastle City Council and can't work in another library in another Shire area).

Regional Library Committee in place with one Councillor elected from each Council.

7. North Western Regional Library (Warren, Bogan, Coonamble and Gilgandra)

Shared Services Model - Each individual council separately administers its own library/s (including the employment of staff). They are separate entities with separate budgets. All libraries in the region share books only, and all councils contribute to this – the North Western libraries are very small with only 1.5 full-time positions each.

Library Committee in place - One representative from each Council. Meets annually.

8. Richmond-Upper Clarence Regional Library (Richmond Valley and Kyogle)

Administrative Model - Richmond Valley Council is the host Council and employs all library staff. One other Council contributes an annual fee. Library agreement between the two councils in place.

No Library Committee in place by agreement with each council.

9. Riverina (Wagga, Coolamon, Cootamundra, Gundagai, Junee, Lockhart, Temora and Tumut) (now have Greater Hume as well following an amalgamation - previously had a library in Culcairn)

Administrative Model - All staff are employed by Wagga City Council. Deed of Agreement in place with the other Councils. Member councils contribute on a per capita basis.

Library Committee in place - Comprising two delegates from the eight smaller councils and five from Wagga Council (21 in total). Meets three times per year.

10. South West (Young, Boorowa and Harden)

Shared Services - Currently have a new agreement in place with the three shires. The previous entity was illegal. Each council makes a per capita annual contribution. Staff are employed by the respective councils.

Young Shire has a Section 355 Library Committee in place. Meets a minimum four times per year.

11. Southern Tablelands (Goulburn Mulwaree, Upper Lachlan and Yass Valley)

Shared Services - Goulburn Mulwaree is the executive Council with each Council making an annual per capita contribution. Staff are employed by the individual councils.

Library Committee in place - Two representatives from each Council. Mixture of Councillors and staff. Meets quarterly and has an additional budget meeting in April.

12. Upper Hunter (Muswellbrook and Upper Hunter)

Shared Services - Each council administers the local library branches. Upper Hunter manages five branches, Muswellbrook two branches. Staff are employed by the individual councils, except the technical services staff who are employed by the Upper Hunter Regional Library network. Administration for the book collection is done by Muswellbrook Council. Finances are done by Upper Hunter.

A Library network committee is in place and meets monthly. This committee consists of staff and discusses operational issues only. No other Library Committee is in place.

13. Western Riverina (Griffith, Carrathool, Hay, Jerilderie, Murrumbidgee and Narrandera)

Shared Services - Griffith Council is the executive council with each Council making an annual contribution on a per capita basis. Staff are employed by the respective Councils.

Library Committee in place - One delegate from each council. Meets twice per year.

14. Clarence (Clarence Valley, Bellingen and Nambucca)

Shared Services - Clarence Valley is the executive council with each Council making an annual contribution. Library headquarters staff are employed by the executive Council (Clarence). All other staff in the branches are employed by the respective councils.

Library Committee in place - Two representatives from each Council. Meets four times per year.

15. Monaro (Cooma-Monaro, Bombala and Snowy River)

Shared Services - Cooma-Monaro is executive council with each Council making an annual contribution on a per capita and floor space basis. Cooma Monaro employs regional library staff for Cooma. Bombala employs their branch library staff.

Snowy River doesn't have a library branch but utilise the mobile library and pay on an hourly basis for this.

Library Committee in place - Meets quarterly.

16. Northern (Moree Plains, Brewarrina, Gwydir, Walgett, Bingara, Wyallda, Lightning Ridge, Mungandai) - now called North West Slopes & Plains Co-operative Library Service

Shared Services - Moree Plains Council is the administrative council. All councils make an annual contribution. Headquarters staff and Moree branch staff are employed by Moree Plains Council. All other staff are employed by the respective councils.

Library Committee in place - Councillor delegate from each Council. Meets twice per year.

17. Upper Murray (Urana, Corowa, Greater Hume, Tumbarumba - NSW councils) (Wodonga, Towong and Indigo- VIC councils)

Separate entity - Operates as Upper Murray Regional Council Inc (incorporated body) operating under company law, Local Government Act and other State Acts (NSW and VIC) relating to libraries - Regional headquarters staff are employed by the incorporated body, but branch library staff are employed by the individual councils.

They have a CEO Regional Manager who reports to a Library Board which consists of one Councillor delegate (and staff) from each of the councils.

18. Ryde (Ryde and Hunters Hill)

Administrative Model - Ryde Council is the administering Council with Hunters Hill making a contribution to the Gladesville Library which is on the border of the two council areas. All staff are employed by Ryde Council.

No Library Committee in place.

In summary the models in place are:

Administrative Model - Eight
Shared Services Model - Nine
Separate Entity Model - One

It is also fair to say that even though the Administrative Model and Shared Services Model are evenly split there is actually very little difference between the two options. When all the arrangements are examined almost all have one Administering Council with the major difference being that in certain cases the member councils employ their own staff. It is clear that you do need one Administering Council as a focal point to ensure that the services are delivered consistently across the library service area.

Importantly, what this information does highlight is that this model is working right across the State, where for 18 of the partnerships, there is one council that has the lead role. If the rest of the State can make such a model work, then there is no reason that the current RTRL cannot achieve the same outcomes.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Libraries are a key part of the social structure of any community.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

In respect to legal implications the draft agreement is considered to protect the interests of both the participating and administering councils.

In respect to resources a significant amount of staff time has been committed to making sure the former RTRL structure can now be legalised.

In respect to finance Council makes a contribution of over \$1m per annum to the RTRL therefore it is important that we have the appropriate governance structure in place.

Consultation

There has been significant consultation amongst the RTRL delegates, Mayors and General Managers on this proposal. The RTRL staff have extensively been consulted on their new staffing arrangements with Lismore.

Tweed Council considered a report on this issue at their August meeting and resolved as follows:

RESOLVED that Council:

- 1. Agrees in principle to the Draft Richmond Tweed Regional Library Agreement and endorses the Administrative Council Model.*
- 2. Requests an asset register to be attached to the final agreement.*

The point regarding the asset register is important and it is recommended that we provide a similar note to ensure that all members are aware of their assets and liabilities.

Byron Shire Council is yet to consider this issue and there is a possibility that they may not proceed with this proposal.

Lismore Council are scheduled to consider the agreement at their September meeting.

There have been many concerns also raised about this proposal by individuals within the community, however it is considered that the structure and agreement proposed addresses those concerns.

Tweed Council has advised that their Councillors were lobbied heavily not to accept this proposal and Ballina Councillors can expect the same level of lobbying. It is important in considering this lobbying for Councillors to hear the concerns and to ensure that any matters raised are addressed through agreement between the Participating and Administering Councils.

Options

The options are to proceed or not to proceed with this proposal. If we choose not to proceed then direction needs to be provided as to what is the preferred alternative. However if further options are to be investigated it is important that we have a legal agreement in place in the interim.

From a service delivery perspective the RTRL has been operating under the control of Lismore City Council for over 12 months and the feedback from RTRL staff is that the service is continuing to perform well and there is has been no identified decrease in service levels identified by the community.

Overall it is considered that the Administrative Model can and will work and on that basis the preferred option is, as per the Tweed Council resolution, to provide in principle support for the agreement to allow the legalisation of the RTRL operations to move forward.

RECOMMENDATIONS

1. That Council agrees in principle to the signing of the Draft Richmond Tweed Regional Library Agreement, as attached to this report, which supports the Administrative Model arrangements for the Richmond Tweed Richmond Library.
2. That Council requests an asset register to be attached to the final agreement, prior to signing.

Attachment(s)

1. Richmond Tweed Regional Library (RTRL) Service - Report from AEC Group dated 13 November 2009
2. Draft Richmond Tweed Regional Library Agreement

10.10 Porter Park - Lease Conditions

File Reference	Aboriginal Child and Family Centre
CSP Linkage	Responsible and efficient use of resources
Delivery Program	Commercial Services
Objective	To confirm the minimum lease conditions to be included in the lease for the proposed Aboriginal Child and Family Centre

Background

Council has resolved to allow a development application to be lodged to establish an Aboriginal Child and Family Centre on Council owned community land at Porter Park. As the land is owned by Council a lease should be established with the tenants to confirm the tenancy conditions.

The purpose of this report is to obtain feedback from Council on the minimum conditions considered essential for any lease.

Key Issues

- Lease conditions
- Community land classification

Information

The Department of Human Services has recently lodged a development application for the proposed Centre and Council planning staff have commenced the assessment process.

The recommended outcomes from that process will be reported to a Council meeting to allow the elected Council to make a final determination on the application.

In respect to the operation of the Centre Council staff have been advised that the lessee for the building will be NSW Department of Family and Community Services. They require the lease to be for a period of 21 years, which is the maximum period allowed by the Local Government Act for community land.

The Department have also advised that towards the end of the lease they would be looking to renew the lease and / or enter into discussions with Council with regards to the ownership of the Centre.

In considering any lease the essential conditions are term, rental, maintenance and rates and charges.

Commentary on each of these items now follows.

- a) Term - The Local Government Act allows community land to be leased for a maximum period of 21 years and there is no objection to a 21 year lease being established. It is not considered necessary to dissect the lease into option periods (i.e. five years plus options) as normally this is provided to either reset the rental or to allow the party with the option, the option to terminate. No rental is being recommended for this lease (as per point b below) and it is not anticipated that the lessee will require an option to vacate this building, as they are funding its construction. In summary there does not appear to be any benefit to Council in including an option albeit if the lessee wishes to include option periods there would be no objection.
- b) Rental - Council can apply any rental it so wishes on community land and the rental would typically reflect the type of use allowed in the lease. In respect to rental figures Council currently has lease arrangements for the following pre-school / children's centres
- Fox Street Pre-school - Council community land - No rental
 - Lennox Head Pre-school, Mackney Lane - Crown Land for which Council is the Reserve Trust Manager - \$467 annual rental which is the crown land minimum
 - River Street Children's Centre / Little Pelican's Playgroup - Crown Land which is licensed to Council from the Land and Property Management Authority. Council pays a fee to the LPMA, however no rental is charged to the Centre by Council.
 - Rainbow Children's Centre - John Sharpe Street, East Ballina - Council operational land - no rental
 - Child Care Centre, Links Avenue, East Ballina - This Centre is partially constructed on a small parcel of community land that is leased to the Centre - Annual rental \$4,858
 - Child Care Centre, West Ballina - This Centre is partially constructed on a small parcel of community land that is leased to the Centre - annual rental \$3,533

These examples highlight that as a general rule Council does not charge a rental fee for not for profit centres, whereas privately owned centres such as those at East and West Ballina, are charged commercial rates.

The logic applied for the not for profit centres is that minimum rental, maximises the funds available to operate the centres. Also typically Council has very little to do with the on-going maintenance of these properties.

The same logic is considered to apply to the Porter Park Centre in that it is important to maximise the revenue available for the Centre to provide the essential service. If Council was responsible for the maintenance of the building it would be necessary to charge a rental to allow those funds to be accumulated for maintenance purposes, however as it is planned for Council to have no involvement in maintenance and capital a rental exemption is considered both reasonable and consistent with current Council practice.

The only proviso on this recommendation is that in this case the lessee is the NSW State Government. The State Government, through the Land and Property Management Authority (LPMA), has a strong history of charging councils relatively high rents, even though the land may be being used for community purposes. Whether or not Council wishes to pursue a similar strategy is a matter for the Council to determine.

- c) Maintenance and Capital - It is understood that Council will have no responsibility for maintenance and capital works during the term of the lease.
- d) Rates and Charges - It is standard practice for lessees to be responsible for all Council rates and charges and no change to this practice is recommended.

One of the issues that have been identified with this project is that as the applicant is the State Government, in accordance with NSW Planning legislation, a council cannot refuse consent for a State Government owned facility. Despite this restriction, as the Centre is to be located on Council owned land, the lessee must comply with Council's lease conditions.

In order to ensure that Council is able to enforce any development consent conditions that are placed on the Centre it is recommended that the lease include a clause that requires 100% compliance with any development consent. This clause will assist in ensuring the use of the Centre, the infrastructure in place and the operating hours, all comply with Council's requirements.

Legal / Resource / Financial Implications

There are legal issues in respect to the lease in that the Local Government Act has a number of specific requirements in respect to leasing community land. Key points in the Local Government Act are:

Clause 46 (1) (b) - Requires an express authorisation in the Plan of Management for the community land for the lease.

Clause 46 (4) and (5) - Details what purposes community land can be used for through a lease - Examples include, but are not limited to, *maternity welfare centres, infant welfare centres, kindergartens, nurseries, child care centres, family day-care centres, surf life saving clubs, restaurants or refreshment kiosks*. This is consistent with the planned use of the Centre

Clause 47 (1) - Must exhibit notice of the proposal and give public notice of the proposal..... and

- c) *give notice of the proposal to such persons as appear to it to own or occupy the land adjoining the community land, and*
- d) *give notice of the proposal to any other person, appearing to the council to be the owner or occupier of land in the vicinity of the community land, if in the opinion of the council the land the subject of the proposal is likely to form the primary focus of the person's enjoyment of community land.*

Clause 47 (5) to (9) - If there is objections the following process must be followed:

5. *If a person makes a submission by way of objection to the proposal, the council must not grant the lease, licence or other estate except with the Minister's consent.*
6. *If the council applies for the Minister's consent, it must forward with its application:*
 - *a copy of the plan of management for the land*
 - *details of all objections received and a statement setting out, for each objection, the council's decision and the reasons for its decision*
 - *a statement setting out all the facts concerning the proposal to grant the lease, licence or other estate*
 - *a copy of the newspaper notice of the proposal*
 - *a statement setting out the terms, conditions, restrictions and covenants proposed to be included in the lease, licence or other estate*
 - *a statement setting out the manner in which and the extent to which the public interest would, in the council's opinion, be affected by the granting of the proposed lease, licence or other estate, including the manner in which and the extent to which the needs of the area with respect to community land would, in the council's opinion, be adversely affected by the granting of the proposed lease, licence or other estate.*
7. *On receipt of the application, the Minister must request the Director of Planning to furnish a report concerning the application within such period as the Minister specifies.*
8. *After considering the application and any report of the Director of Planning, the Minister, if satisfied that:*
 - (a) *subsections (1), (2) and (6) have been complied with, and*
 - (b) *such consent would not contravene section 46, and*
 - (c) *in all the circumstances, it is desirable to grant consent,**may consent to the granting of a lease, licence or other estate in respect of the whole or part of the land to which the application relates, subject to such terms and conditions as the Minister specifies.*
5. *On request by any person, the Minister must provide that person, within 14 days of that request, with a written statement of reasons for consenting to, or refusing to consent to, the granting of a lease, licence or other estate in accordance with subsection (8).*
9. *The Minister's consent is conclusive evidence that the council has complied with subsections (1), (2) and (6).*

If the level of objection to the proposed lease is the same as the objections to the change in the categorisation for Porter Park, compliance with these sections of the Local Government will require the dedication of a significant amount of staff resources. The Minister referenced in the clauses provided is the Minister for Local Government.

Consultation

The Local Government Act requires the public exhibition of any lease.

Options

Council should require a lease for the proposed Centre to ensure that all parties are clear on their responsibilities. This means the options available relate to the conditions of the lease.

As outlined in the report the five conditions that are considered essential are:

- Term - 20 years
- Rental - No rental
- Maintenance and Capital - Responsibility of the lessee
- Rates and Charges - Responsibility of the lessee
- Planning Consent conditions - Full compliance by the lessee

Any lease prepared will be reviewed by Council's solicitors and a number of other standard terms and conditions such as insurance requirements would form part of that lease.

Council has the option of applying the lease conditions that it sees appropriate. The points outlined should ensure the satisfactory operation of the proposed Centre. If agreement is reached with the prospective lessee on these terms it is also recommended that Council commence the public exhibition process as required by the community land provisions of the Local Government.

RECOMMENDATIONS

1. That Council authorises the General Manager to commence negotiations on the lease for the proposed Aboriginal Child and Family Centre at Porter Park with the minimum lease conditions to include:
 - a) Term - Maximum of 21 years
 - b) Rental - Nil
 - c) Lessee - Responsible for all maintenance and capital works
 - d) Lessee - Responsible for all Council rates and charges
 - e) Lessee - Must comply with all development consent conditions
2. Subject to agreement on the minimum conditions outlined in point one, Council authorises the General Manager to exhibit the proposed lease for public comment as required by the community land provisions of the Local Government Act.

Attachment(s)

Nil

11. Civil Services Group Reports

11.1 Telecommunications Facility - Basalt Court

File Reference	Telecommunications Optus - 2A Basalt Court, Lennox Head
CSP Linkage	A built environment contributing to health and wellbeing
Delivery Program	Asset Management
Objective	To determine Council's position in respect of the installation of a telecommunications facility at Basalt Court Lennox Head

Background

The purpose of this report is to provide Council with legal advice in respect of the installation of a telecommunications facility at Basalt Court Lennox Head.

This matter has been before the Council on two previous occasions being the March and May meetings earlier this year.

At the March meeting Council resolved the following.

1. *Council advise Optus of its opposition to the proposed telecommunications facility at Basalt Court Lennox Head*
2. *Council advise Optus that co-location on an existing telecommunications tower is preferred.*

The resolution from the May meeting was as follows.

1. *That Council authorises the General Manager to pursue an objection to the proposed Optus Tower with the Telecommunications Ombudsman with the objection to be based on the wide range of concerns previously expressed by community representatives and that a representative of WHAAT be invited to meet with the General Manager to include the points being raised by the local community in this regard.*
2. *That the submission include an invitation to pay the travelling costs for the Telecommunications Ombudsman to inspect the site.*

Key Issues

- Options available for Council to legally stop the project

Information

Response from the Regulators

A submission was sent to the Telecommunications Industry Ombudsman (TIO) in accordance with the above resolution. A copy of the submission and the reply from the TIO are provided as attachments one and two to this report.

The report presented to the May 2011 meeting described to the Council that its submission would be outside of the statutory time available for the TIO to consider the complaint. However the TIO were still asked to review the submission to enable advice to be provided to Council or Optus in respect of the issues in the submission. Optus were requested not to undertake any activities on the site until that advice had been received.

In summary, the TIO advice did not provide any support to the Council's position. The reason for this is that the matters that the TIO are able to adjudicate on are relatively narrow and are generally aimed to facilitate agreement about the implementation rather than to stop it. The reasons why Council was outside of the statutory reporting period were described in the previous report. As there was no suggested advice in Council's favour to the submission, ultimately the deadline has become immaterial in respect of the current status of this matter.

The TIO did suggest that the Council may wish to make a submission to the Australian Communications and Media Authority (ACMA). The response from the ACMA is attached (Attachment three). The key point in the ACMA advice is that only a court can adjudicate on the carrier's assessment of compliance with the low impact determination.

Furthermore, the ACMA indicated that it is necessary for Council to lodge its complaint with Optus and consider their response before making a submission to the ACMA.

From the perspective of staff, it is considered that the previous communications to Optus had provided the details of Council's objection to the proposal. At the time of writing this report a letter is being prepared to send to Optus with the aim of being an objection within the specific meaning of the Australian Communications Industry Forum Code.

Legal Advice

Council's solicitor has been consulted in respect of this matter including a request to provide advice regarding whether or not there were options available to Council to prevent the installation.

A copy of the initial advice received is provided as attachment four and is a letter dated 11 August 2011. This letter contains the following advice.

Clause 6 of Division 3 of Schedule of the Telecommunications Act 1997 Commonwealth allows the holder of a telecommunications carrier licence granted under section 56 of the Telecommunications Act to enter onto and occupy land for the purposes of carrying out the installation of a low impact facility. A low impact facility is as defined in the Telecommunications (Low

Impact Facilities) Determination 1997. That is, if the facility is low impact Council cannot stop Optus proceeding.

If the self classification of the facility as a low impact facility is valid then whilst entry onto the land remains subject to compliance with the Telecommunications Code of Practice 1997, these provisions are largely procedural and do not interfere with the carriers substantive right to enter and carry out the installation of the low impact facility.

This letter went on to examine the self classification of low impact and suggested that the relevant sections of the low impact determination were open to four interpretations.

On this basis of this advice a letter was sent to Optus seeking further information in respect of the compliance of their project with the determination. Attachment five is a copy of the reply to Council's letter.

Attachment six is a second letter from Council's solicitor dated 16 August 2011. This letter reviews the information provided by Optus and relevant court decisions. The conclusion in the letter states;

Accordingly we are of the opinion that the self classification by Optus of the facility as a low impact facility is valid and Council cannot lawfully stop Optus proceeding.

Sustainability Considerations

- **Environment**
The environmental impacts resulting from this proposal relate only to existing built infrastructure.
- **Social**
Community members have identified concerns in respect of reduced amenity for those living adjacent to the site. Wireless technology has a high demand by the community for social purposes and this proposal is required to meet the service levels expected by the community.
- **Economic**
Wireless technology is important to support business activity and economic growth.

Legal / Resource / Financial Implications

The information section of this report provides legal advice to the Council.

To date significant resources have been applied in communications with Optus, concerned members of the community, regulators and Council's legal advisor.

Optus has advised Council of its position in response to the Council's objection. The extent of assistance from regulatory agencies is limited and has been exhausted. Therefore, if the Council is inclined to pursue this matter further it will need to identify a case for legal proceedings.

Informal advice from Council's solicitor indicates that an estimate of the costs to pursue a judgement in respect of the low impact determination would be \$30,000.

The advice to Council is that, outside of the low impact facility determination, the provisions of the Telecommunications Code of Practice are largely procedural. This means that even if there is a matter of non compliance, then such a matter could be attended to by Optus without being fatal to the installation of the facility.

Having regard to the above, if the Council elected to seek an outcome from legal proceedings the Council will need to carefully consider the prospects of success and the financial and resource implications of such an undertaking.

Consultation

In accordance with the code of practice Optus, as the proponent, has consultation obligations. As Councillors are aware, residents have communicated to Council their view that Optus has not consulted adequately. The corresponding view of Optus is that they have met and gone beyond their obligations.

In respect of Council's role in this matter, the Council has responded to the letters and submissions of the residents, arranged meetings, resolved its objection to the proposal and made representations on behalf of residents to regulatory bodies.

Optus have continued to respond to the range of submissions put to it by Council. In addition to responding to letters and submissions Optus have:

- Reduced the scale of the project from six panel antennae to three and made other amendments to the original proposal
- Provided representatives and information to meeting with residents and B Ward Councillors, facilitated by Council and chaired by Cr Meehan on behalf of the Mayor
- Deferred commencement to enable Council to consider the Notice of Motion to the March meeting of Council. Optus attended that meeting and provided a deputation to Council.
- In response to Council's objection, Optus made a presentation to Councillors to explain their position.
- At Council's request, deferred commencement until the response from the TIO was available.

Options

There are strong feelings from residents about this matter and in response to this Council has attempted to represent their interests to the fullest extent possible.

From the legal opinion presented in this report, there are no options for Council to pursue its objection lawfully. No avenues for appeal have been identified, and if they were, it is likely that these would only relate to procedural matters. The costs to develop and pursue a different case would be substantial.

Therefore the recommended option for Council is to confirm its continuing objection to the proposal, however not take any further legal action in this matter as it is difficult to justify the expenditure of public monies when there appears to be no options to halt the work.

The alternate option would be for Council to allocate additional resources for further legal opinion which requested the advisor to develop the base of a case and report to Council the costs of proceeding and the prospects of success.

It is also recommended that Council write to the appropriate Federal Minister as the real issue here is that the current Federal legislation allows organisations such as Optus to over-rule the rights of local residents. It is only through this legislation being changed that councils can stop this type of action arising again. It is reasonable that if a council, on behalf of the broader community, wishes to object to such a proposal, that it should have the right to veto the works.

RECOMMENDATIONS

1. That the Council record its continued objection to the installation by Optus of a telecommunications facility at Basalt Court, Lennox Head, however due to our legal advice confirming that we have no legal right of appeal, no legal action is to be taken in respect to the work currently taking place.
2. That Council write to the relevant Federal Minister conveying our concerns that the current legislation should be amended to allow local councils the right to veto similar proposals into the future.

Attachment(s)

1. Submission to the TIO
2. Reply from the TIO
3. Response from ACMA
4. Advice from Council's solicitor
5. Response from Optus
6. Further advice from Council's solicitor

11.2 Local Traffic Committee - August 2011

File Reference	Local Traffic Committee
CSP Linkage	Transparent and accountable governance
Delivery Program	Asset Management
Objective	This report is presented to Council for its consideration of items referred to the Local Traffic Committee meetings held in May and August 2011.

Background

The Local Traffic Committee (LTC) met on 10 August 2011. A copy of the agenda for those meetings was circulated to all Councillors. This report provides the recommendations of the Committee to Council.

Key Issues

- Consideration of recommendations from the LTC

Information

The agenda contained seven business items (four items for referral to Council, two items for referral to the General Manager's delegate, and one item for the information of the committee). The agenda also contained minutes from an Out of Session meeting held in May 2011 which included an item that requires referral to Council.

Items Referred to Council

The following items are referred to Council for its determination. Further background details are available in the LTC agenda previously circulated to Council.

a) **Removal of Martin Street-Regatta Avenue Bus Stop & Taxi Rank**

The committee reviewed a request seeking the removal of the Martin Street-Regatta Avenue bus stop and taxi rank.

The bus stop at the intersection of Martin Street and Regatta Avenue, Ballina, is rarely used by patrons, taxis and buses. Businesses have approached Council to make available more car parking spaces in this section of Martin Street. Removal of this Bus Stop and Taxi Rank would facilitate the extension of angle parking in the area.

In order to consult with users of this infrastructure, contact with bus companies and taxis have been undertaken with a unanimous response. The bus companies no longer need a bus stop at this location and are in support of its removal. Taxis currently use the Ramada no parking zone to service patrons and have no reservations over the ranks removal.

Parking in the vicinity is 2 hour rear to kerb.

As public transport is no longer in need of this infrastructure and is in support of its removal the opportunity to extend parking in the area now exists. It is proposed that the previous bus stop and taxi rank be converted to 2 hour rear to kerb parking.

The Committee was unanimous in its position to support the removal of the Martin Street-Regatta Avenue bus stop and taxi rank.

b) Proposed Works - Pedestrian Refuge Main St & The Avenue, Alstonville

The Committee reviewed a proposal for the installation of a pedestrian refuge on the intersection of Main Street and The Avenue which has been identified by the community and the Pedestrian Access and Mobility Plan as a priority for construction in 2011.

The intersection is an uncontrolled intersection with both school children and nearby residents utilising it.

Due to the layout of the intersection, property boundaries and the location of two large Telstra Pits, it is not practical to increase the radii of the kerb returns into The Avenue. In designing for bus movements entering The Avenue, the refuge island has been setback 8.0m. This will require the removal of the existing pram ramps and the installation of fencing to direct pedestrians to the new crossing point.

The island on the southern side of the refuge has had to be reduced in length from 6.0m to 4.95m to allow for continued access to the Medical Centre driveway.

Due to the design of the refuge, and accompanying line marking, there will be a loss of approximately 7 car parks.

A copy of the plan has been included for the Council's information.

The Committee was unanimous in its position to support approval for the proposal to install a pedestrian refuge and the associated signage at the intersection of Main Street and The Avenue, Alstonville in accordance with the attached plan, subject to the following:

- The removal of the No Parking signs from the design.
- Council advise the RTA of the proposed amendment to the commencement of the school zone.
- Signage be upgraded to the contemporary standard.

c) Special Event - River Street Closure Moon to Cherry Street for the Ballina Country Music Festival

The Committee reviewed an application for road closures and a traffic control plan for the Ballina Country Music Festival being held in River Street Ballina from 8.00am 1 October 2011 to 1.00pm Monday 3 October 2011.

As part of the event the application proposes to close River Street between Moon Street and Cherry Street for street stalls and exhibitors from 8.00am to 5.00pm on Saturday 1 October and Sunday 2 October 2011. It is also proposed to restrict access to Fawcett Lane between Moon St and Cherry St to Local (Resident) traffic only from 8.00am to 5.00pm on Saturday 1 October and Sunday 2 October and Monday 3 October 2011.

A copy of the Traffic Control Plans are attached for Council's information.

The Committee was unanimous in its support for approval for the Road Closures in accordance with the submitted traffic management plan.

d) Removal of Pedestrian Crossing - Martin/Bentinck Streets, Ballina

The Committee reviewed a proposal, from its September 2006 meeting, to remove the pedestrian crossing and refuge located in Martin/Bentinck Streets, Ballina. This report was seeking confirmation of the previous decision.

The Committee was unanimous in its position to recommend to Council that a new pedestrian vehicle count be undertaken and the warrant information be returned to the Committee for further consideration.

e) Road Closure - Carney Place, Knockrow

The committee reviewed a request from Council staff to close the end of Carney Place as the access to the highway is of substandard construction. This terminus is poorly formed and affords access to the highway in a compromised area. The sight distances and merge area at this terminus is substandard resulting in risk taking merging.

This would result in traffic using the more formal access of Carney Place and safer entry.

The Committee recommend to Council its concurrence for the closing of the northern end of Carney Place at the Pacific Highway.

Items for Referral to the General Manager's Delegate

For the information of Council, the following two matters were considered by the LTC and resolutions made to the General Manager's delegate.

(a) Request Speed Review - Uralba Road

The committee recommended that a request be made to the RTA for a Speed Zone Review of Uralba Road and Wardell Road be undertaken, and to support this process that Council collect the required data.

(b) Request Speed Review Teven Road, Alstonville

The committee recommended that a request be made to the RTA for a Speed Zone Review of Teven Road be undertaken, and to support this process that Council collect the required data.

Sustainability Considerations

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

Legal / Resource / Financial Implications

Council has statutory requirements in terms of the management of its delegations from the RTA, including the management of the LTC. There is no resource or financial implications directly associated with the recommendations to this report.

Consultation

Public participation in LTC processes is determined by the RTA's Guidelines for the Management of Local Traffic Committees. Council has determined to use its meeting code arrangements for public access wherever it is consistent with the guidelines.

Options

The Council can either accept or reject the recommendations. Council's acceptance or rejection of the recommendations is reported to the next meeting of the TLC.

In rejecting a recommendation it is the preferred practice to advise the LTC of the Council's reason for the rejection and invite the Committee to reconsider the matter having regard to the comments of Council, Following that process, if that matter remains unresolved, Council can elect to refer the matter to the Regional Traffic Committee.

RECOMMENDATIONS

1. That Council approve the removal of the Martin Street–Regatta Avenue bus stop and taxi rank and extend the 2 hour rear to kerb parking in Martin Street.
2. That Council approve the installation of a pedestrian refuge and the associated signage at the intersection of Main Street and The Avenue, Alstonville in accordance with the attached plan subject to the following:
 - The removal of the No Parking signs from the design.
 - Council advise the RTA of the proposed amendment to the commencement of the school zone.
 - Signage be upgraded to the contemporary standard.
3. That the Council approve the closure of River Street and Fawcett Street in accordance with the approved Traffic Control Plan in accordance with the following table.
 - Closure of River Street from 8.00am to 4.00pm Saturday 1 October 2011
 - Closure of River Street from 8.00am to 4.00pm Sunday 2 October 2011.
 - Closure of Fawcett Street from 8.00am to 1.00pm Monday 3 October 2011

and that the approval in point one be conditional on advertising of road closures at a minimum of one week prior to the event and the erection of signage also for the week prior to the event notifying the public of the proposed road changes for the event, and that the approval in point one be conditional of the Market layout facilitating vehicular access for emergency services in the closed section of River Street.

4. That a new pedestrian vehicle count be undertaken and the warrant information be returned to the Committee for further consideration in relation to the pedestrian crossing at the intersection of Martin and Bentinck Streets.
5. That Council approve the closing of the northern end of Carney Place at the Pacific Highway.

Attachment(s)

1. Plan - Installation of Pedestrian refuge - Main Street/The Avenue, Alstonville
2. Traffic Control Plan for Ballina Country Music Festival

11.3 Policy (Review) - Liquid Trade Waste

File Reference	Trade Waste Guidelines & Policy
CSP Linkage	Transparent and accountable governance
Delivery Program	Sewer Services
Objective	Review the Liquid Trade Waste Policy and Implement NSW Office of Water's Liquid Trade Waste Policy as per Best Practice Management Guidelines

Background

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Liquid Trade Waste policy.

Council first adopted this policy in September 2006.

In 2006 Council implemented the Department of Energy Utilities and Sustainability's (DEUS) 2005 model policy for the discharge of liquid trade waste to the sewerage system. DEUS required councils to adopt their model policy to create a consistent approach to trade waste discharges and pricing structure state-wide.

Compliance with DEUS's model policy is part of the Best Practice Managements Guidelines and is an indicator in Council's National Performance Monitoring.

Council has applied the Model Policy over the past four years and the shire's trade waste users are accustomed to its structure. DEUS have since become The NSW Office of Water (NOW)

Key Issues

- To align Council's policy with current legislation and the National Wastewater Source Management Guidelines.

Information

In September 2005 the nine 1998/99 Local Government Regulations were replaced with the Local Government (General) Regulation 2005 (Regulation). In July 2008, the Water Services Association of Australia (WSAA) released the National Wastewater Source Management Guideline (National Guideline). The 2009 Model Policy has been updated to incorporate changes in the Regulation and provisions of the National Guideline.

In order to align with the National Framework for Wastewater Source Management, all Local Water Utilities (LWUs) are required to adopt a policy based on the 2009 Model Policy.

This policy review has resulted in changes due to the 2009 Model Policy which has been updated to incorporate changes to the Regulations and the provision of a National Guideline.

The changes to the Liquid Trade Waste Policy are outlined below and where possible the changes have been highlighted in yellow.

Definition of liquid trade waste

Liquid trade waste is defined in Clause 3 of the Regulation as:

“Liquid trade waste means all liquid waste other than sewage of a domestic nature.”

This definition ensures that all liquid wastes discharged into the sewerage system, other than domestic sewage, are classified as trade waste and need to be approved under section 68 of the Local Government Act, 1993. The Regulation also provides an amended definition of Sewage of a Domestic Nature and a definition of Sewage Management Facility. Under these definitions septic tank and pan waste are now trade waste.

Accordingly, the 2009 policy includes acceptance of septic tank and pan waste to the sewerage system.

Amendments to Part 1 of the Policy

The Table of Exemptions has been amended by deleting 1 activity, Dental Surgery.

Amendments to Part 2 of the Policy

2.2 Discharge quality

Guideline limits in Table 2 have been amended in line with the recommended non-domestic wastewater acceptance criteria in the National Guideline.

2.3 Prohibited substances

Clause 6 of the repealed Local Government (Water Services) Regulation 1999 which listed substances prohibited from being discharged into the sewerage system has not been included in the 2005 Regulation. Under the Regulation any discharge to the sewer (except for domestic waste) needs to be approved and the conditions of approval include a list of prohibited substances. Substances that Council policy must exclude from the discharge to the sewerage system are shown in Table 3 of the 2009 Model Policy.

Amendments to Part 3 of the Policy

3.1 NSW Framework for regulation of sewerage and trade waste

3.2 Alignment with the national framework for wastewater source management

Sections 3.1 and 3.2 have been added.

3.3 Application procedures

This section has been amended by including specific requirements for the information which needs to be provided in regard to the discharge of septic tank and pan waste to the sewerage system.

3.5 Concurrence of the Department of Environment, Climate Change and Water

The section has been amended by including Concurrence Classification S or septic tank and pan waste, and additional activities in Concurrence Classification A.

3.6 Liquid trade waste charging categories

This section has been amended by including a new charging Category 2S for septic tank and pan waste. In addition, a small number of activities have been transferred to a different charging category.

3.7 Liquid trade waste fees and charges

New sections indicating charges in regard to acceptance of stormwater (section 3.7.9) and septic tank and pan waste (section 3.7.10) to the sewerage system have been included. Information on non-compliance charges in regard to all Charging Categories has been consolidated in section 3.7.7.

3.7.5 Excess mass charges

The numerals "1.08" in equations 2 and 5 and "0.3" in equation 3 have been replaced with the coefficients "2C" and "K" respectively, where "C" is Council's charging rate in \$/kg for BOD5 up to 600mg/L.

3.7.11 Responsibility for payment of fees and charges

This section has been amended by including charges for the acceptance of septic tank and pan waste to the sewerage system.

Attachment 2

This attachment has been amended by including the provisions in the Local Government (General) Regulation 2005 in regard to acceptance of liquid trade waste into the sewerage system.

Sustainability Considerations

- **Environment**

Liquid trade wastes may exert much greater demands on sewerage systems than domestic sewage and, if uncontrolled, can pose serious problems to public health, worker safety, Council's sewerage system and the environment.

- **Social**

Appropriate management of Liquid Trade Waste will ensure the operations of the Waste Water Treatment plants are not threatened and that sewerage services are maintained for the community.

- **Environmental**

The appropriate management of risk through the adoption and enforcement of a good Liquid Trade Waste Policy will ensure the environment is less likely to be impacted adversely.

Legal / Resource / Financial Implications

The Trade Waste Fees and Charges are designed to recover the cost of treating trade waste at the treatment plants and the impact on sewerage infrastructure. They also recoup the administration and inspections costs Council incur when applying the policy as per the Best Practice Management Guidelines.

Consultation

It is recommended that the Council place the policy on public exhibition. If any submissions are received they can be reported back to Council however there will not be a need for any further report if there is no public comment.

Options

As this is an existing policy with amendments that have been required to ensure compliance with the National Wastewater Source Management Guideline it is recommended that Council adopt the policy as presented. It is also recommended that the policy be placed on public exhibition.

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

RECOMMENDATIONS

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

Attachment(s)

1. Draft Review - Liquid Trade Waste Policy

12. Public Question Time

12. Public Question Time

13. Notices of Motion

13.1 Rescission Motion - Shared Path - Lennox Head to Pat Morton

File Reference	Coastal Cycleway
Councillor	Cr Peter Moore Cr Susan Meehan Cr Sharon Cadwallader

That Resolution 280711/13 as follows be rescinded:

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.

It is foreshadowed that if the above motion is carried, the following be moved:

- a) The current work on the Lennox to pat Morton Lookout is ceased while Council establish options and alternatives to the current handrail design.
- b) Council engage a suitably qualified environmental and engineering consulting company with a view to a design in keeping with the environmental and aesthetic nature of the location.
- c) The options are brought back to Council as a whole for resolution.

Staff Comment

Any replacement motion needs to clarify whether the existing hand railing is to be removed as this is unclear and that matter should be clarified both for the community and Council staff. The extent of rail in the current design, in terms of its height and length is the minimum recommended to be consistent with the relevant standard. If Council intends to retain a handrail, the bulk and scale of any replacement will be similar to the existing rail and the directions that are required will need to focus on other design elements such as materials.

The work on the balance of the shared path from Lennox Head to Pat Morton is on hold and Council has not incurred any costs on additional hand rails. Therefore Council is able to change the design of the future works, if it so wishes, although consistency with the current works would also need to be considered.

Point b) is unclear as Council has been working with GHD Pty. Ltd. to design the walkway and this firm has all the necessary environmental and engineering expertise required for the project. Ideally Council needs to provide greater direction as to what they require from the project.

The placement of new infrastructure in sensitive areas will typically require a balance between environmental impact and the service to be provided by the infrastructure. At times these goals may be in conflict and accordingly it is important for the Council to provide direction to the designers in respect of balance.

COUNCILLOR RECOMMENDATION

That Resolution 280711/13 as follows be rescinded:

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)

Nil

13.2 Notice of Motion - PCYC

File Reference Notices of Motion

Councillor Cr Susan Meehan

I move

That Ballina Shire Council actively investigate and pursue an 'Expression of Interest' in securing a Police Citizens Youth Club for Ballina Shire.

Councillor Comment

Most people are aware of the excellent work done by PCYC's, where the community work hand in hand with Police in providing sporting, cultural and citizenship based activities for young people.

Recently I became aware of an invitation to establish 7 new PCYC's across NSW. With some considerable funding options and three staff provided, Ballina Shire must be proactive in thoroughly investigating this opportunity. While there are many criteria to be taken into account there is no doubt our Shire youth services would be enhanced by a facility of this kind.

Staff Comment

Preliminary enquiries are being made by staff in relation to this potential funding opportunity. Key selection criteria for grant applicants to address include the following:

- sourcing local crime statistics, including those relating to juvenile crime
- reviewing socio-economic data, particularly youth/young people age cohorts and
- identifying possible options for buildings which might be adapted to meet the criteria specified by PCYC.

Should Council be minded to support the notice of motion it is noted that this project is not included in Council's endorsed work program, nor is any budget allowance made in the current Operational Plan to pursue the matter. It is anticipated that it will take approximately one week for staff to complete the grant application.

COUNCILLOR RECOMMENDATION

That Ballina Shire Council actively investigate and pursue an 'Expression of Interest' in securing a Police Citizens Youth Club for Ballina Shire.

13.3 Notice of Motion - McDonald and Clement Park

File Reference Notices of Motion

Councillor Cr Susan Meehan

I move:

1. That Council write to the relevant State Government Minister's expressing our desire to improve public accessibility to McDonald Park and Clement Park due to the historical circumstances that resulted in that land being provided to the Department of School Education.
2. If the State Government is not amenable to increased public accessibility, Council is to receive a report on any options available to pursue this issue, with this report to include a history on the ownership of this land.

Councillor Comment

Recently, while researching another matter I became aware that members of our community believe that the NSW Government are obliged to allow public access to the McDonald and Clement Parks. Most are pleased they are used as the school grounds during school hours.

Since then I have been informed of various opinions and hearsay about the circumstances of the arrangements following the 1964 referendum. My motion asks Council to pursue this matter with the State Government and if they are not receptive then we should examine our options further. Ideally the fence that surrounds these parks should be relocated to allow public access at all times.

Staff Comment

The Cliff Murray book "Across Three Bridges", which provides a detailed history of Ballina, makes it clear that the then Council only dedicated Clement Park to the Department of Education on the basis that the "Departmental policy would allow the use of school fields for public purposes and the present grounds Clement and McDonald Parks would not be lost to young people for sport" (page 273).

On this basis it is considered that Council has a reasonable basis to lobby for greater access to this land. Therefore correspondence should be forwarded to the relevant State Government Ministers to assess whether or not Ministerial support can be obtained to improve the current accessibility.

COUNCILLOR RECOMMENDATION

1. That Council write to the relevant State Government Minister's expressing our desire to improve public accessibility to McDonald Park and Clement Park due to the historical circumstances that resulted in that land being provided to the Department of School Education.
2. If the State Government is not amenable to increased public accessibility, Council is to receive a report on any options available to pursue this issue, with this report to include a history on the ownership of this land.

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 July 2011 Ordinary meeting:

<u>Date</u>	<u>Function</u>
2/8/11	2LM Radio/NBN News - Optus tower in Lennox Head
2/8/11	National Disabilities Insurance Scheme (NDIS) Launch in Alstonville
2/8/11	Access Reference Group meeting at Council
3/8/11	Lennox developers - roads, deputation with staff at Council
3/8/11	Bunnings deputation with staff at Council
3/8/11	Woolworths deputation with staff at Council
4/8/11	Lennox Head Primary School, Class on Local Government (x 4) at Council
5/8/11	NOROC Extraordinary meeting in Ballina
6/8/11	Ballina Bypass opening announcement at Teven
7/8/11	Scope Changeover in Ballina
8/8/11	OEM Ballina, factory tour at Southern Cross Industrial Estate
8/8/11	Condon Hill deputation with staff at Council
9/8/11	Citizenship Ceremony at Council
9/8/11	Prime TV, Optus tower and Lennox railing at Council
10/8/11	Australian Mayoral Aviation Council Conference in Hobart
15/8/11	Rous Water Ordinary meeting in Lismore
17/8/11 - 18/8/11	Destination 2036 workshop in Dubbo
24/8/11	Ballina Public School 150 year celebration in Ballina

RECOMMENDATION

That Council notes the contents of the report on Mayoral meetings.

Attachment(s)

Nil

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 - Surf School Licences

This report contains information relating to commercial and legal matters and if released to the public could prejudice any legal proceedings.

Item 17.2 Land Purchase - Cumbalum

This report contains information relating to negotiations of a commercial nature and if released to the public could prejudice those negotiations.

Item 17.3 - General Manager - Contract

This report contains information relating to personnel matters.

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 Surf School Licences

Reason for Confidentiality

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

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

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 discussions in open Council could prejudice any commercial negotiations and legal action already being taken against Council.

17.2 Land Purchase - Cumbalum

Reason for Confidentiality

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

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as Council is currently involved in commercial negotiations with the owner of the property and any publication of this information could prejudice those negotiations.

17.3 General Manager - Contract

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 confidential personal information.