



## 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 22 March 2012 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 flourish extending to the right.

Paul Hickey  
**General Manager**

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

## **Deputations to Council – Guidelines**

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

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

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

## **Public Question Time – Guidelines**

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

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

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

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

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

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

Recording of the questions will not be verbatim.

The standard rules of behaviour in the Chamber will apply.

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

## **Disclaimer**

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

## **Confidential Session**

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

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1. Australian National Anthem
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**1. Australian National Anthem**

The National Anthem will be performed by Ballina High School.

**2. Acknowledgement of Country**

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

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

**3. Apologies**

Nil

**4. Confirmation of Minutes**

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday, 23 February 2012 were distributed with the business paper.

**RECOMMENDATION**

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 February 2012.

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

**6. Deputations**

**7. Mayoral Minutes**

Nil items

## 8. Regulatory Services Group Reports

### 8.1 DA 2011/546 - 7 Monivae Place, Skennars Head

<b>File Reference</b>	DA 2011/546
<b>Applicant</b>	Peter Turner & Associates
<b>Property</b>	Lot 5 DP 880333 7 Monivae Place, Skennars Head
<b>Proposal</b>	To undertake alterations and additions to an existing dwelling house
<b>Effect of Planning Instrument</b>	The land is zoned 2(b) Village Area Zone under the provisions of the Ballina LEP
<b>Locality Plan</b>	The subject land is depicted on the locality plan attached

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#### **Introduction**

The report is presented to Council as there are three submissions against the proposal. One of these submissions has been made by a Senior Building Surveyor in Council's Building Services Section. It was determined that due to a potential conflict of interest, this DA be reported to Council for determination by the Development Services Section.

#### **Reportable Political Donations**

Details of known reportable political donations are as follows:

- Nil

#### **Proposed development**

The proposal involves alterations and additions to an existing double storey brick and tile dwelling house with the main components comprising:

- Conversion of existing 2 car garage into a rumpus room;
- Construction of a 3 car garage (single storey) to the south (Monivae Place frontage) of the existing dwelling house;
- Construction of a second storey extension comprising bedroom, parents' retreat, walk-in robe, ensuite and balcony;
- Extension of first floor balcony on northern elevation of the building which adjoins the existing kitchen/dining room; and,
- Conversion of existing lounge room to fifth bedroom;

#### **Public Exhibition**

The matter was advertised in accordance with Council's public notification policy from 12 January 2012 to 30 January 2012.

Nine property owners, were notified and three submissions were received. The contents of these submissions, which are attached for the information of Councillors, will be addressed later in this report.

### **Applicable Planning Instruments**

#### SEPP 71 Coastal Protection

The proposed development is consistent with the general provisions of this Plan that are applicable to this application.

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

The site is zoned, 2(b) Village Area Zone for the purposes of clause 9 of BLEP 1987.

The proposal for the construction of additions and extensions to an existing residential dwelling, is permitted under the provisions of the BLEP Land Use Table. The proposal also complies with the objectives of the zones.

Clause 17 Limitation on Building Height provides:

- (2) A person shall not, on any land to which this plan applies, erect a building taller than 6.4 metres in height unless the Council is satisfied that the building will not;
- a) adversely affect the existing or future amenity of adjoining properties by overshadowing or causing loss of privacy.
  - b) significantly obstruct views from adjacent buildings and public places,
  - c) have an adverse impact on the scenic or landscape quality of the locality, or
  - d) exceed 2 storeys.

The proposed additions to the dwelling exceed the 6.4 metre height reference in a small section of the north eastern corner of the dwelling. However this exceedance does not:

- adversely impact on the amenity of adjoining properties;
- significantly obstruct views from adjacent buildings or public places;
- have an adverse impact on the scenic or landscape quality of the locality; or
- exceed two storeys.

Height of building is defined in BLEP as *“the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point”*.

The objector claims the building is three stories in height. Whilst the building has three levels, at no point is the building a three storey structure. Clause 6 of State Environmental Planning Policy No 6 - Number of Storeys in a Building defines the number of storeys as;

*“the maximum number of storeys, floors, or levels, as the case may be, of the building which may be intersected by the same vertical line, not being a line which passes through any wall of the building”.*

The exceedance of the 6.4 metres height restriction is considered reasonable in the circumstances and is not part of the objection to the development.

Draft Ballina Local Environmental Plan 2011 (DBLEP 2011)

The site is zoned, R2 Low Density Residential under the DBLEP2011.

The proposal for the construction of additions and extensions to an existing residential dwelling, is permitted under the provisions of the Land Use Table for DBLEP2011. The proposal also complies with the objectives of the zones.

Clause 4.3 Height of Buildings provides;

- 2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Building Map

The Height of Building Map for the locality provides that dwellings must not exceed 8.5 metres in height, the application complies with this requirement.

Height of building is defined in DBLEP2011 as *“the vertical distance between ground level (existing) and the highest point of the building”.*

DBLEP2011 has been adopted by Council and forwarded to the Department of Planning for Gazettal. DBLEP2011 is therefore considered to be imminent and as such the provisions of the plan should be given considerable weight.

Ballina Shire Combined Development Control Plan (BSCDCP)

The relevant sections of the BSCDCP are as follows.

**Chapter 16 Lennox Head**

Part 2 Clause 5 Environment and Natural Character Principle provides that:

*New development must be designed to respect the ecological values of the site and its surroundings, and be sensitive to the terrain and landscape character, whilst also preserving views and vistas to and from the prominent landscape features, such as the escarpment, ridgelines, headlands, and beaches.*

Clause 4.5.1 Desired Future Character of the Skennars Head Neighbourhood provides that:

*Buildings will be small scale, low in height and site coverage, and will be designed to respond to the sub-tropical environment. They will be designed such that the location, construction materials and colours will blend with the colours of the natural landscape, so that buildings recede into the landscape rather than be conspicuous. Building separation, building height limits and roofline controls will ensure a built form that provides for sharing of views and solar access. New buildings will be designed to be “energy smart” and to*



*enable the occupants to persistently reduce the demands on materials, energy and water throughout the building's full life cycle.*

The proposed development is considered to comply with this requirement. However, the objections relate to the sharing of views, and will be discussed later in this report.

### **Report**

Having regard to S.79c of the EP&A Act 1979, the following are pertinent matters for Council's determination.

Generally, the application complies with all aspects of the relevant Environmental Planning Instruments.

### Submissions

Council received submissions from three objectors to the development.

One objector (shown as No. 1 on the attached plan) is concerned that the proposed extension to the entertainment balcony will result in loss of amenity in regards to privacy in their upper level bedroom, change room, bathroom, balcony, courtyards and front entry to the property. Extra noise and lighting will also be substantial due to the proximity and use of the proposed balcony.

### Comment

The objector has suggested that the wall on the western elevation of the balcony be increased in height from 1000mm to 1700mm with louvers above. This is not considered unreasonable and will have little adverse impact on the applicant, and should be required via a condition of consent.

The proposed first floor addition (parent retreat balcony) would result in loss of amenity to the privacy of our bedroom-balcony, courtyards and pool area as the viewing from this elevated position looks down into our property.

### Comment

The objector has suggested that the width of the balcony be reduced and the western end of the balcony be screened. It is considered unreasonable to request the width of the balcony be reduced, as this will not impact on the perceived invasion of privacy, however, the provision of a screen on the western end of the balcony is considered reasonable and is recommended to be required via a condition of consent.

Two of the objectors (shown as Nos. 2 & 3 on the attached plan) have expressed a concern with the loss of views, by the construction of the three car garage, at the front of the property.

Comment

The objectors are of the opinion that the proposed development does not comply with the following sections of Chapter 16 of the BSCDCP

**Part 2 – Community Vision and Principles**

2.2 Council's Objectives for Development within Lennox Head.

*2.2e Ensure new development protects the amenity of adjoining premises.*

This particular objective is one of Council's general objectives for the entire Lennox Head area and recognises that new development should have regard for existing residential amenity.

This application has been assessed having regard for the particular style and development character of the local estate.

Amenity in this instance refers to such things as protecting privacy, overshadowing, bulk and scale of local development and the like. It is considered that the proposed design does not unreasonably impact the amenity of local residents.

2.3 Design Principles

*2.3.5 New development must be designed to respect the ecological values of the site and its surroundings, and be sensitive to the terrain and landscape character, whilst also preserving views and vistas to and from the prominent landscape features, such as the escarpment, ridgelines, headlands, and beaches.*

The clause is a design principle in Council's objectives for development control and as such contains no specific guidelines. Guidelines for building controls designed to facilitate view sharing are provided in later sections of the DCP. These will be addressed later in this report.

The objectors have referred to Figure 4.4 of Council's DCP, as indicating areas of scenic importance which will be denied to them if the application is approved.

This issue raised in the objections has been discussed with Council's Strategic and Community Services Group, who have advised that the intention with respect to the areas indicated on Figure 4.4 as important scenic areas, is for these areas to be recognised in relation to the scenic quality of the locality from the public domain.

The proposal does not threaten the overall values of the local scenery and its public domain setting.

### **Part 3 – General Development Controls for Lennox Head**

#### 3.2 Building Design & Landscape Design

Clause 3.2.1 The following building design and landscape features are significant in developing a desirable, contemporary beachside character in Lennox Head, this clause lists 8 building design features, No 4 of which is:

*4 Unobtrusive garages, recessed into the built form.*

This is considered to be the non compliance of development standards of most concern. However, having said that, the proposed garage is considered to be reasonable in terms of streetscape and amenity.

When viewed from the street it would not be readily evident that the garage is not recessed into the building, as the dwelling rises from behind the garage and the building to the side adjoins the side of the garage.

The garages are mainly 8 metres in length which is approximately 2 metres longer than a standard sized garage. They are 4.5 metres from the applicant's dwelling at the closest point. If Council is of a mind to grant consent to this application a condition could be imposed requiring the front elevation of the two doored section of the garage to be moved 2 metres closer to the dwelling and the front of the single door section of the garage to be moved 4 metres closer to the dwelling. Such a change would increase the viewing window of the objectors whilst not imposing too onerous a restriction on the applicant

### **Part 4 – Neighbourhood Specific Controls**

#### 4.5 “Skennars Head” Neighbourhood

*4.5.1 Buildings will be small scale, low in height and site coverage, and will be designed to respond to the sub-tropical environment. They will be designed such that the location, construction materials and colours will blend with the colours of the natural landscape, so that buildings recede into the landscape rather than be conspicuous. Building separation, building height limits and roofline controls will ensure a built form that provides for sharing of views and solar access. New buildings will be designed to be “energy smart” and to enable the occupants to persistently reduce the demands on materials, energy and water throughout the building’s full life cycle.*

There is no doubt that the proposed development will impinge on the view of the objectors who are located two properties (be that they are a fan shaped and battle axe shaped allotments) away and some 50 metres south of the subject site.

The objectors presently have limited views between the subject property and the adjoining property and whilst the DCP makes reference to the sharing of views, it does not however, imply that all views must be maintained to all affected parties.

The objector has included as part of their submission a clipping from a real estate agent, to demonstrate the possible loss of value they will suffer if their view is restricted. The article is titled "Protecting your room with a view", and apart from referring to the loss in value, with the loss of a view. The article also states:

*"Firstly, its imperative that you find out whether the view could ever be built out. If your neighbour rebuilds in a few years and adds two extra levels, will you lose your view?"*

This is exactly what has happened in this instance and whilst the DCP contains provisions seeking to minimize upper level bulk and provide building separation in order to facilitate the sharing of views, residents living behind the first line of dwellings closest to the views can only at best expect glimpses of views to be obtained between those dwellings.

#### Land and Environment Court

The Land and Environment Court have established a number of Planning Principles to be used as guidelines in the assessment of development applications similar to this. The Principle about view sharing was established in the judgment, in the matter of Tenacity Consulting Pty Ltd v Warringah Council known as Tenacity.

Tenacity established a four steps assessment for the determination of view sharing.

Step one is the assessment of views to be affected and the following guidelines are provided.

Water views are valued more highly than land views.

Iconic views are valued more highly than views without icons.

Whole views are valued more highly than partial views.

A water view in which the interface between land and water is visible is more valuable than one in which the interface is obscured.

#### Comment

In this instance the view to be affected, is a limited view of the sea with the top of a number of Norfolk Pine Trees in the foreground. The view to the iconic Lennox Headland will in no way be affected by the proposed changes. In accordance with the guidelines offered the view is therefore considered to be a minor view.

The loss of view will reduce the amount of sea that can be seen and the number of Norfolk Pines.

Step Two is to consider from what part of the property the views are obtained

The view of the water and Norfolk Pines is available from the main living area of the dwellings, and in a sitting and standing position. The view of the water and Norfolk Pines will still be available from the main living areas and in a sitting and standing position, though in a lesser form.

Step Three is to assess the extent of the impact

One objector's views of the Lennox Headland which is an iconic landscape feature will not be impacted in any way by the proposal, whilst the other objector states that "*the existing development has already impacted significantly on our overall view and has obliterated the view of the headland from our balcony as well as significantly reduced our ocean views from our living areas*". The proposed changes will only impact on the lesser landscape feature, being the view of the sea and the Norfolk Pines.

Step Four is to assess the reasonableness of the proposal that is causing the impact.

The proposal is considered reasonable. There are a number of non-conformities with the requirements of the BSCDCP. The majority of these inconsistencies are considered minor and do not impact on the view of amenity of the adjoining properties in any way. The only inconsistency which impacts on the view is the requirements for garages to be unobtrusive and recessed into the built form. This matter has been discussed previously.

Council staff have discussed with the applicant the possibility of relocating the garage to the western boundary. The applicant has objected to this proposal as they have future plans for this area.

**Conclusion**

The application does not comply with a number of the provisions of Chapter 16 of BSCDCP. These non-compliances are not considered sufficient to justify refusing the application and can be addressed by conditioning of a consent.

The main issue in contention by the neighbouring residents, being the loss of view, is not considered sufficient to warrant refusing the application.

The objectors are located a considerable distance from the view, and cannot reasonably expect to have their view protected by limiting the building potential of those dwellings closer to the view in the manner sought. If this were the situation nothing would be built in front of the first dwelling erected, no matter how far back from the view that residence was located.

The real estate article offered by the objector advises, that a purchaser needs to be thorough in their assessment of their new purchase, as there may be no realistic ability to protect a view from future building alterations or additions on other land holdings. This is exactly what has happened in this instance.

The matter of shared viewing has been considered in accordance with the steps set down as planning principles by the Land and Environment Court by having regard for the established housing style of the locality. The assessment has concluded that the impact of the proposed amendment and additions on the objectors does not warrant the refusal of the application.

It is considered that the proposed changes of moving the front of the garage closer to the dwelling will improve the viewing window of the objectors, whilst not imposing an onerous burden on the applicant.

The comment by one of the objectors “*the existing development has already impacted significantly on our overall view and has obliterated the view of the headland from our balcony as well as significantly reduced our ocean views from our living areas*”, could indicate that these dwellings are located in a position where any on-going view of the sea should not be considered as a right.

### Options

- 1 The application be approved subject to normal building conditions.
- 2 The application be approved subject to normal building conditions plus the additional conditions mentioned in the report, requiring the screening of rear balconies and the relocation of the garage.
- 3 Refuse the application for non compliance with the provisions of the Ballina Development Control Plan.

Option two is recommended as the application has been assessed as being worthy of approval.

### RECOMMENDATIONS

That development application 2011/546 for the construction of additions and alterations to a dwelling at Lot 5 DP 880353 No 7 Monivae Place, Skennars Head be **APPROVED** subject to the standard building conditions of consent and the following specific conditions:

1. The solid wall on the western side of the balcony off the Kitchen/Dining room being increased in height from 1000mm to 1700mm with louvers above.
2. A solid screen being constructed on the western side of the balcony off the parents retreat for a height of 1700mm.
3. The garage is to be moved closer to the building. The two doored section of the garage is to be moved 2 metres closer to the existing building, and the single door section of the garage is to be moved 4 metres closer to the existing building than that shown on the submitted plan:

### Attachment(s)

1. Aerial Locality Plan that includes the location of objectors' properties the applicant's residence and an indication of the view corridors.
3. Elevation plans of the proposed development
4. Submissions

**8.2 DA 2011/547 - Transitional Group Home, 27 Cawarra Street, Ballina**

<b>File Reference</b>	DA 2011/547
<b>Applicant</b>	The Northcott Society 1 Fennell Street NORTH PARRAMATTA NSW 2151
<b>Property</b>	Lot 16 DP 557411, No. 27 Cawarra Street, Ballina.
<b>Proposal</b>	Change of Use to establish a transitional group home (accommodation for people with a disability) and facility to operate programs for people with a disability and associated administration.
<b>Effect of Planning Instrument</b>	The land is zoned 2(a) – Living Area Zone under the provisions of the Ballina LEP 1987.
<b>Locality Plan</b>	The subject lands are depicted on the locality plan attached.

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**Introduction**

The report is presented to Council due to the public interest in the proposed development, and the fact that Council has requested to have this application reported to it for determination.

**Proposed Development**

It is proposed to undertake minor alterations to the existing dual occupancy to establish a transitional group home (accommodation for people with a disability) and facility to operate programs for people with a disability and associated administration. Approval has previously been issued under DA 2009/453 for a change of use involving construction works to establish a Transitional Group Home (TGH) (respite care for adults with a disability) under SEPP (Affordable Rental Housing) 2009 within the existing dwelling house and the use of the approved dual occupancy unit as ancillary accommodation for staff. The applicant has not proceeded with this approval as yet and now seeks a variation to the use of the premises hence the lodgement of DA 2011/547.

The application proposes to use one of the dual occupancy dwellings as a transitional group home and the other as an education/training facility and associated administration.

The proposed conversion of the dual occupancy unit (dwelling No. 2) at the rear of the subject premises is to enable the unit to be used as the accommodation component of the TGH, with the original dining room associated with dwelling No. 1 (originally proposed as an office) being converted into a study & carers sleep over accommodation, when the accommodation component of the TGH is occupied during weekends and school holidays.

The proposed conversion of the remainder of the dwelling No.1 involves the use of the existing rooms as administration, office, meeting room and amenities associated with the educational and administration component of the TGH.

The proposed use of the premises will cater for eight (8) clients and eight (8) staff the majority of the time with the numbers growing to eighteen clients (18) and eight (8) staff - one (1) day every two (2) months.

The education aspect will involve the Northcott Disability Services running programmes to assist people with a disability to carry out activities required to fully participate in the community.

Other construction works proposed for the development are as follows:

- Construct a new concrete driveway having a double car width leading to the existing garage and curving across the front yard area, including an additional hardstand parking space near the western boundary.
- Install a new access ramp between the proposed driveway and the existing front door of the building.
- Install three (3) bike racks within the existing front verandah.

The proposed hours of operation of the facility are 8.00am to 6.00pm Mondays to Fridays inclusive. The transitional group home aspect is proposed to be used on weekends and school holidays which will include overnight stays of up to 3 people, being 2 clients plus a carer, at a time.

It is proposed to provide seven (7) car parking spaces in a stacked formation, three (3) bike racks and a mini bus drop off pick up area.

#### **Reportable Political Donations**

Details of known reportable political donations are as follows:

- Nil

#### **Public Exhibition**

The application was advertised in accordance with Council's established policy.

Eighteen (18), residents were notified and eleven (11) submissions by way of objection were received from individuals.

The contents of these submissions will be addressed later in this report. A copy of each submission is provided as an attachment to this report for the information of Councillors.

#### **Report**

The following report is presented in accordance with the relevant heads of consideration under Section 79C of the Environmental Planning and Assessment Act 1979.



### **Applicable Planning Instruments**

#### SEPP (Affordable Rental Housing) 2009

Clause 42 of Division 7 – Group Homes of the SEPP is applicable to the proposal:

#### *42 Definitions*

*In this Division:*

*"group home" means a permanent group home or a transitional group home.*

*"prescribed zone" means:*

- (a) any of the following land use zones or a land use zone that is equivalent to any of those zones:
  - (i) Zone R1 General Residential,*
  - (ii) Zone R2 Low Density Residential,*
  - (iii) Zone R3 Medium Density Residential,*
  - (iv) Zone R4 High Density Residential,*
  - (v) Zone B4 Mixed Use,*
  - (vi) Zone SP1 Special Activities,*
  - (vii) Zone SP2 Infrastructure, and**
  
- (b) any other zone in which development for the purpose of dwellings, dwelling houses or multi dwelling housing may be carried out with or without consent under an environmental planning instrument.*

**group home (transitional) or transitional group home** means a dwelling:

The proponent has indicated that the premises would be occupied as a single household for short periods of time by people with disabilities as a part of their adjustment to living independently. For that reason the proponent states that the rooms or suites of rooms shown on the submitted plans as providing a self contained dwelling is properly defined as a transitional group home. Council development assessment staff are of the opinion that whilst the proposed use as a transitional group home is minor in the context of the use of the building as a whole, it is still a correct definition of that component of the proposal.

#### SEPP 71 Coastal Protection

The proposed development is consistent with the general provisions of this Plan, and in particular Clause 8 – matters for consideration.

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

The site is zoned 2(a) Living Area Zone, for the purposes of clause 9 of BLEP 1987.

The proposed development is defined principally as an "Education Establishment". For the purposes of Clause 6 of BLEP "Education Establishment" is defined in the 1980 Model Provisions as;

*Education Establishment means a building used as a school, college, technical college, academy, lecture hall, gallery or museum, but does not include a building used wholly or principally as an institution or child care centre.*

Education Establishments are listed as a permissible land use on land zoned 2(a) Living Area Zone in the land use tables in clause 9 of BLEP.

The proponent contends that the meanings of “school”, “college” and “technical college” are undefined within the Model Provisions but may be taken to relate to the proposed use, which involves the education of participants who have disability in living skills.

It is therefore contended that the use is properly characterised principally as an “educational establishment” with a TGH component. It is also considered that ancillary to an educational establishment are office and administration components, and hence these ancillary uses are also consistent with the BLEP definition and with the SEPP Affordable Housing.

The zone objectives for Zone 2(a) Living Area are:

- A The primary objectives are:
- (a) to regulate the subdivision and use of land to permit housing and ancillary development where the scale, type and traffic generating characteristics of the ancillary development are compatible with the character and amenity of the surrounding residential area,
  - (b) to permit development which is considered by the council to be an essential land use within the urban living area, but not including a shop (other than a general store), and
  - (c) to allow detailed provision to be made, by means of a development control plan, to set aside specific areas within the zone for varying housing densities as well as other associated urban and tourist facilities.
- B The secondary objective is to allow a variety of housing types and designs and to encourage greater visual amenity by requiring site landscaping.
- C The exception to these objectives is development of land within this zone for public works and services, outside the parameters specified in the primary objectives.

The applicant contends that it is essential for the proposed use to be located within the residential zone/setting as the skills taught to the clients are life skills to assist them in making the transition into general society. Such duties as cooking, cleaning, gardening and clothes washing are examples of life skills that require, a residential setting to take place. Should Council concur with the proponent's proposition, the proposed use is deemed consistent with objective A (b) as it is essential that the proposed land use is in an urban living area.

Additionally, the subject site is located within 100m of Cherry Street which is a street that already caters for a relatively high number of community service and through vehicles. As such, the additional vehicle movements and the overall use of the site are considered to be consistent with the character and amenity of the wider surrounding residential area, and for this reason the proposal is considered to reasonably comply with objective A(a).

Draft Ballina Local Environmental Plan 2011 (DBLEP)

On 15 December 2011, Council resolved to adopt the Draft Ballina Local Environmental Plan 2011 and refer it to the Department of Planning for the making of the Plan.

The DBLEP proposes to zone the site R2 Low Density Residential.

The DBLEP dictionary defines the proposed development as a “Community Facility.”

*A Community Facility means a building or place:*

*(a) Owned or controlled by a public authority or non-profit community organisation, and*

*(b) Used for the physical, social, cultural or intellectual development or welfare of the community,*

*But does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.*

Community Facilities are a permitted use within zone R2 Low Density Residential.

The objectives of the R2 Low Density Residential Zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for development compatible with the character and amenity of the surrounding neighbourhood.
- To provide for development that meets the social and cultural needs of the community.
- To encourage development that achieves the efficient use of resources such as energy and water.

The proposal complies with the objectives of the zone, as it will provide for development that meets the social and cultural needs of the community.

The proposed development complies with the requirements of the Draft Ballina Local Environmental Plan 2011.

As the implementation of the DBLEP is imminent and affects Council's future direction, Council may choose to place significant weight on the requirements of the DBLEP in determining a development's permissibility.

Ballina Shire Combined Development Control Plan (BSCDCP)

BSCDCP classifies the land as L2 Low Density (Dwellings & Dual Occupancies)

The preferred land uses for land designated L2 are - dwelling houses and dual occupancies.

The L2 control plan area objectives are as follows:

- To make provision for low density living options with single dwellings on normal allotment sizes being the predominant form of housing.
- To permit dual occupancies.

Whilst the predominant use on the site is not residential in nature, the character of the dwelling would remain as such outside of business hours. Even during business hours the use of the site is not considered to unreasonably impact on the residential character and amenity of the street.

Chapter 1 Policy Statement No 2 Car Parking and Access of the Ballina Shire Combined DCP

The proposed development provides for the parking on site of seven (7) cars. To attain seven (7) spaces there would be some stacked parking. This is permitted under the DCP as long as it is with a single tenancy, or identifiable group. In this case it is supportable on the grounds that the operators of the premises will be able to monitor the movement of vehicles so that minimum disruption will occur for the site users and the neighbourhood in general.

It should also be noted that the site is located at the head of a cul-de-sac which only services two (2) other dwellings. It should also be mentioned that the facility would employ a maximum of eight (8) staff. Therefore, as clients arrive in a minivan, onsite parking is provided to mainly service staff of the facility.

There are no standard rates for these types of developments, so parking provision is based on demand (It must also be pointed out that patrons would be transported to and from the site in a minivan and some staff would be working off-site during the day) It is considered that five cars and three bicycles would be a typical daily parking demand, as such the provision of seven (7) on-site parking spaces and three (3) bicycle parking spaces is considered sufficient for the proposed use.

The existing external road network is constructed to a suitable standard to service the proposed development.

Chapter 1 Policy Statement No 3 Urban Building Lines of the Ballina Shire Combined DCP

Policy Statement No 3 provides for a building line setback of 4.6 metres to Cawarra Street.

The proposed development does not alter the setback to the street but does propose hard standing car parking spaces within the setback. Section 3 of this Policy Statement states the following:

*All hard standing car parking spaces, whether enclosed or not, shall comply with the setback requirements of this Policy Statement, unless it can be demonstrated to council's satisfaction that such car parking will be suitably screened along the street frontage.*

The application does not propose any screening along the frontage, therefore the impact of the hard standing car parking must be considered on the residential streetscape. There is the possibility of providing screening in the form of a low front fence and/or landscaping to the frontage to assist in minimising this impact. This could be achieved via a condition of consent if Council resolve to approve the subject proposal. Recommended conditions have been attached to this report should Council be inclined to approve the development.

#### Social and Economic Impacts.

The proposed development will have a beneficial social impact on the Ballina Shire as it will provide a service for people with a disability and will assist in providing life skills to assist them in making the transition into general society.

#### The suitability of the site.

The proposed site is considered suitable because:-

- The proposed development is consistent with the desired future character of the area, and with the objectives of the planning controls adopted for it under the DBLEP
- It is essential for the proposed use to be located within the residential zone/setting as the skills taught to the clients are life skills to assist them in making the transition into general society. Such duties as cooking, cleaning, gardening and clothes washing are examples of such life skills that require such a setting to take place.
- It is located on a site having few direct neighbours and in a wider area characterised by community services and community service traffic.

#### Submissions

Submissions have been received from eleven (11) respondents, all submissions were opposed to the development. The matters raised in the submissions are as follows. A copy of all submissions received are attached.

The matters raised in submissions and comments relating to same are reproduced below.

Concerns that the proposal will become a 'crisis accommodation' facility as has purportedly happened elsewhere in Ballina Shire.

Comment: The application is from the Northcott Society and does not propose a crisis accommodation facility,

The SEE provides numerous definitions for the proposed use.

Comment: The SEE outlines numerous definitions as there are a number of planning instruments applying to the site and use. Council has assessed the proposal as an Educational Establishment and Transitional Group Home under the current LEP and as a Community Facility under the Draft LEP.

Numerous contradictions in the SEE

Comment: The SEE is a supporting document for the application. The application contains sufficient information for Council to make an adequate assessment of the proposal against the relevant planning instruments.

Unacceptable 150% increase in current traffic movements.

Comment: It is noted that there will be additional traffic generated to the site than that which would be generated by the existing dual occupancy that currently exists on the subject site, however Council engineers have assessed the proposal in regards to traffic movements and are satisfied that the surrounding road network can cater for the proposed use.

We would like clarification on the statement that “the transitional group home will be in use on weekends and school holidays”.

Comment: The proposed facility will be used as a transitional group home on weekends and school holidays for students with a disability to assist them with making the transition to general society once they leave school and their home environment. There will be a carer that will stay at the premises when the accommodation component of the TGH is in use on weekends and public holidays.

The proposal will impact on the ecologically sensitive wetlands environment and protected flora and fauna

Comment: The proposed use is not considered likely to adversely impact on the adjacent wetlands in any unreasonable way.

The proposal does not comply with the current zone objectives or the draft LEP zone objectives

Comment: The zone objectives have been considered during the assessment of this application and are discussed in some detail in this report. The assessment against the zone objectives concluded that the proposed development complies with the objectives for the following reasons:

- It is essential for the proposed use to be located within a residential zone/setting as the skills taught to the clients are life skills to assist them in making the transition into general society. The teaching of skills such as cooking, cleaning, gardening and clothes washing as examples, require a domestic/residential setting to take place. Should Council concur with the proponent's proposition, the proposed use is considered to be consistent with objective A (b) of the Living Area Zone as it is essential that the proposed land use is in an urban living area.
- The subject site is located within 100m of Cherry Street which is a street that already caters for a relatively high number of service and through vehicles. As such, the additional vehicle movements and the overall use of the site are considered to be consistent with the character and amenity of the wide residential area of the

locality and, for this reason the proposal is considered to comply with objective A(a).

Having a 'transient population' is not at all compatible with the current residential stability of the street.

Comment: The use of the premises and the care of all clients will at all times be controlled by staff associated with the facility. The Transitional Group Home component will be utilised on weekends and school holidays. The intention of the proposed use is to maintain a residential living environment for their clients.

The proposal will increase the amount of flooding

Comment: Council's engineers have assessed the proposal in regards to flooding and are satisfied that the proposal will not impact unreasonably on the existing flooding situation. No filling of the site is required.

The proposal provides inadequate car parking

Comment: There are no standard rates for these types of developments so parking has been based on demand. It must also be pointed out that patrons would be picked up in a minivan and some staff would be working off-site during the day. It is considered that five (5) cars and three (3) bicycles would be a typical daily parking demand, as such the provision of seven (7) off street parking spaces and three (3) bicycle parking spaces is considered sufficient for the proposed use.

Unacceptable acoustic impacts on the surrounding locality

Comment: The proposed facility will mainly be used between the hours of 8.00am and 6.00pm five (5) days a week and is likely to have a similar or lower noise impact on the surrounding locality than the existing (dual occupancy) or the approved use (transitional group home).

Nothing less than a full traffic study is required if the impact of the traffic which would be generated by this proposal is to be objectively considered.

Comment: A proposal of this size does not generate the need for a full traffic study. Council engineers have assessed the proposal in regards to traffic movements and are satisfied that the surrounding road network can cater for the proposed use.

We have spoken to several real estate agents who advise us that the value of our property will likely significantly decrease if this development is consented to and proceeds.

Comment: There is no evidence to suggest that the proposed use will result in decreased property values of surrounding properties, however it needs to be accepted that there will be additional traffic and occupancy of the dwelling during daylight hours than would be associated with a normal residential duplex dwelling.

24 Staff and clients on the premises at one time. The noise level and parking impacts would overwhelm the quiet street in which we live.

Comment: The proponent has indicated that only one day bi-monthly an additional eight (8) clients will attend this facility. This will not create any significant additional traffic movements to those otherwise generated by the facility as they will be delivered to the site within the existing mini bus trips. The frequency of the additional clients is not considered likely to create adverse residential amenity impacts as the cul-de-sac is a short one off a major arterial street.

Even though the DA mentions car pooling and pushbike use, who will implement and police this?

Comment: The use of car pooling and pushbikes is taken into consideration when calculating car parking demand for any development proposal.

We have significant damage/problems with the road surface in our street, obviously there will be increased rubbish to be collected when a business/accommodation facility is factored into the street, maybe a "skip" permanently, not exactly in character with our street!

Comment: The application does not seek consent for the placement of a "skip" bin, additionally repair of the road surface will be addressed by Council's maintenance programme.

### **Conclusion**

The application is to undertake a change of use of an existing dual occupancy to establish a transitional group home (accommodation for people with a disability) and facility to operate programs for people with a disability and associated administration.

The proposed development is in accordance with the proposed land zoning under the provision of the Draft Local Environmental Plan 2011.

A number of matters have been raised in submissions, it is considered that a number of these have been addressed through conditions of consent, however some matters remain outstanding such as additional traffic movements which cannot be addressed as part of this application unless Council was to resolve to refuse the proposal.

### **Options**

- 1 Grant approval to the proposed development subject to conditions (as attached).
- 2 Refuse the application on the basis that the proposed use is not of a type and scale compatible within the Living Area Zone.



It is considered that the proposed use is a suitable use for the land and complies with the objectives of the Draft LEP 2011 R2 Low Density Residential Zone in that the proposed development meets the social and cultural needs of the community. It should also be mentioned that the application has been designed to comply with Council's policies and to meet the site specific aspects of the proposal in a responsible manner.

It is recommended that Option one be adopted and the application be approved subject to appropriate conditions of consent.

### **RECOMMENDATIONS**

That development application 2011/547 to undertake minor alterations to the existing dual occupancy to establish a transitional group home (accommodation for people with a disability) and facility to operate programs for people with a disability and associated administration at Lot 16 DP 557411, 27 Cawarra Street, Ballina be **APPROVED** subject to the attached conditions of consent.

### **Attachment(s)**

1. Locality Plan
2. Elevation plans of the proposed development
3. Site Plan
4. Submissions
5. Draft Conditions of Consent

**8.3 Development Applications - Works in Progress - March 2012**

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

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

<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
2006/242	20/10/2005	Ardill Payne & Partners	Site Filling - No. 21 Cumbalum Road, Cumbalum	Awaiting Additional Information
2008/578	6/2/2008	A Koellner	Erection of a Shed for Steel Fabrication - No. 21 Cumbalum Road, Cumbalum	Awaiting Additional Information
2010/278	6/11/2009	Ardill Payne & Partners	To Establish a dwelling/house site – No. 263 Sneebys Lane, East Wardell	Awaiting Additional Information
2010/892	05/10/2010	Ardill Payne & Partners	Residential subdivision comprising 73 lots and 2 residual lots, construction of roads and associated infrastructure works - Unara Parkway & Pacific Highway, Cumbalum	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
2011/233	01/06/2011	Victor Holmes Town Planning	Environmental Restoration Works, No. 69 Sartories Road, Pimlico and No. 120 Coolgardie Road, Coolgardie	Being Assessed
2011/320	22/07/2011	Ballina Shire Council	To change the method of extraction of an existing	Awaiting Additional Information

DA No.	Date Rec'd	Applicant	Proposal	Status
			Extractive 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	
2011/336	01/08/2011	Stanton Dahl Architects	Extension and Room Additions to a Residential Aged Care Facility, No. 15 The Avenue, Alstonville	Determination Pending
2011/383	01/09/2011	Ardill Payne & Partners	To Dedicate a Road Reserve and Construct a Public Road, Chilcott Circuit and Deadmans Creek Road, Ballina Heights Estate	Determination Pending
2011/388	02/09/2011	The University of Newcastle	Environmental Education Facility, Teven Road, West Ballina	Being Assessed
2011/391	02/09/2011	Newton Denny Chapelle	Erection and Strata Title Subdivision of a Residential Flat Development comprising Two (2) x Two Storey Dwellings (being the final stage of a five unit development, No. 4/15 Gibbon Street, Lennox Head	Determination Pending
2011/416	26/09/2011	Newton Denny Chapelle	Change of Use from a Macadamia Processing	Determination Pending

DA No.	Date Rec'd	Applicant	Proposal	Status
			Facility to an Educational Establishment (Universal Medicine College) involving alterations to the existing building and carparking area, No. 37 Converys Lane, Wollongbar	
2011/470	04/11/2011	SJ Connelly CPP Pty Ltd	Alterations & Additions to Gunundi, No. 70 Shelly Beach Road, East Ballina	Awaiting Additional Information
2011/476	04/11/2011	Kennedy Surveying	Two Lot Torrens Title Subdivision, No. 1 Higgins Place, Cumbalum	Determination Pending
2011/505	23/11/2011	All-Steel Garages & Sheds	Staged development of light industrial units, 28 Barlows Road, Ballina	Awaiting Additional Information
2011/506	23/11/2011	Chris Lonergan Pty Ltd	Regularise and expand existing caravan park from 55 sites to 178 sites and to construct new amenities block and recreation building, No. 440 South Ballina Beach Road, South Ballina	Awaiting Additional Information
2011/515	30/11/2011	Newton Denny Chapelle	Staged Development - 5 x Lot Subdivision for future cluster housing development and construction of public road, No. 565-589 River Street, West Ballina	Awaiting Additional Information
2011/517	02/12/2011	Victor Holmes Town Planning	Proposed Consolidation of Lots and Change of Use from a Church to a Dwelling, Pacific	Being Assessed

DA No.	Date Rec'd	Applicant	Proposal	Status
			Highway, Newrybar	
2011/529	09/12/2011	United Petroleum Pty Ltd	Proposed 24hour Service Station and Associated Convenience Store, Car Wash Facilities, Car Parking, Signage and Related Works, 413-423 River Street, West Ballina	Awaiting Additional Information
2011/535	16/12/2011	Peter Carmichael	Erection of Industrial Shed, 38A Smith Drive, West Ballina	Being Assessed
2011/540	20/12/2011	Ballina Shire Council	Construction of a new Ballina Lighthouse and Lismore Surf Life Saving Club House and Patrol Building and associated bulk earthworks, vegetation removal and landscape works, Light House Parade, East Ballina	Awaiting Additional Information
2011/541	20/12/2011	Ballina Shire Council	Construction of a Surf Club Storage Building, 75 space carpark, bulk earthworks and landscape works; Cedar Crescent, Light House Parade & Compton, Drive East Ballina	Awaiting Additional Information
2011/546	22/12/2011	Tony Hart	Establishment of a retail plant nursery and art studio, 935 Fernleigh road, Brooklet	Awaiting Additional Information
2011/554	23/12/2011	Ardill Payne & Partners	Alterations & Additions to Ballina Fair Shopping Centre, 84 Kerr Street, Ballina	Being Assessed
2012/23	24/01/2012	Don Taylor	Five Lot Strata Title Subdivision	Determination Pending

DA No.	Date Rec'd	Applicant	Proposal	Status
			of an Existing Industrial Building, 6 Russellton Drive, Alstonville	
2012/32	03/02/2012	Ballina Shire Council	Sharpes Beach Car Park Upgrade and Associated Works Including Upgrade of Coast Road Intersection, Surf Lifesaving Tower and Storeroom, Viewing Deck and Shower, Unisex Toilet, Picnic Facilities, Shared Pedestrian Path and Beach Accesses and Associated Infrastructure and Rehabilitation Works; Lot 2 DP 784864 & Lot 7032 DP 1063896 (Ballina Coast Reserve), The Coast Road, Skennars Head	On Exhibition
2012/43	14/02/2012	Ballina Fox Street Preschool	Additions to Pre-school, 84 Fox Street, Ballina	Being Assessed
2012/45	16/02/2012	Ardill Payne & Partners	Two Lot Boundary Adjustment Subdivision, 173 North Teven Road, Teven	Being Assessed
2012/47	21/02/2012	GSA Project Consultants P/L	To operate the existing Ballina Hockey and Sports Complex Facility as a Sports Club, 17-49 Owen Street, Ballina	On Exhibition
2012/54	24/02/2012	NSW Public Works C/- Geolink Consultants	Construction of Buildings to House Infrastructure at the Lennox Head Wastewater Treatment Plant and associated	Being Assessed

DA No.	Date Rec'd	Applicant	Proposal	Status
			vegetation Removal, North Creek Road, Skennars Head	
2012/55	27/02/2012	Teven-Tintenbar Public School	Erection of Roof Structure over Existing Outdoor Play Area, 28 Fredericks Lane, Tintenbar	Being Assessed
2012/57	28/02/2012	Ardill Payne & Partners	Boundary Adjustment Subdivision of Three (3) Existing Lots to Create 1x 58ha, 1 x 57ha and 1 x 4ha allotments, Owenia Way, Broken Head	On Exhibition
2012/58	28/02/2012	SG Higgins	Removal of one gum tree, 27 Anderson Street, East Ballina	Being Assessed
2012/60	29/02/2012	GL Gerrard	To undertake selective removal of Camphor Laurels Trees, 126 Bagotville Road, Meerschaumvale	Being Assessed
2012/61	2/03/2012	T Coggan	Special Event-Family Fun Day & Concert (Kodas Concert), 22-40 Commercial Road, Alstonville	On Exhibition
2012/69	7/03/2012	D Cope	Erection of a Rural Worker's Dwelling, 161 Broken Head Road, Newrybar	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
NIL				

**RECOMMENDATION**

That Council notes the contents of the report on the status of outstanding development applications for March 2012.

**Attachment(s)**

Nil

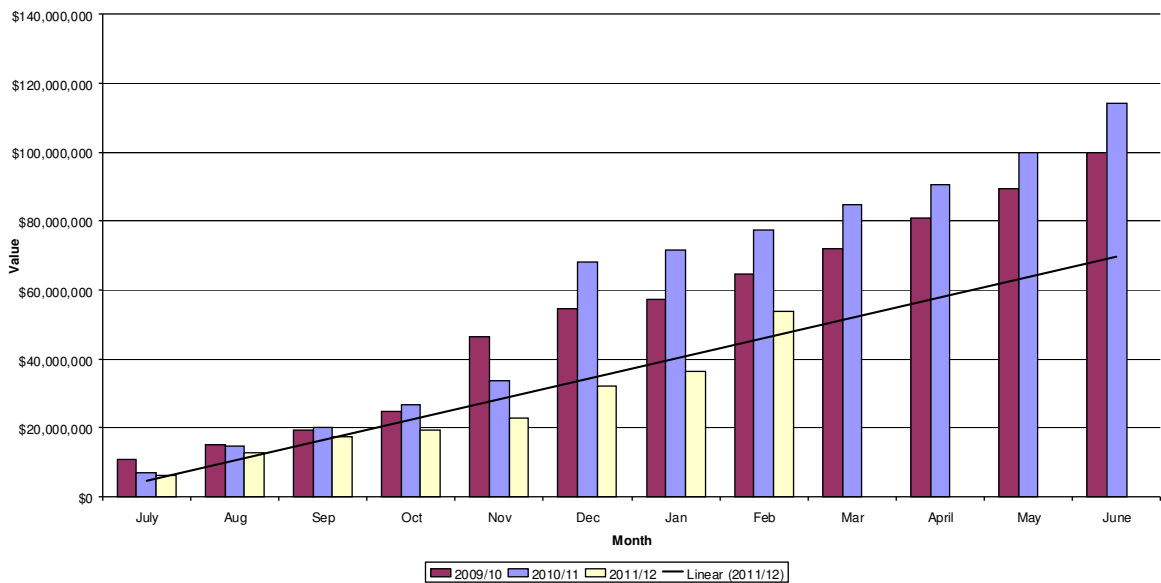


**8.4 Development Consent Statistics - February 2012**

The Council is advised that during the period of 1 February 2012 to 29 February 2012 the Regulatory Services Group issued Development Consent comprising of:

<b>Number of Applications</b>	<b>Value of Work</b>
25 Other Building Related	\$ 804,500
9 Dwelling/Duplexes/Residential Flat Buildings	\$ 16,338,250
7 General Developments	\$ 4,000
<b>Total Value</b>	<b>\$ 17,146,250</b>

The following chart details the cumulative consent figures for 2011/12 as compared to 2010/11 and 2009/10. A trend line has also been provided for 2011/12 to assist in the comparison.



**Local Development Performance Monitoring 2010-11**

The 2010-11 Local Development Performance Monitoring Report prepared by the Department of Planning and Infrastructure (DoPI) provides an overview of the performance of the NSW planning system and information on local and regional development determined by Councils, private certifiers and Joint Regional Planning Panels. The following is a brief snapshot of the DoPI's latest report.

The on-going effects of the global financial climate are evident in the development activity results for 2010-11 throughout NSW.

State-wide, development approvals fell by 3% compared with 2009-10 however this was 3% higher than 2008/09 when development activity reached an historic low. Despite the decline in activity, the total value of development increased by 7% over the same period.

An increase was seen in the number of developments assessed via the State Environmental Planning Policy (Exempt and Complying Development) (Codes SEPP).

A summary of key indicators for Ballina Shire Council is provided below, as well as a comparison to other councils in the Far North Coast in addition to state-wide trends.

For the purposes of making comparisons between like councils, the DoPI report groups Councils according to similar socioeconomic characteristics, which is referred to as Division of Local Government (DLG) Groups. These Groups are defined by the Australian Classification of Local Governments (ACLG) classification of local government areas adapted by the NSW DLG for the NSW Local Government Comparative Information publication. Ballina Shire Council is a 'Group 4' Council, as per the table below:

### Classification of Local Government

DLG GROUP CODE	DESCRIPTION	POPULATION	ACLG CATEGORY
<b>URBAN</b> i.e. Population > 20,000, or population density > 30 persons per sq km, or >90% of LGA population is urban			
1	<b>Capital City</b>		1
2	<b>Metropolitan Developed</b> Part of an urban centre >1,000,000 and pop. density >600/sq km	Small up to 30,000	2
		Medium 30,001 – 70,000	3
3		Large 70,001 – 120,000	4
		Very Large > 120, 000	5
4	<b>Regional Town/City</b> Part of an urban centre with population <1,000,000 and predominately urban in nature	Small up to 30,000	6
		Medium 30,001 – 70,000	7
5		Large 70,001 – 120,000	8
		Very Large > 120, 000	9
6	<b>Fringe</b> A developing LGA on the margin of a developed or regional urban centre	Small up to 30,000	10
		Medium 30,001 – 70,000	11
7		Large 70,001 – 120,000	12
		Very Large > 120, 000	13

DLG GROUP CODE	DESCRIPTION		POPULATION	ACLG CATEGORY
<b>RURAL</b>				
N/A	<b>Significant Growth</b> Average annual population growth >3%, population >5,000 and not remote			14
8	<b>Agricultural</b>	Small	Up to 2,000	15
9	<b>Agricultural Remote</b>	Medium	2,001 – 5,000	16
		Medium	1,001 – 3,000	21
10	<b>Agricultural Remote</b>	Large	5,001 – 10,000	17
		Large	3,001 – 20,000	22
11	<b>Agricultural</b>	Very Large	10,001 – 20,000	18
N/A	<b>Remote</b>	Extra Small	Up to 400	19
N/A		Small	401 – 1,000	20

Councils in the Far North Coast area were grouped as follows:

#### Classification of Far North Coast Councils:

Council	Group
Ballina	4
Byron Shire Council	4
Clarence Valley Council	4
Lismore City Council	4
Richmond Valley Council	4
Tweed Shire Council	5

#### Development Activity and Value

In comparison to other Group 4 Councils in the area, Ballina Council determined the second highest number of Development Applications, and also the highest value of Development Applications:

#### Far North Coast Councils – Volume and Value of DAs

Council	DLG	No. of DAs determined	Total estimated value of DAs determined	Total estimated value of DAs approved	Number of s96 determined
Ballina	4	632	\$111.1m	\$110.4m	133
Byron	4	537	\$93.2m	\$84.4m	208
Clarence	4	847	\$103.1m	\$102.4m	86
Lismore	4	494	\$55.4m	\$55.4m	91
Richmond Valley	4	320	\$57.3m	\$57m	55
Tweed	5	816	\$179.8m	\$165.3m	192

Of the 632 DAs determined by Ballina Council in 2010/11, 49% related to alterations and additions to existing premises, 19% were new single dwellings, 8% commercial/retail/office, with the remaining 24% comprising a mix of industrial, rural land use activities, subdivision etc.

Complying Development Certificates (CDCs) figures for Ballina, compared to other councils in the Far North Coast area are shown below:

#### Far North Coast Councils – Volume and Value of CDCs:

Council	DLG Code	Number Determined	Total estimated value	% Determined by Council	% Determined by private	CDCs as % of DAs and CDCs
Ballina	4	45	\$3.6m	80	20	7
Byron	4	113	\$5.1m	86	14	17
Clarence Valley	4	22	\$7m	73	27	3
Lismore City	4	8	\$7.1m	38	63	2
Richmond Valley	4	6	\$0.21m	33	67	2
Tweed	5	161	\$10.1m	43	57	16

Of note is that 80% of Complying Development Certificates issued in Ballina were determined by Council. The report also shows that a high percentage of CDCs issued in the Ballina Shire were determined under the Codes SEPP.

#### Determination Times

Gross time is important to applicants as it measures the total time taken between lodging an application and receiving the final decision.

Net time is differentiated from gross time by deducting statutory 'Stop-the-Clock' time.

Both net and gross times are examined to assess the service provided to applicants and to provide some understanding of the factors affecting processing time, including the time taken by applicants to submit further information and the time taken by State Agencies to assess referred DAs.

The state-wide average time for DA determinations between 2009-10 and 2010-11, as shown below:

#### DA Determination Times (Days) – State Wide

	2010-11	2009-10
Mean gross determination times - DAs only	68	67

The Environmental Planning and Assessment Act 1979 requires that DAs be assessed in 40 days.

Ballina Council determination times are as follows, compared to other councils on the Far North Coast:

**Far North Coast Councils – Determination Times**

<b>Council</b>	<b>DLG Code</b>	<b>DA Mean Gross</b>	<b>DA Mean Net</b>	<b>DA Median Gross</b>	<b>DA Median Net</b>	<b>S96 Mean Gross</b>
Ballina	4	61	35	28	23	39
Byron	4	83	57	58	41	51
Clarence Valley	4	54	45	30	28	105
Lismore	4	73	35	42	27	51
Richmond Valley	4	57	41	42	35	37
Tweed	5	133	54	54	38	151

Determination times for Complying Development Certificates (CDCs) in Ballina were well within the required 10 day determination timeframe, as provided by the Codes SEPP:

**Far North Coast Councils – Determination Times for CDCs**

<b>Council</b>	<b>DLG Code</b>	<b>Mean</b>	<b>Median</b>	<b>Number of CDCs determined</b>	<b>Number of CDCs determined with valid dates</b>
Ballina	4	5	4	36	36
Byron	4	50	28	97	97
Clarence Valley	4	12	9	16	16
Lismore	4	148	51	3	3
Richmond Valley	4	11	11	2	2
Tweed	5	7	7	69	69

State-wide, the mean determination time for CDCs in 2010-11 was 14 days, higher than the statutory 10-day period. The median determination time in 2010-11 was 8 days.

An increase in the number of councils with mean gross determination times for commercial/retail/office development of over 100 days was seen in 2010-11. Ballina Council is included in this list, with an average gross determination time for commercial/retail/office development of 197 days. This is attributed to a number of long-standing applications being finalised, together with the time taken by applicants in some DAs to submit further information. This is reflected in the following table which compares mean gross and mean net DA determination times.

**Far North Coast Councils – Mean Gross Determination Times by Value:**

Council	DLG Code	<\$100k	\$100k - \$500k	<\$1m	\$1m - <\$5m	\$5m - \$20m	\$20m and over
Ballina	4	65	39	58	169		447
Byron	4	69	109	80	205	331	
Clarence Valley	4	52	50	53	86	127	
Lismore	4	68	76	70	289	151	
Richmond Valley	4	56	57	56	54	252	
Tweed	5	145	92	126	356	584	178

**Far North Coast Councils – Mean Net Determination Times by Value:**

Council	DLG Code	<\$100k	\$100k - \$500k	<\$1m	\$1m - <\$5m	\$5m - \$20m	\$20m and over
Ballina	4	35	30	34	72		81
Byron	4	49	74	56	93		
Clarence Valley	4	44	42	44	69	82	
Lismore	4	36	34	35	25	5	
Richmond Valley	4	40	43	41	28	44	
Tweed	5	54	49	52	115	215	56

Council's mean gross determination time for commercial/retail/office development largely falls within the category of DAs with a value of over \$1 million.

As can be seen from the above tables, there is a significant difference between the mean gross and mean net determination times for development valued at over \$1 million. This, in some instances, reflects delays from government agencies in their responses to Council and a number of occasions where applicants have taken substantial time to respond to requests for additional information.

In the over \$20 million category, Council had one DA in this reporting period, being the Highway Service Centre, which took 447 gross days to determine. Council will recall that this application was reported to it for determination on a number of occasions on the basis of inadequate information, however, Council decided on each occasion to keep the application 'alive' in the system in order to afford the applicants abundant opportunity to finalise access arrangements to the site with the RTA.

The net processing time for the Highway Service Centre was 81 days, reflecting the significant amount of time taken by the applicant to secure approval from the RTA and to address a range of environmental and engineering design issues.

### Staffing

Councils were also asked to report on the total number of staff involved in development assessment and determination. This is a category that is defined by the Department. It includes planners, managers and other staff directly involved in assessment work but excludes administrative staff and consultants and work not directly related to application processing.

The State-wide average number of DAs per equivalent full time staff (EFT) fell slightly between 2009-10 and 2010-11 from 63 to 62, but there was also a fall in the number of DAs determined. The number of equivalent full time positions applied to development assessment across the state decreased by 3%.

Ballina Council was identified within the top 20 councils in NSW with the highest number of development applications determined per full time DA staff:

### Councils having the highest number of Development Applications determined per full time DA staff equivalent:

Council	Average DAs determined per EFT	Actual Number of DAs	EFT DA Staff
Narrabri Shire Council	545	109	0.2
Corowa Shire Council	168	294	1.75
Camden Council	158	1,582	10
Deniliquin Council	132	132	1
Young Shire Council	124	273	2.2
Coffs Harbour City Council	123	1,044	8.5
Liverpool City Council	123	1,232	10
Newcastle City Council	123	1,604	13
Maitland City Council	121	1,214	10
Port Stephens Council	121	970	8
Blacktown City Council	119	2,380	20
Eurobodalla Shire Council	116	757	6.5
Bega Valley Shire Council	115	576	5
Walcha Council	113	34	0.3
Hawkesbury City Council	102	714	7
Kempsey Shire Council	102	280	2.75
Hurstville City Council	100	901	9
Inverell Shire Council	99	174	1.75
Ballina Shire Council	97	632	6.5
Port Macquarie-Hastings Council	96	576	6

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**Far North Coast Councils – Average Number of DAs Determined per EFT:**

<b>Council</b>	<b>DLG Code</b>	<b>Average DA per EFT – 2010-11</b>	<b>DAs determined</b>	<b>EFT DA staff</b>
Ballina	4	97.2	632	6.5
Byron	4	65.1	537	8.25
Clarence Valley	4	70.6	847	12
Lismore	4	49.4	494	10
Richmond Valley	4	53.3	320	6
Tweed	5	542.9	816	19

**Conclusions**

This year's report generally shows Council's performance to be relatively good and to be an improvement in performance. This reflects work that has been undertaken to address identified process problems. Some changes are due to more carefully accounting for the Department's definitions for various returns; notably the tables relating to numbers of applications assessed for equivalent full-time development assessment staff.

A review of the Development Services Section was completed in September 2011. This contains a number of recommendations aimed at improving development assessment statutory compliance and efficiency. Implementation of these recommendations should also see ongoing improvements in this area of Council's operations within the bounds of the resources that are allocated.

**RECOMMENDATION**

That Council notes the contents of the report on development consent statistics for 1 February 2012 to 29 February 2012.

**Attachment(s)**

Nil



## 9. Strategic & Community Services Group Reports

### 9.1 Henderson Farm Planning Proposal

<b>File Reference</b>	"Henderson Farm" Planning Proposal
<b>CSP Linkage</b>	Diverse and balanced land use
<b>Delivery Program</b>	Strategic Planning
<b>Objective</b>	To report on submissions received during public exhibition of the Henderson Farm Planning Proposal and provide options for progressing the matter.

#### Background

The land known as the "Henderson Farm" in Lennox Head, that is the subject of this report, is identified for urban investigation in local and regional (State Government) planning strategies including the Ballina Shire Urban Land Release Strategy (ULRS-2000) and the Far North Coast Regional Strategy (FNCRS-2006).

A map identifying the subject property is provided as Attachment 1 of this report. The majority of the site (approximately 83%) is owned by Lennox Developments Pty. Ltd, part (approximately 15%) is owned by Ballina Shire Council (as Operational Land under the terms of the *Local Government Act* 1993) whilst the remaining 2% of the site comprises Crown and Council road reserve.

Council commenced the rezoning process on the "Henderson Farm" property in Lennox Head at its Ordinary Meeting held on 22 June 2006. A Local Environmental Study (LES) has been prepared which seeks to identify the capability of the site to accommodate urban development.

The LES recommends that parts of the site be zoned for residential purposes, part to open space purposes and part for environmental protection, as outlined in the following table.

Proposed land use	Recommended zone as per BLEP 1987	Equivalent zone as per shire-wide LEP Renewal	Area (% of site)
Residential	2(a) Living Area Zone	R2 Low Density Residential R3 Medium Density Residential	28.8 Hectares (30.6%)
Open Space	6(a) Open Space Zone	RE1 Public Recreation	0.9 Hectares (0.9%)
Environmental Protection	7(a) Environmental Protection (Wetlands) Zone & 7(l) Environmental Protection (Habitat) Zone	E2 Environmental Protection	57.8 Hectares (61.4%)
Deferred for future investigation	1(d) Rural (Urban Investigation) Zone	RU2 Rural Landscape Zone	6.7 Hectares (7.1%)
		<i>Total Area</i>	<i>94.2 Hectares</i>

The residential component of the planning proposal, as exhibited, affects approximately 21.8 Hectares of land owned by Lennox Developments Pty. Ltd. and approximately 7 Hectares of land owned by Ballina Shire Council. A further 6.7 Hectares of land owned by Lennox Developments, which otherwise appears to be suitable for urban development is affected by the presence of the threatened species *Arthraxon hispidius* (Hairy Joint Grass) and is therefore recommended to be deferred from rezoning for the time being.

This deferred area comprises a triangular piece of land located adjacent to the Coast Road, in the vicinity of Greenfield Road. It is envisaged that in a rezoning sense, this part of the site may be revisited at some future time via a separate planning proposal. In the interim, this part of the site would retain the 1(d) Rural (Urban Investigation) Zone under the Ballina LEP 1987 and would receive a RU2 Rural Landscape Zone (and be identified on the Strategic Urban Growth Areas Map) under the shire-wide LEP renewal.

It is noted that this area was shown in the planning proposal initially forwarded to the (then) Department of Planning as being subject to proposed 2(a) Living Area Zone to provide a further opportunity for this matter to be resolved (if possible) prior to finalisation.

Council resolved at its Ordinary Meeting held on 13 December 2007 to request that the NSW Department of Planning certify the draft LEP (and LES) for public exhibition. At that time the Department of Planning requested clarification on a number of matters before it would certify the plan, including those relating to the protection of items of cultural heritage significance, environmental protection, open space dedication, infrastructure servicing and the capacity of the local road network to accommodate increased traffic flows arising from development of the site. The majority of these matters were simply points of clarification. However, the matter of the capacity of the local road network to accommodate increased traffic flows is discussed further in the following sections of this report.

Council received a request from the majority landholder of the "Henderson Farm" site that Council recommence the rezoning process over the land, in a letter dated 12 July 2010. A report on this matter was considered at Council's Ordinary Meeting held on 23 September 2010. Council resolved to decline the landholder's request, due to uncertainties regarding the delivery of external roads infrastructure in the locality and of legal site access.

Following the conversion of the rezoning into a 'planning proposal' by the State Government, the matter was reported to the elected Council at its Ordinary Meeting held on 16 December 2010. Council resolved:

*That the "Henderson Farm" Planning Proposal be prepared for public exhibition at the earliest opportunity in accordance with the relevant Sections of the Environmental Planning and Assessment Act 1979.*

Consequently, the Local Environmental Study (LES) that accompanies the planning proposal was updated and the planning proposal was placed on public exhibition between 4 June and 13 July 2011.

**Key Issues**

- Urban land supplies
- Housing affordability
- Roads capacity
- Environmental protection

**Information**

Submissions

*Office of Environment and Heritage (OEH)*

A copy of the submission received from the NSW 'Office of Environment and Heritage' (OEH) is included in Attachment 2 of this report. The issues raised, and Council staff response, are contained in the following table.

<b>Submission / Issue</b>	<b>Response</b>
<p><i>Deferred area</i> - Supports the deferral (from rezoning) of the northern section of the site, which is affected by the presence of threatened species <i>Arthraxon hispidius</i> (Hairy Joint Grass). Notwithstanding, the OEH is concerned that showing the deferred area as provisionally residential may create unreasonable expectations that development will occur, noting that the viability of translocation of Hairy Joint Grass has not been demonstrated to date.</p>	<p>The provision of a residential zoning was shown to provide scope for this matter to be resolved prior to finalisation of the planning proposal without the need to re-exhibit the plan. The Roads &amp; Maritime Services (RMS) is undertaking studies into translocation of Hairy Joint Grass, having recently completed the first year of propagation trials. The OEH's comments are noted however that '<i>The success or otherwise of the experimental techniques cannot be ascertained until at least two, and preferably more, years of persistence of the species on the experimental site has been documented.</i></p>
<p><i>Environmental protection areas</i> - The OEH supports the identification of ecologically significant areas in proposed environmental protection zones.</p>	<p>Noted.</p>
<p><i>Indigenous cultural heritage</i> - The OEH raises concerns about the adequacy of consultation procedures with the local Indigenous community. The OEH recommends that, prior to development occurring, further consultation be undertaken with the Aboriginal community in accordance with (new) OEH guidelines including a cultural heritage management plan.</p>	<p>Updated OEH guidelines have been released since the subject indigenous cultural heritage assessments were undertaken. Subsequent assessments, at DA stage, will be undertaken in accordance with the guidelines as recommended by OEH.</p> <p>It is noted that the adequacy of the site assessment and associated reporting were not questioned by OEH in other respects.</p>
<p><i>Non-indigenous heritage</i> - The OEH supports the conclusions and recommendations contained in the LES relating to non-Indigenous heritage.</p>	<p>Noted. Further consideration of this matter will occur at DA stage.</p>

*Rural Fire Service*

A copy of the submission received from the NSW 'Rural Fire Service' (RFS) is included in Attachment 2. The issues raised, and Council staff responses, are contained in the following table.

<b>Submission / Issue</b>	<b>Response</b>
RFS advises that a single site vehicle access is considered inadequate.	An alternative access arrangement linking the northern and southern portions of the site has been provided by the proponent. This proposal has been reviewed by the RFS which advise that it meets the requirements of the Planning for Bushfire Protection guideline. Further information on this matter is provided below.
RFS notes vegetation classifications are to be undertaken in accordance with an updated reference document for the Planning for Bushfire Protection guideline (2006), which may require greater asset protection zones (APZs)	The bushfire assessment included in the LES has been undertaken in accordance with Planning for Bushfire Protection (2006). Variation of bushfire buffers, due to the release of the updated guideline, is unlikely to be significant with respect to the zoning of the land. It is also noted that in most cases the required APZs can be accommodated within proposed perimeter road reserves. Notwithstanding, further consideration of bushfire protection measures will be undertaken at DA stage.
RFS notes that consideration should be given to the construction requirements for future dwellings under the applicable Australian Standards.	Can be considered further at DA stage.
RFS notes that rehabilitation areas should have commensurate asset protection zones (APZs).	APZs to proposed rehabilitation areas are accommodated in the planning proposal. This matter will be considered further at DA stage.
RFS notes that where it is proposed to locate asset protection zones (APZs) on land that is to be zoned for environmental protection purposes, that the APZs should be protected and maintained in accordance with a plan of management or similar.	In accordance with the voluntary planning agreement exhibited with the planning proposal, an Environmental Rehabilitation Plan will be prepared, and approved by Council, prior to the lodgement of a development application for any subdivision of the land. The Environmental Rehabilitation Plan will have regard for the maintenance of APZs.

*Burabi Aboriginal Corporation*

A copy of the submission received from the Burabi Aboriginal Corporation is included in Attachment 2. The issues raised, and Council staff response, are contained in the following table.

<b>Submission / Issue</b>	<b>Response</b>
<p><i>Circle of Stones</i> - Burabi request to be further consulted with in respect to the circle of stones located on the southern portion of the site.</p>	<p>The circle of stones is identified, in the cultural heritage assessment, as being associated with the European heritage of the site: '<i>John Austin Henderson put these rocks in place to surround a Camellia tree planted by him in memory of his wife. This circle would date to around 1871. The Camellia tree eventually died and all that remains is the circle of stones</i>'.</p> <p>In any case, the circle of stones is located on land proposed to be zoned for environmental protection purposes and the item is to be listed as a heritage item in the LEP.</p> <p>Further, it is noted that this part of the site is owned by Ballina Shire Council. The Statement of Commitments (prepared by Council's Commercial Services Group) that was exhibited with the planning proposal, gives an undertaking that prior to the development of the land '<i>Council will undertake works in accordance with a Heritage Conservation Management Plan, in relation to the listed heritage items</i>'.</p> <p>The Heritage Conservation Management Plan will be developed in consultation with relevant stakeholders in accordance with OEH guidelines.</p>
<p><i>Aboriginal heritage impact assessment</i> - Burabi expressed interest in being involved further in the assessment of cultural heritage issues associated with development of the land.</p>	<p>As outlined in the Cultural Heritage Assessment included in the LES, the Cook Family (Burabi) was consulted during the early investigations of the land. Further consultation will be undertaken with Indigenous stakeholders, in accordance with OEH guidelines at future stages of the development process.</p>

Ballina Environment Society

A copy of the submission received from the Ballina Environment Society is included in Attachment 2. The issues raised, and Council staff responses are contained in the following table.

<b>Submission / Issue</b>	<b>Response</b>
<i>Heritage Item - Circle of Stones</i> - BES is concerned that adequate protection be provided for the circle of stones heritage item.	Refer to response above (Burabi table) relating to this issue.
<p><i>Hairy Joint Grass</i></p> <p>The submission states '<i>BES mourns that 40+m depth of biomass which was 'The Big Scrub' on this site is protected only by Hairy Joint Grass, Pigmy Perch, Wallum Froglet and Stinky Figs</i>'.</p>	<p>Refer to response above (OEH table) relating to the 'Deferred Area'.</p> <p>It is not known to what is referred in the statement RE: '40+ depth of biomass which was "The Big Scrub" on this site', however, the 5.3 hectares of Rainforest and 23.7 hectares of Swamp Forest that together comprise the remnants of "The Big Scrub" on the site is to be enhanced with an additional 16 hectares (approximately) of revegetation (additional to Hairy Joint Grass rehabilitation).</p> <p>It is noted that these areas are to be protected and enhanced due to the ecological values of the vegetation communities themselves rather than due to the presence of the threatened species listed by BES.</p> <p>It is also noted that Wallum Froglet, Pigmy Perch and Stinky Figs have not been identified on the subject site.</p>
<p><i>Area E identified in Lennox Head strategic planning processes</i> - BES raises concerns regarding the Lennox Head strategic planning process nominating the northern portion of the site (the 'Deferred Area' referred to elsewhere in this report) for aged and disability housing.</p>	<p>The aged and disability housing proposal referred to by BES relates to a development proposal that was under consideration at the time the LHSP was in preparation. The endorsed LHSP identifies the area as having potential for low density residential development.</p> <p>The planning proposal recommends that (subject to the resolution of the Hairy Joint Grass issues affecting that part of the site) zoning for a mixture of low density and medium density residential development would be appropriate.</p>

<p>BES is concerned with the provision of an additional access to the Coast Road, and apparent lack of integration with adjacent development.</p>	<p>With respect to access off the Coast Road, traffic assessments indicate and the RMS have accepted, that an appropriate, safe intersection can be provided that will not exceed the capacity of the Coast Road.</p> <p>The lack of road integration of the subject land with adjacent subdivisions (Greenfield Grove area) is the product of the development history of the locality. The provision of vehicular access through the Greenfield Grove subdivision is considered undesirable due to potential amenity impacts to existing and prospective residents in that area.</p> <p>It is noted that the uncoloured area shown in the concept plan, referred to by BES, is a bushfire buffer which is identified as such on the map legend.</p>
<p><i>Habitat Corridors</i> - BES is concerned that areas of rehabilitation that seek to enhance the habitat corridor functions of adjacent vegetation are criss-crossed with roads.</p> <p>BES considers Appendix 1: Locality Plan unacceptable.</p> <p>BES is concerned that the proposed bushfire buffer is located on land under development.</p>	<p>The proposed rehabilitation areas are traversed by roads in two locations, which provide vehicular access to the proposed development areas. It is noted that development of the land requires that vehicular access be provided. It is further noted that the planned rehabilitation works will not occur without development of the site. On balance the proposal provides an improved environmental outcome for the site.</p> <p>The Locality Plan simply identifies the land to which the planning proposal applies, identifying real property information. The meaning of the rest of the statement relating to this issue is unclear.</p> <p>As identified in Appendix 4 of the planning proposal (Revised Structure Plan), the proposed bushfire buffer (APZ) is located on land not otherwise suitable for development, but sufficiently clear of contiguous tree cover to enable the area to function as an APZ, in its</p>

<p>BES raises concerns with regard to the proposed amendment to the shire-wide draft LEP Strategic Growth Area Map (SGA), questioning the feasibility of intensification of an SGA adjacent to the subject land.</p> <p>BES states that the Planning Proposal is unclear with respect to 'uncoloured areas' on the Revised Structure Plan (concept plan). Specific concern is expressed with respect to a vegetated area to the west of the main ridgeline.</p> <p>The BES requests that all land within Strategic Urban Growth Areas, as identified in the draft BLEP 2011 be zoned for environmental purposes.</p>	<p>current form. Maintenance works will be required, however, it is anticipated that this will not require the removal of existing trees.</p> <p>The SGA map is provided in the exhibition material to indicate other consequential changes to the draft shire-wide LEP map set. The comments relate to land that is not the subject of the current planning proposal.</p> <p>The intended future use/function of all land is identified on the concept plan legend. The area referred to comprises a heritage rock wall and line of rainforest trees. The heritage wall is to be listed in the LEP as a heritage item and the area is to be maintained within an expanded road reserve to enable public maintenance and protection of the heritage wall and associated vegetation.</p> <p>This is a matter that was considered in the context of the preparation of the shire-wide LEP, and is beyond the scope of this report.</p>
<p><i>Integrated planning versus infrastructure overload</i> - BES raises concerns with the capacity of infrastructure to accommodate increased population growth within the locality.</p> <p>Particular concern is raised with the feasibility of Hutley Drive southern extension.</p> <p>The submission states <i>'BES appeals to Council to consider making Hutley Drive North a feeder road for these estate developments, not a bypass route'</i>.</p>	<p>The LES demonstrates that adequate capacity exists for water supply and sewerage to service future development of the site. Further, subject to the construction of identified road infrastructure, development of the site can be accommodated without placing capacity constraints on the local road network.</p> <p>Issues relating to the construction of Hutley Drive southern and northern extensions are addressed elsewhere in this report.</p> <p>The context of this question is unclear. The intent of the Hutley Drive northern extension is to provide access for all adjacent residential developments, existing and future stages of the Pacific Pines Estate and development of the</p>



	<p>Henderson Farm. The southern extension of Hutley Drive does provide some 'bypass' function by diverting traffic flows from these estates away from Montwood Drive, however the southern extension also provides access to the future Pacific Pines commercial area for the 'Aspects' and 'Elevation' residential estates further to the south.</p>
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*Elizabeth Gibbs (resident)*

A copy of the submission received from Ms Gibbs is included in Attachment 2. The issues raised, and Council staff response, are contained in the following table.

<b>Submission / Issue</b>	<b>Response</b>
<p><i>Roads infrastructure -</i> Seeks to ensure that Council's road infrastructure strategies are implemented in full to avoid further traffic impacts on sections of North Creek Road. Elements of Council's infrastructure plans noted, include:</p> <ul style="list-style-type: none"> <li>• completion of Hutley Drive</li> <li>• provision of road link through to Ross Lane to the west.</li> <li>• property access to the northern portion of the site via Greenfield Road (previously identified as a possible connection in the Lennox Head Structure Plan).</li> </ul>	<p>The completion of Hutley Drive remains a key element of the infrastructure planning for the locality. Issues associated with Hutley Drive are addressed elsewhere in this report.</p> <p>The provision of an additional road link between the Pacific Pines Estate and Ross Lane has been considered by Council's traffic engineers (during a previous review of the Ballina Traffic Study) with the conclusion that an east-west link to Ross Lane, previously considered in Council's Road Network Studies, is not considered viable or functionally beneficial, at this time.</p> <p>The provision of vehicular access through the Greenfield Grove subdivision is considered undesirable due to potential amenity impacts. An alternative access via The Coast Road has been identified and has been accepted by the RMS.</p>

*SJ Connelly (on behalf of the proponents)*

A copy of the submission received from SJ Connelly Pty. Ltd. (on behalf of the proponents) is included in Attachment 2. The issues raised, and Council staff responses are contained in the following table.

<b>Submission / Issue</b>	<b>Response</b>
<p><i>Road Permissibility</i> - Concerns are raised in the context of a recent court ruling (North Ocean Shores Inc v Byron Shire Council &amp; Ors [2009] NSWLEC 69) on the permissibility of roads in environmental protection zones where the road is to provide access in association with a land use (in this case residential subdivision) that is prohibited in the zone.</p>	<p>The implications of the ruling are still being considered. However, it is deemed prudent under the circumstances to amend the planning proposal to indicate clearly that roads infrastructure is considered acceptable within the buffering to the central rainforest remnant. This involves a change of approximately 7,000m<sup>2</sup> of land from proposed E2 to R2.</p>
<p><i>The extent of residential zoning proposed</i> - the applicant is seeking further expansion of residential zoning within the central portion of the site. The submission includes a map developed in consultation with an urban designer that <i>'illustrates other lots that are physically achievable on the site'</i>.</p>	<p>The recommended zoning regime, as currently presented in the exhibited planning proposal, has been determined on the basis of detailed consideration of the environmental constraints that apply to the land including the protection and enhancement of ecological values (including habitat corridors) and buffering to bush fire and mosquito hazards. It is on the basis of these considerations that the recommended land use zones have been delineated, rather than being based on what is 'physically achievable on the site'. It is recommended, therefore, that the zoning pattern as exhibited (with the exception of the roads issues outlined above) be maintained.</p>
<p><i>The early gazettal of the amendment</i> - The applicant seeks Council's support to proceed with the rezoning notwithstanding road access issues.</p>	<p>To date the main impediment to the rezoning proceeding has been the capacity of local roads infrastructure to accommodate further development in the locality. This issue is discussed further below.</p>

#### *Roads within Environmental Protection Zones*

Reference is made to comments from SJ Connelly Pty. Ltd. (outlined above) relating to issues arising from a recent court ruling (North Ocean Shores Inc v Byron Shire Council & Ors [2009] NSWLEC 69).

The development the subject of the court ruling referred to above comprised a 'place of assembly', including roads and associated infrastructure. The place of assembly elements of the development were to be located on rural zoned land, with the exception of roads and associated infrastructure servicing the development, which were also to be located on land zoned 7(k) Habitat Zone.

Whilst roads were permissible within the 7(k) Habitat Zone, 'place of assembly' was a prohibited land use within that zone. The court found that the roads formed part of a development that was prohibited within the zone, and consequently the Council had no power to grant consent to the prohibited development and so the consent was overturned.

The potential implications of the ruling to the present matter relates to where the roads servicing parts of the development (residential subdivision) were to be located within the 7(l) zone / E2 zone (in the exhibited draft LEP) as shown on the Revised Concept Structure Plan included in the planning proposal (Appendix 4). Despite roads being permissible within the 7(l) / E2 zone, it is considered prudent, in light of the court's ruling, to provide abundant clarity with respect to the development capacity identified in the planning proposal and accompanying LES.

As a consequence of the above, it is recommended that all land shown as being occupied by roads on the Revised Concept Structure Plan be given an appropriate urban zoning. This will involve a change of approximately 7,000m<sup>2</sup> of land from proposed 7(l) to 2(a) under the terms of the Ballina LEP 1987 (from E2 to R2 under the terms of the draft shire-wide LEP).

#### *Road access and capacity*

Ultimately, the road network strategy for the locality, to accommodate future development stages within the Pacific Pines Estate and the Henderson Farm, involves completing the construction of Hutley Drive between the intersection of The Coast Road & North Creek Road and the intersection of North Creek Road & Skennars Head Road.

With reference to the map provided in Attachment 3 of this report, this strategy involves the following:

1. Hutley Drive northern extension - connecting the constructed portion of Hutley Drive to the intersection with North Creek Road;
2. Construction southward of the constructed portion of Hutley Drive to the Pacific Pines Estate water quality treatment pond. These works are to be undertaken in association with stage 1B of the Pacific Pines Estate approval previously issued by the State Government;
3. Hutley Drive southern extension - this portion is the subject of an Environmental Impact Statement being prepared on behalf of Council's Civil Services Group. This aspect of the road strategy is discussed further below.
4. Construction of the southern-most portion of Hutley Drive in association with development of Elevation Estate;
5. Realignment of the northern end of North Creek Road to traverse the "Water Reservoir Site" Rezoning Investigation Area, with tie-in to the northern extension of Hutley Drive;

The key elements of the above roads strategy that impact on the capacity of the road network to accommodate the development of the Henderson Farm site relate to item 6 identified on the map (not numbered above) (Henderson Farm Link Road), item 1 (Hutley Drive northern extension) and item 3 (Hutley Drive southern extension). These items are discussed further below.

In addition to the above, road access to the Henderson Farm site may, ultimately and subject to the resolution of Hairy Joint Grass issues affecting the northern portion of the site (deferred from rezoning at this time), involve an additional intersection with The Coast Road (via a modified Type B intersection).

With respect to the funding arrangements for the delivery of Hutley Drive, the following comments from Council's Civil Services Group are noted:

*In February 2010 Council adopted an update of its S94 Roads Developer Contribution Plan. That plan includes Hutley Drive within the proposed works schedule. The works are proposed in the first stage of delivery of this plan being the years 2010/11 – 2014/15. The plan also indicates that Council's contribution to the works for this project is \$3,780,000. The total Council liability under the plan exceeds \$41 million.*

*Council has developed a funding strategy to enable it to meet its liability under the plan. To achieve this, Council sought and was granted approval for a special rate variation. A proportion of the funds generated from this revenue source are to be allocated to fund the Council's contribution. The Council's Delivery Plan is a three year program. Currently the Delivery Plan identifies an expenditure of \$13,970,000 for Hutley Drive in 2012/13.*

*Whilst Council has a funding strategy in place, it is important to note that delivery will be subject to a range of factors. Firstly, the contributions plan is a shire-wide plan and the rate of contributions across all growth areas will determine the amount of funds available from development to deliver the road at the time predicted. Secondly, the contributions plan relies on cost estimates developed of concept designs only. Therefore the funding strategy may need to be varied as costs for early projects become known and comparable to the estimates. Thirdly, the funding strategy relies on the predicted rate income to generate sufficient funds to meet Council's liability. Given the recent adoption of these plans, the assumptions contained within them are yet to be reasonably tested or confirmed.*

#### Henderson Farm Link Road

Further and with reference to map feature 6, provision for road access to the south-eastern boundary of the Henderson Farm site has been enabled by development consent for the stage 1B of the Pacific Pines Estate (DA2008/510). Notwithstanding, the road reserve has not been dedicated and consequently the Henderson Farm site does not, at present, enjoy physical or legal access to a public road.

#### *Hutley Drive northern extension*

With respect to the northern extension of Hutley Drive, a double roundabout involving the realignment of North Creek Road is planned as the ultimate access arrangement. It is noted however, that this will require the dedication or acquisition of land within the "Water Reservoir Site" Rezoning Investigation Area. It is noted that rezoning investigations associated with the Water Reservoir site have stalled on the basis that the proponents have not provided the necessary documentation to advance the matter. It is unclear if or when this rezoning process will progress. An interim arrangement for the northern

extension has been proposed by the developers of the Pacific Pines and Henderson Farm Estates in order to facilitate development in the absence of the required road dedications. Several staged intersection options have also been proposed that would require some land dedication/acquisition within the Reservoir Site but with only partial realignment of North Creek Road.

Further traffic advice has been obtained to determine the development thresholds at which the northern extension road upgrades would be required. This advice has concluded as follows:

- The existing road network has the capacity to accommodate approximately 450-500 additional allotments;
- Beyond this threshold, the Hutley Drive northern extension and left-in left-out intersection on North Creek Road would be required which could then provide for up to approximately 874 additional allotments and 4,000m<sup>2</sup> of retail floor space;
- The new Reservoir Road linkage (North Creek Road realignment) and upgrade to the Coast Road roundabout would then be required, or an alternative arrangement (involving partial realignment of North Creek Road).

On the basis of this updated traffic advice there appears to be sufficient capacity in the road network (northern section) to allow staged release of land within the Pacific Pines / Henderson Farm locality. The likely timing for the release of development would appear to provide adequate opportunity for planning and acquisition of the required road corridors and the collection of development contributions to fund these works.

In summary, in relation to the northern extension of Hutley Drive:

- Council's roads strategy provides for an ultimate arrangement that is able to accommodate planned development within the locality;
- Subject to the comments from Council's Civil Services Group (above), funding arrangements are in place for the required works (s.94);
- The staged DA process provides for the required works to be in place as and when required.

#### *Hutley Drive southern extension*

In relation to the southern extension of Hutley Drive it is noted that the proposed alignment traverses SEPP14 Wetland and is located adjacent to the Ballina Nature Reserve which also comprises SEPP14 Wetland. The proposed road would also be constructed in very close proximity to established dwellings. An Environmental Impact Statement (EIS) is required to accompany a development application for the construction of the road. Council's Civil Services Group is currently working with Council's consultant (SMEC) to finalise the planning report and documentation to enable lodgement of the EIS with Council's Regulatory Services Group for assessment. It is understood this lodgement is immanent.

It is noted that the favourable determination of a development application for the southern extension of Hutley Drive cannot, under the current circumstances, be assumed. The implication, should such consent ultimately not be granted, is that future traffic access to the Pacific Pines Estate /

Henderson Farm locality from the south would need to occur via Montwood Drive. Council's Civil Services Group advises that Montwood Drive has the engineering capacity to accommodate the projected traffic flows, however such an outcome would likely have significant adverse amenity impacts for residences along Montwood Drive. The completion of Hutley Drive remains Council's preferred roads plan for the locality.

In summary, in relation to the southern extension of Hutley Drive:

- Council's roads strategy provides for an ultimate arrangement that is able to accommodate planned development within the locality;
- Subject to the comments from Council's Civil Services Group (above), funding arrangements are in place for the required works (s.94);
- The favourable determination of a development application for the construction of the road cannot however be assumed at this stage;
- If development consent cannot be granted, the alternative arrangement for access to the south of the development precinct (including Henderson Farm and future stages of the Pacific Pines Estate) would be via Montwood Drive. Council's engineers advise that whilst the projected traffic flows would be expected to have some adverse amenity impacts on residential areas fronting Montwood Drive, the road has sufficient capacity to accommodate these flows should the need arise.

#### *Bushfire access*

The submission received from the NSW Rural Fire Service (RFS) during the public exhibition process noted that a single access to the property was considered inadequate for the purposes of emergency egress in case of bushfire. Consequently, the proponents were invited to provide a response, including provision for a secondary site access.

The secondary access proposed involves the linking of the southern and northern portions of the site, via an access limited road/pathway, terminating at a future intersection with the Coast Road. The proposed Coast Road Intersection has previously received in-principle support from the (now) NSW Roads and Maritime Services, associated with the potential development of the northern portion of the site that is deferred from the rezoning due to the presence of Hairy Joint Grass (*Arthraxon hispidus*).

This secondary access proposal was reviewed by the RFS. The RFS advises that the proposed secondary access meets the requirements of the Planning for Bushfire Protection guideline.

Details of the proposed secondary access and the RFS response are included in Attachment 2 of this report.

#### *Voluntary Planning Agreement*

A Voluntary Planning Agreement (VPA) has been offered by the proponent, relating to environmental rehabilitation works proposed in association with future subdivision works. The VPA, prepared in accordance with Section 93F of the Environmental Planning and Assessment Act was publicly exhibited with the planning proposal.

The VPA constitutes a legally binding offer by the developer of the land to undertake environmental rehabilitation works in accordance with an 'Environmental Rehabilitation Plan' approved by Council prior to the granting of any development consent for the subdivision of the land. The Environmental Rehabilitation Plan (ERP) is to be supported by Vegetation Management Plans (VMP) for each stage of the development, approved by Council, which set out the proposed works in detail. The tiered ERP and VMP approach provides for appropriate staging for planning and undertaking environmental rehabilitation works in association with future staged subdivision of the land, with appropriate oversight and approval by Council at each stage.

The VPA also binds the developer of the land to undertake archival recording of several heritage items that do not warrant preservation, but that may add to the historic record of the locality. The items referred to are identified in Schedule 2 of the VPA which is provided as Attachment 4 of this report.

*Finalisation of the planning proposal*

A number of road infrastructure matters need to be further advanced before the subject land can be developed for residential purposes. These matters include:

- provision of a practical legal access to the site, linking the land to the local road network;
- approval and construction of key sections of arterial road infrastructure, namely the northern and southern extensions of Hutley Drive and associated intersection treatments.

Notwithstanding the fact that all aspects to which these matters relate have not been resolved comprehensively to date, staff is satisfied that adequate arrangements are in place to enable this to occur. Further, the DA process provides further 'checks and balances' to the delivery of this infrastructure prior to the development of the land. It is on this basis that the following recommendation is made to proceed with the planning proposal to finalisation.

In the finalisation of the plan, it is recommended that the zoning plan as outlined above, be amended in accordance with Section 58(1) of the Act, with respect to 7,000m<sup>2</sup> of land from proposed 7(l) Environmental Protection (Habitat) Zone to 2(a) Living Area Zone under the terms of the Ballina LEP 1987 (from E2 Environmental Conservation to R2 Medium Density Residential, under the terms of the draft shire-wide LEP). This recommendation is made solely in relation the matter of the permissibility of roads within environmental protection zones outlined above. This amendment is incorporated into the recommended zoning plan provided in Attachment 5 of this report.

With respect to the 'deferred area' identified by cross-hatching on the zoning map, it is recommended that the Minister for Planning be requested to defer that part of the plan in accordance with the Environmental Planning and Assessment Act. The implication of this request would be that this portion of the subject land would retain the 1(d) Rural (Urban Investigation) Zone under the Ballina LEP 1987. This would enable the urban potential of that portion of the site to be considered by the Council at some point in the future through a separate planning proposal process.

It is noted that the draft LEP (and supporting LES) was prepared and exhibited principally under the terms of the Ballina LEP 1987 with zoning information provided, for information purposes, under the terms of the (then) draft Ballina LEP 2010. The NSW Department of Planning and Infrastructure advises that, should the Council proceed with the subject planning proposal, it would in preference be considered as an amendment to the 1987 plan, although this will ultimately depend on the processing time involved in the finalisation of the (now) comprehensive Ballina LEP 2011, by the Department.

### **Sustainability Considerations**

- **Environment**

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

Further environmental mitigation measures will be considered during the development assessment process for future development. The Voluntary Planning Agreement offered in conjunction with the rezoning provides for environmental rehabilitation works for parts of the land.

- **Social**

The future residential development of portions of the subject land will contribute to the changing social environment of the village of Lennox Head. Development may also place additional demands, on Council and other government and non-government service providers, for the provision of social services and urban infrastructure.

- **Economic**

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

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

Rezoning land in accordance with the planning proposal will enable the lodgement of development applications for residential subdivision over parts of the land.

### **Consultation**

Consultation on this matter has been undertaken with the community and key government agencies through the public exhibition process, which is the subject of this report. These engagements have been undertaken in accordance with the requirements of the Environmental Planning and Assessment Act and attendant Regulation.



### Options

1. That Council defer the finalisation of the draft planning proposal until such time as: a) practical legal access is provided to the site; and b) consent is granted for the southern extension of Hutley Drive. For the reasons outlined in the above report, this option is not recommended.
2. That Council amend the Draft Henderson Farm Planning Proposal as exhibited with respect to 7,000m<sup>2</sup> of land from proposed 7(l) Environmental Protection (Habitat) Zone to 2(a) Living Area Zone under the terms of the Ballina LEP 1987 (from E2 Environmental Conservation to R2 Medium Density Residential under the terms of the draft shire-wide LEP).

That Council submit the revised Henderson Farm Planning Proposal to the Department of Planning & Infrastructure and request that the plan be finalised for implementation in accordance with the terms of the *Environmental Planning and Assessment Act* and associated Regulation.

This option is recommended on the basis that such action is consistent with Council's strategic framework for land release in the Lennox Head locality. Furthermore, that the detailed environmental assessment undertaken confirms part of the land's suitability for urban purposes, subject to more detailed consideration of certain matters as part of future development applications.

### RECOMMENDATIONS

1. That Council amend the Draft Henderson Farm Planning Proposal as exhibited with respect to approximately 7,000m<sup>2</sup> of land from proposed 7(l) Environmental Protection (Habitat) Zone to 2(a) Living Area Zone under the terms of the Ballina LEP 1987 (from E2 Environmental Conservation to R2 Medium Density Residential under the terms of the draft shire-wide LEP).
2. That Council submit the revised Henderson Farm Planning Proposal to the Department of Planning & Infrastructure and request that the plan be finalised for implementation in accordance with the terms of the *Environmental Planning and Assessment Act* and associated Regulation.
3. That the Minister for Planning be requested to defer the portion of the land identified with cross hatching on the recommended zoning plan, in accordance with the Environmental Planning and Assessment Act.

### Attachment(s)

1. Locality Plan
2. Map of planned road upgrades
3. Submissions (Agency and public)
4. Plan and list of heritage items for archival recording
5. Recommended zoning plan

**9.2 Northern Rivers Food Links Project**

<b>File Reference</b>	Northern Rivers Food Links
<b>CSP Linkage</b>	Resilient and adaptable communities
<b>Delivery Program</b>	Strategic Planning
<b>Objective</b>	To report on the conclusion of the Northern Rivers Food Links Project

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**Background**

In February 2009, an alliance of councils across the Northern Rivers region (comprising of Lismore, Byron, Ballina, Tweed, Kyogle and Clarence Valley Councils) and partner organisation (Rous Water) were awarded almost \$2 million under the NSW Environmental Trust's Urban Sustainability Program to deliver the Northern Rivers Food Links Project (NRFL).

The project aimed to increase the production, consumption and distribution of locally grown food in order to reduce reliance on food sourced from outside the region and increase the adoption of more sustainable food production practices.

The NRFL has now concluded and has been deemed a highly successful collaborative project implementing around some 137 on-ground projects equitably across region.

**Key Issues**

This report provides information on the outcomes of the project and the opportunities for continuing the regional momentum generated by the project.

**Information**

*Northern Rivers Food Links Project Outcomes*

This report provides an overview of the evaluation of the project based on qualitative and quantitative data from project participants, the steering committee and project management team. This evaluation shows that the project has met its objectives, often over and above expectations.

The major outcomes of the project have also been provided in a summary brochure provided to Councillors under separate cover. A project documentary DVD that showcases the project and may assist other regions interested in undertaking food security activities has also been provided to Councillors. Provided below are some of the highlight findings.

*Access to fresh locally grown food has been enhanced*

- The eight Village Showcase projects (one in each council LGA) and one in the Muli Muli Aboriginal Community have provided or enhanced 17 community gardens for seniors, young people and the general community.
- Fresh locally grown food is now regularly available not only for members of community gardens but also through schools, a soup kitchen and a youth café.
- Two new farmers' markets have been established at Nimbin and Ballina. In addition, 50 new stall-holders are participating in the 14 regional farmers' markets.
- 30% of the 500 respondents to the regional telephone community survey believed that sourcing locally grown produce was easier than it was before the start of the project.

*Purchase of locally grown fresh food has increased*

- 71% of project survey respondents reported that the amount of local foods their household buys had increased since January 2010.
- 61% of project survey respondents said that the amount of produce they purchase from farmers' markets has increased since January 2010.
- 73.5% of the 85 retailers across the region who have worked with the project to increase their stock, and promotion of local and regional foods reported an increase in their sales.
- "The Grocer" opened at Alstonville at the House With No Steps, selling a range of local produce.

*Alternative food distribution systems have been successfully trialled*

- Alternative systems of food supply intended to shorten the distribution chain and retain local food in the region have been successfully trialled during the project.
- New markets for local produce and new growers have been found.
- Participating distributors Fruitos and Citrus Growers Association are retaining 24 tonnes and 1.8 tonnes per month respectively in the region and House With No Steps has retained 51.5 tonnes of fresh produce during the project.
- Distribution trial participants were able to reduce their greenhouse gas emissions by sourcing more fresh food locally for sale within the region.
- In addition to retaining more produce in the region, transport costs and emissions related to the distribution of products have decreased for the trial participants.

*Composting is increasing*

- Over 20 on-farm composting trials have been run; by dairy, beef and small crop farmers, including banana and rice growers, with improvements in soil condition emerging.
- At least 22 farmers, representing 31 agricultural industries, have adopted more sustainable on-farm practices.
- Within the community, 43% of survey participants reported that they have significantly decreased the amount of organic materials they now send to landfill.

*A resource kit has been developed to support food security in the region*

- 86% of the 104 members of local government attending the launch said that the Local Government Food Security Policies Resource Kit helped them to progress food security.

#### *Regional collaboration*

- A key feature of the project was bringing together multiple stakeholders including Federal and State Government agencies (Regional Development Australia – Northern Rivers (RDA-NR) and the NSW Department of Primary Industries), local councils, Rous Water, industry associations, not-for-profit organisations and community colleges.
- The project worked productively with individual businesses and community groups across different, yet connected elements of the food chain ('from field to fork'). This collaboration allowed different aspects of the food chain to be addressed.
- Over 16,000 people are estimated to have participated in the project and securing a sustainable food future for the Northern Rivers.
- 1756 organisations have been involved in the project.

#### *In Kind Contributions*

- Although total grant funds equated to around \$2,057,533, an additional \$2,209,965 of in-kind and cash contributions were received, resulting in a total regional investment of \$4 267,498.
- Across all councils, a total of 169 council staff were engaged in the project contributing at least 368 hours through activities such as undertaking policy research and reviews and participating in the Local Government Resource Kit project and forum.
- In addition to this 1,642.5 in-kind hours have been contributed by the steering committee, on which Ballina Shire Council had two staff representatives.

#### *Governance Structure*

- The scale of the project, and the involvement of seven councils plus Rous Water, required a robust governance structure, including a project management team independent of any individual council. The governance structure for the project is seen as a major contributor to the overall success of the project and could be used as a model for any future regional collaboration.

#### *Ongoing Opportunities*

- Although the NRFL project has now concluded, the momentum achieved is being carried forward by Sustain Northern Rivers (SNR). SNR is a collaboration of 26 peak organisations, including councils. Sustain Northern Rivers (SNR) is a collaborative platform for action on climate change and has three key focus areas (transport, energy, food).

NOROC has recently allocated \$50k with further contributions provided by other non-council SNR members to progress food sustainability in the region. This provides the opportunity for the SNR food working group to maintain and progress a regional approach to sustainable food planning and projects now that the NRFL project has come to an end.

### **Sustainability Considerations**

- **Environment**  
This project sought to reduce environmental impacts associated with food production, distribution and consumption.
- **Social**  
This project sought to enhance community health and well being through increased capacity to produce, or have access to, locally grown food.
- **Economic**  
This project sought to enhance food security by developing a more sustainable local economy.

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

The only direct costs to Council associated with this project were of an in-kind nature through the commitment of staff time on the Steering Committee and in relation to the Local Government Resource Kit and local government forum.

### **Consultation**

Consultation for the development of the Northern Rivers Food Links Project business plan included meetings with community, industry, council and other stakeholder groups. Further, the delivery of the project involved a variety of activities within the community.

### **Options**

This report provides Councillors with an overview of the outcomes of the Northern Rivers Food Links Project and is provided for information purposes.

### **RECOMMENDATIONS**

That Council notes the contents of this report regarding the outcomes of the Northern Rivers Food Links Project.

### **Attachment(s)**

1. *Northern Rivers Food Links Major Outcomes* brochure and project documentary DVD (attached under separate cover).

**9.3 Ballina Twilight Market**

<b>File Reference</b>	Ballina Twilight Market
<b>CSP Linkage</b>	A diverse and prosperous economy
<b>Delivery Program</b>	Economic Development
<b>Objective</b>	To outline options for the future of the Ballina Twilight Market for the consideration of the Council.

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**Background**

Council resolved at its Ordinary Meeting held on 25 August 2011 as follows [Minute No. 250811/8]:

*That Council approves the establishment of a trial for a weekly twilight market at Fawcett Park to be held on Thursday afternoons/evenings beginning 29 December 2011 and continue until the end of daylight saving in 2012.*

Consequently a Development Application was prepared, lodged and approved for the Twilight Market. The market was approved on a trial basis for the period of daylight saving. As an interim arrangement, in order to facilitate the timely establishment of the market (in accordance with the Council's resolution), the Westpac Rescue Helicopter Service was invited to operate the market during the period of the trial and assist with the preparation of a Development Application for the market.

With the conclusion of the daylight saving period approaching, concluding 1 April 2012, the Council resolved at its Ordinary Meeting held on 23 February 2012 as follows [Minute No. 230212/25]:

*That Council receive a report to the next meeting providing an overall review of the Ballina Twilight Market.*

The purpose of this report is to advise the Council in relation to the operation of the market during the trial and present options, for the Council's consideration, with respect to the continued operation of the market.

**Key Issues**

- Economic development
- Probity and transparency

**Information**

The operator of the market during the period of the trial, the Westpac Rescue Helicopter Service, has provided Council with a report on the market trial. The Market operator's report is provided as an attachment to this report.

The Market Operator's report presents information relating to:

- customer and stallholder surveys;
- signage and advertising;
- customer overflow to adjacent business;
- vendor mix; and
- viability and sustainability of the market.

The Market Operator makes a number of observations regarding the success of the trial, including:

- That overall the market was considered a success by customers, stallholders and the market operator
- That the site received positive feedback from participants due to its proximity to town, amenity, access and facilities
- That unusually wet weather during the period of the trial presented the greatest challenge
- That because the market remained a 'unproven concept' some stallholders may have stayed away, but that ongoing success should redress this perception
- That due to the limited number of market-focussed food producers there is intense competition from local farmers' markets for quality producers
- That customers' support was framed primarily in terms of supporting local farmers and that the principal guiding concept of a 'produce market' is an important element of the market
- That customers would like to see more food stalls, both restaurant (eat there) stalls and fresh fruit and vegetable stalls and that this would improve the attraction of the market
- That there was initial strong interest from craft type stallholders, which could be accommodated in future markets leading up to Christmas, without compromising the guiding concept of a 'produce market
- That for future markets, commencing earlier in the year (preferably in conjunction with the October school holidays) would help to build momentum in support of the market
- That Thursday evenings was the preferred day by attending customers

- That extension of the market beyond daylight saving would require further advertising and promotion, which due to cost, would be unviable given the market current financial returns to the market operator (as a fund raising venture);

The Market Operator has made a number of recommendations regarding several matters, including the following:

1. That the reusable banner signs used for promotion during the trial, be supported by additional banners and further advertising signage on Kerr Street
2. That the mix of stallholders be expanded during the pre-Christmas period to include craft stalls
3. That the Twilight Market recommence in conjunction with the 2013 October school holidays and operate through until the end of the daylight saving period
4. That the seeking expressions of interest from stallholders should commence in August followed by craft type stallholders in October (to take advantage of the pre-Christmas demand for such retail fare);
5. That improved lighting be provided at Fawcett Park to assist with trading hours and
6. That the Ballina Chamber of Commerce be engaged further to involve more Ballina businesses.

*Feedback from the Ballina Chamber of Commerce and Industry Inc.*

Council sought feedback from the Ballina Chamber of Commerce and Industry Inc. regarding the market trial. Whilst a written submission was not able to be provided, Council has been verbally advised that the Chamber:

- fully supports the continued operation of the market and considers it has been a huge success
- is keen to work in partnership with Council and existing stakeholders to contribute to the ongoing success of the market
- considers that the market trial has provided a fantastic foundation for the market to build over time
- is keen to discuss opportunities regarding variations to format, timing and/or location and
- would like Council to consider extending the market beyond the twilight daylight saving period, and suggests that this could be supported by improved lighting at the site.



*Traffic and Parking*

It is noted that initial concerns over the adequacy of parking in conjunction with the market were not realised during the trial. Council received no complaints in relation to this matter during the trial or as part of feedback from the Ballina Chamber of Commerce. It is suggested that this may reflect the likelihood that many customers of the market may already be present in the locality, in association with employment, prior to attending the market.

*Options for ongoing operation of the market*

The key matters to be considered at this stage with respect to the Ballina Twilight Market are:

- Whether the operation of the market should be extended beyond the daylight saving period, to allow the market to occur all year round; or
- Whether the market recommences as a regular event during the daylight saving period, or alternatively, commences slightly earlier in conjunction with the September/October school holidays (daylight saving commences on the first Sunday of October in 2012).

..

It is noted that the existing development approval for the Twilight Market allows for the temporary use of the site on a weekly basis, for a period of five years, during the daylight saving period. Both of the above options would involve the extension of the market outside of the daylight saving period. Consequently, a new DA or an amendment to the existing development consent would be required should these options be pursued.

With regard to the option of extending the market to all year round, the market operator's comments are noted. In particular, the operator has indicated that an all year around approach would require additional marketing and promotion that would test the viability of the market from an operational perspective (as a fund raising activity). Further, the cooler temperature and earlier darkness outside of the daylight saving period may present challenges to ongoing customer support. Although these could be addressed to some extent by improved lighting and or heating, such measures would add to the cost of the operation of the market, thereby further testing financial viability. For these reasons this option is not recommended.

Bringing the market forward to start before the commencement of the daylight savings period would require amendment to the existing development consent or would require a new development consent. The benefit of an earlier start would appear to be the potential to help build customer support through the period of the market. Regardless, it is noted that ultimately a fresh development consent will be required to extend the approval for the operation of the market (in whatever form) beyond the current five year approval. In light of the above, the preparation of a development application (or suitable section 96 modification application) for the operation of the market between the September / October school holidays and the end of the daylight savings period, annually, is recommended.

### *Market Operator*

Council acknowledges the support and professionalism of the Westpac Rescue Helicopter Service in the operation of the market during the period of the trial. The success of the market trial has been, in large part, due to the diligent and constructive approach of the market operator.

Notwithstanding, in the interests of probity and transparency it is recommended that Council to seek expressions of interest for the 'market operator' in association with any extension of the Twilight Market beyond the trial period.

### **Sustainability Considerations**

- **Environment**

The success of a local farmers' market contributes to local sustainability through the reduction of 'food miles' associated with the transport of food.

- **Social**

Farmers' markets support the availability of fresh produce to the local community and provide opportunities for social interaction.

- **Economic**

Local farmers' markets support the local economy by retaining income within the region. Markets located in proximity to existing commercial areas can also contribute to the business activity of commercial areas.

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

The continued operation of the market, under the terms of the options presented in this report may require the preparation and lodgement of further development applications. This work can be accommodated within existing resources.

### **Consultation**

The Ballina Chamber of Commerce and Industry Inc. was consulted in the preparation of this report, with comments provided herein.

Broader public consultation on the success of the trial has not been undertaken at this time. However, the market operator's report (Westpac Helicopter Service) does include information relating to stallholder and customer surveys.

It is noted, however, that no unsolicited public comment has been received by Council in relation to the operation of the Twilight Market, either positive or negative, during the period of the trial.

### **Options**

1. That Council discontinue the Ballina Twilight Market.

For the reasons outlined in this report this option is not recommended.

2. That Council seek the extension of the development consent for the Ballina Twilight Market to occur all year round. That Council seek expressions of interest for the market operator under the terms of the new approval.

For the reasons outlined in this report this option is not recommended.

3. That Council seek the extension of the development consent for the Ballina Twilight Market to occur on an annual basis for the period of daylight saving. That Council seek expressions of interest for the market operator under the terms of the new approval.

For the reasons outlined in this report this option is not recommended.

4. That Council seek the extension of the development consent for the Ballina Twilight Market to occur on an annual basis for the period commencing in conjunction with the September/October school holidays and ending with the end of the daylight saving period. That Council seek expressions of interest for the market operator under the terms of the new approval.

For the reasons outlined in this report this option is recommended, along with calling expressions of interest for the market management.

### **RECOMMENDATIONS**

1. That Council seek development consent for the extension of the Ballina Twilight Market to occur on an annual basis for the period commencing in conjunction with the September/October school holidays and ending with the end of the daylight saving period.
2. That Council seek expressions of interest for the market operator under the terms of the new approval (should such approval be granted).

### **Attachment(s)**

1. Twilight Market Operator's report

**10. General Manager's Group Reports**

**10.1 Use of Council Seal**

**File Reference**                      Use of Seal

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**RECOMMENDATIONS**

That Council affix the Common Seal to the following documents.

US12/07	<p>Head Licence Agreement between the Minister for Primary Industries (NSW), administering the Crown Lands Act 1989 and Ballina Shire Council for a period of six years for nominated areas of the Ballina Coastal Reserve for business purposes to allow Council to sub-licence Commercial Activities on Public Land Licenses for periods extending the current twelve month period.</p> <p>Explanation: Council was recently advised by the Crown that they would require a Head Licence, from the Crown, to be able to issue sub-licenses to surf school operators for periods extending twelve (12) months. The Crown have offered an initial market rent of \$431 excl gst for the licence period offered.</p>
US12/08	<p>Lease Agreement between the Minister for Primary Industries (NSW) administering the Crown Lands Act 1989 and Ballina Shire Council for a period of twenty years with an option of twenty (20) years for Part Lot 473 DP 729088, which is the land upon which sits Lennox Head Community Centre. The rent value is \$8,900 + GST, which is 50% rebate of the market valuation of the land (\$17,800 + GST).</p> <p>Explanation: Council staff have been negotiating with the Crown on a lease for the land that is currently occupied by the Lennox Head Community Centre. An independent valuer appointed by the Crown valued the market rent at \$17,800 + GST. The Crown have offered a 50% rebate recognising the community aspect of the building. This is considered a reasonable outcome based on current State Government policy.</p>
US12/09	<p>Option Period Lease: Aircraft Hangar site Lot 1 DP 1045699. Ballina Shire Council to Dr D P Kirwan.</p> <p>Explanation: The tenant has a 10 + 10 year lease agreement for the 765 sq mtr aircraft hangar site (land component). The initial 10 year term expires on 31 October, this year, and Dr Kirwan has exercised his right of option. Council's solicitor has been instructed to draft the option period lease, and a registered property valuer is to be instructed to prepare a market valuation report for the commencement of the new term from 1 November 2012.</p>

US12/10	<p>Option Period Lease: Aircraft Hangar site Lot 2 DP 1045699. Ballina Shire Council to Mr J V Hutchinson.</p> <p>Explanation: The tenant has a 10 + 10 year lease agreement for the 510 sq mtr aircraft hangar site (land component). The initial 10 year term expires on 31 October, this year, and Mr Hutchinson has exercised his right of option. Council's solicitor has been instructed to draft the option period lease, and a registered property valuer is to be instructed to prepare a market valuation report for the commencement of the new term from 1 November 2012.</p>
US12/11	<p>Option period Lease: 62 Crane Street, Ballina, being Lot 1 DP 506103. Ballina Shire Council to Ballina Meals on Wheels Incorporated.</p> <p>Explanation: Ballina Meals on Wheels Incorporated occupied the Council premises on 1 September 2007 under a 5 + 5 year lease. The initial 5 year term expires on 31 August this year and the tenant has exercised their right of option and requested a further term of 5 years from 1 September, 2012 to 31 August, 2017. Council's solicitor has been instructed to draft the option period lease. It is mentioned that at the Ordinary Meeting of 23 August 2007 Council resolved to approve the rental to Ballina Shire Meals on Wheels incorporated on the basis of a peppercorn lease. Council now has an opportunity to revisit the rental issue if it so determines.</p>

**Attachment(s)**

Nil

**10.2 Investment Summary - March 2012**

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

**Background**

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

This report has been prepared for the month of February 2012.

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

The balance of investments as at 29 February 2012 was \$77,401,000. This represents an increase from January of \$4,393,000. The balance of the cheque account at the Commonwealth Bank, Ballina as at 29 February 2012, was \$2,169,872.

Council's investments as at 29 February are at an average (weighted) rate of 5.66% which is 1.28% above the 90 Day Bank Bill Index of 4.38%.

The majority of the approximately \$77 million of investments held by Council are restricted by legislation (external) and Council (internal) uses for the following purposes:

<b>Reserve Name</b>	<b>Internal/External Restriction</b>	<b>Approx % of Portfolio*</b>
Water Fund (incl. developer contributions)	External	19
Sewer Fund (incl. developer contributions)	External	23
Section 94 Developer Contributions	External	11
Bonds and Deposits	External	4
Domestic Waste Mgmt / Stormwater Charges	External	2
Other External Restrictions	External	6
Land Development	Internal	8
Employee Leave Entitlements	Internal	3
Carry Forward Works	Internal	12
Miscellaneous Internal Reserves	Internal	11
Unrestricted		1
<b>Total</b>		<b>100%</b>

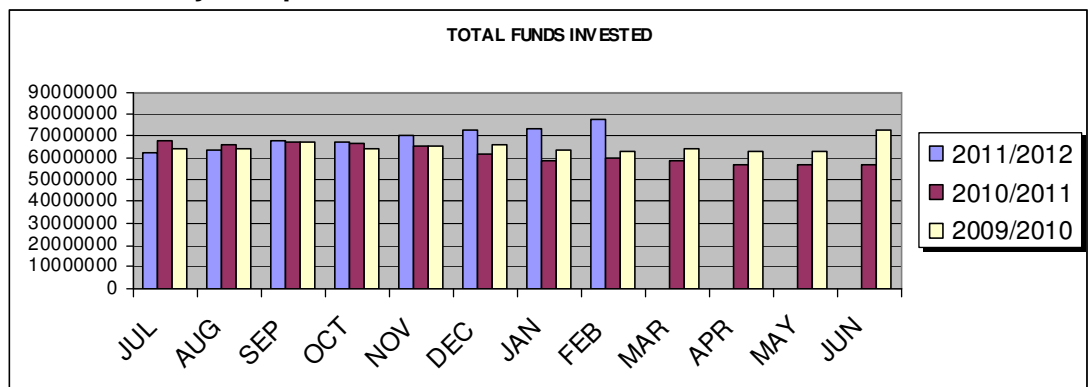
\* Based on reserves held as at 30 June 2011

**Information**

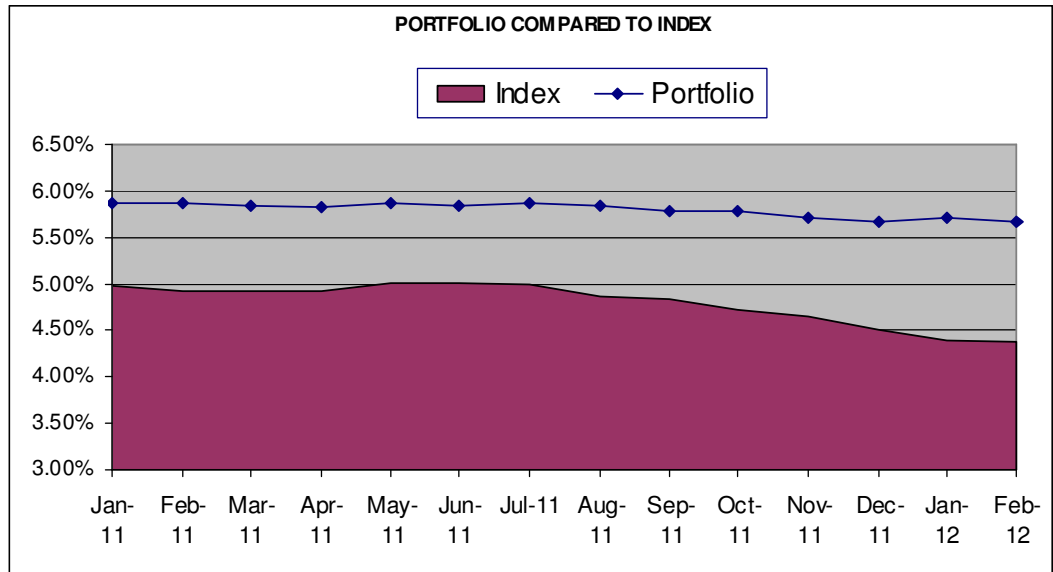
**A. Summary of Investments by Institution**

Funds Invested With	ADI Rating	Gov G'tee	Previous Month (\$'000)	Current Month (\$'000)	Quota %	% of Total	Total
<b>Grandfathered Investments</b>							
ANZ Bank	AA-	No	2,000	2,000	0	2.6	
Bendigo Bank Ltd	BBB	No	1,000	1,000	0	1.3	
Deutsche Bank	A+	No	4,000	4,000	0	5.2	
Goldman Sachs	AA-	No	1,000	1,000	0	1.3	
Heritage Building Society	BBB-	No	1,000	1,000	0	1.3	
HSBC Australia	AA-	No	1,000	1,000	0	1.3	
Local Govt Fin Service	A	No	5,000	5,000	0	6.5	
Longreach Capital Markets 23	AA-	No	1,000	0	0	0	
Longreach Capital Markets 28	AA+	No	1,000	1,000	0	1.3	
Morgan Stanley	A	No	2,000	2,000	0	2.6	
National Australia Bank	AA-	No	1,788	1,788	0	2.3	
National Wealth M'tment Holding	A	No	2,000	2,000	0	2.6	<b>28%</b>
<b>Rated Institutions</b>							
ANZ Bank	AA-	No	51	32	20	0.1	
Bank of Queensland	BBB+	No	6,000	6,000	10	7.8	
Bank of Western Australia	AA-	No	5,196	6,000	20	7.8	
Commonwealth Bank of Aust	AA-	No	4,973	6,581	20	8.5	
Credit Union Australia	BBB	No	2,000	1,000	10	1.3	
Illawarra Mutual Bld Soc	BBB	No	4,000	4,000	10	5.2	
ING Bank Ltd	A	No	5,000	7,000	20	9.0	
Members Equity Bank	BBB	No	2,000	2,000	10	2.6	
National Australia Bank	AA-	No	10,000	10,000	20	12.9	
Newcastle Permanent Bld Soc	BBB+	No	1,000	1,000	10	1.3	
Suncorp Metway Bank	A+	No	9,000	10,000	20	12.9	
Westpac Bank	AA-	No	0	1,000	20	1.3	<b>71%</b>
<b>Unrated ADI's</b>							
Defence Force Credit Union		No	1,000	1,000	\$1m	1.3	<b>1%</b>
<b>Total</b>			<b>73,008</b>	<b>77,401</b>		<b>100%</b>	<b>100%</b>

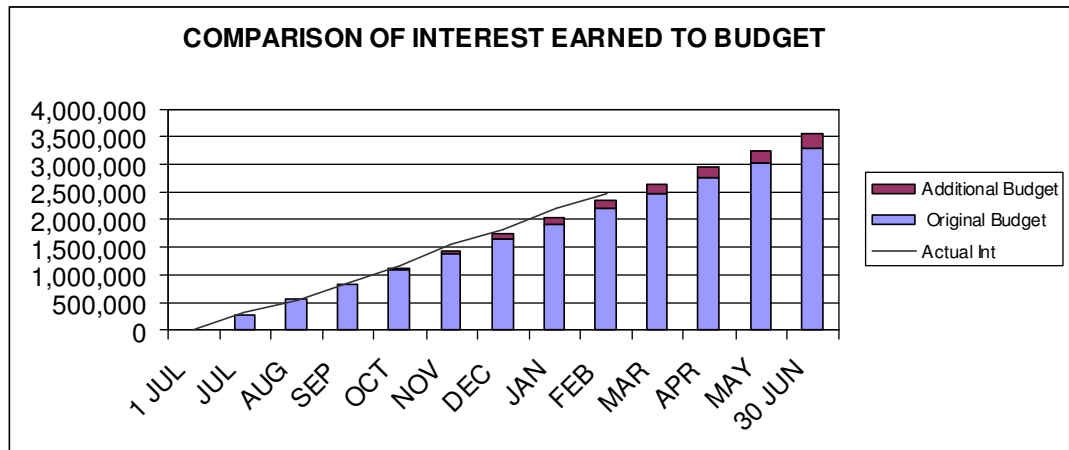
**B. Monthly Comparison of Total Funds Invested**



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



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



The Reserve Bank again kept the cash rate at 4.25% at its March meeting. The board has a wait and see stance at the moment, and the last few words of the February statement 'Should demand conditions weaken materially...' (Council emphasis) shows that they are in no hurry to cut rates.

During February one of Council's 'Grandfathered' investments matured, Longreach Series 23, a capital guaranteed interest rate linked note. This investment was a great success, as with interest earned plus a capital gain of \$262,000 over the five year term of the investment, the return amounted to 8.95% pa or \$447,427 on \$1m invested. Another Longreach product was purchased a few months after Series 23 - Series 28 - which is an equity linked note. This note has a term of seven years, was purchased in June 2007 and is capital guaranteed. Both series 23 and 28 could not be purchased under the current Ministers Investment Order (MIO), but are able to be held to maturity under 'Grandfathering' provisions of the MIO.



Due to the GFC and the 2008 crash in equity markets this investment has not earned any income since July 2008, in fact only \$70,000 was paid before the investment stopped paying interest. It is very unlikely that the investment will earn any income before maturity on 27 June 2014. The amount of compound interest foregone on the \$1m has been calculated as \$402,000, using the average rate earned on our portfolio for past periods and 5.8% from now until maturity. Longreach were asked to provide a redemption value during February which was \$860,000. If this money was taken and invested from now until June 2014, again assuming a return of 5.8% compounded, \$125,800 of interest would be earned. This represents a loss of \$14,200 as compared to holding the investment to maturity. Given this loss and the uncertainty of actually obtaining 5.8% over the next two years, a decision was made to hold the investment. This decision will be reviewed periodically.

#### E. Investments Held as at 29 February 2012

Purchase Date	Issuer	Type	Rate%	Call or Maturity Date	Purchase Value \$'000
23/04/04	Deutsche Bank	FRN	5.36	23/04/14	2,000
23/04/04	Deutsche Bank	FRN	5.36	23/04/14	2,000
20/09/04	National Australia Bank	FRN	5.61	Perpetual	1,788
08/08/05	Morgan Stanley	FRN	4.88	08/08/12	2,000
12/04/06	Goldman Sachs	FRN	4.98	12/04/16	1,000
16/06/06	National Wealth M'ment Holdings	FRN	5.05	16/06/16	2,000
25/01/07	Local Govt Fin Service	FRTD	5.23	20/03/12	5,000
28/06/07	Longreach Series 28	FND	0.00	27/06/14	1,000
21/09/07	Bendigo Bank	FRN	5.64	21/09/12	1,000
18/10/07	Heritage Bank	FRN	5.70	18/10/12	1,000
18/10/07	ANZ Bank (FRN)	FRN	5.15	18/10/12	2,000
14/03/08	HSBC Australia Ltd	FRN	6.74	14/03/13	1,000
17/12/08	Commonwealth Bank of Australia	FRTD	5.63	17/12/13	1,000
17/12/08	Commonwealth Bank of Australia	TD	5.93	17/12/13	996
17/04/09	Commonwealth Bank of Australia	FRN	5.69	17/04/12	1,000
03/02/10	Commonwealth Bank of Australia	FND	4.20	At Call	3,585
20/07/11	ANZ Bank	FND	3.70	At call	32
27/09/11	BankWest	TD	5.80	27/03/12	3,000
04/10/12	Defence Force Credit Union	TD	6.00	02/04/12	1,000
02/11/11	ING Bank Ltd	TD	5.84	01/03/12	1,000
14/11/11	National Australia Bank	TD	5.90	14/03/12	1,000
30/11/11	Bank of Queensland	TD	5.80	29/03/12	1,000
30/11/11	National Australia Bank	TD	5.99	29/03/12	2,000
05/12/11	National Australia Bank	TD	6.10	05/04/12	2,000
07/12/11	Bank of Queensland	TD	6.00	06/03/12	1,000
20/12/11	National Australia Bank	TD	6.20	20/04/12	1,000
22/12/11	National Australia Bank	TD	6.20	23/04/12	4,000
04/01/12	Suncorp-Metway Bank	TD	5.96	03/05/12	2,000
04/01/12	Members Equity Bank	TD	5.90	03/04/12	1,000
05/01/12	Bank of Queensland	TD	5.95	04/05/12	2,000
05/01/12	Suncorp-Metway Bank	TD	6.00	05/07/12	1,000
09/01/12	Suncorp-Metway	TD	5.98	08/05/12	1,000
19/01/12	Illawarra Mutual Bld Society	TD	5.90	19/04/12	2,000
19/01/12	Suncorp-Metway Bank	TD	5.91	18/04/12	2,000
24/01/12	ING Bank Ltd	FRTD	6.31	24/01/17	1,000
25/01/12	BankWest	TD	5.90	24/04/12	1,000
27/01/12	Credit Union Australia	TD	5.81	26/04/12	1,000
27/01/12	Newcastle Permanent Bld Society	TD	5.85	26/04/12	1,000
30/01/12	Suncorp-Metway Bank	TD	5.91	30/04/12	1,000
31/01/12	Bank of Queensland	TD	5.95	30/05/12	2,000
01/02/12	ING Bank Ltd	TD	5.96	30/07/12	1,000
06/02/12	Westpac Bank	FRN	5.94	06/02/17	1,000
07/02/12	Illawarra Mutual Bld Society	TD	5.85	07/05/12	2,000
09/02/12	Suncorp-Metway Bank	TD	5.95	09/05/12	2,000

## 10.2 Investment Summary - March 2012

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Purchase Date	Issuer	Type	Rate%	Call or Maturity Date	Purchase Value \$'000
14/02/12	BankWest	TD	5.95	14/05/12	2,000
22/02/12	ING Bank Ltd	TD	6.04	20/08/12	4,000
27/02/12	Members Equity Bank	TD	5.95	28/05/12	1,000
28/02/12	Suncorp-Metway Bank	TD	5.97	27/06/12	1,000
		<b>Totals:</b>			<b>77,401</b>
TD= Term Deposit		FRN= Floating Rate Note		FND= Managed Fund	
IRLN= Interest Rate Linked Note		FRTD= Floating Rate Term Deposit		ELN= Equity Linked Note	

### RECOMMENDATIONS

That Council notes the record of banking and investments for February 2012.

### Attachment(s)

Nil

### 10.3 **Policy (Final) - Markets**

<b>File Reference</b>	Markets, Policy Register
<b>CSP Linkage</b>	Resilient and adaptable communities
<b>Delivery Program</b>	Open Space and Reserves
<b>Objective</b>	To adopt the updated Markets Policy.

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#### **Background**

Council resolved at the January 2011 Council meeting:

1. *That Council adopt the amended Markets 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.*
3. *That the General Manager convene a meeting with the Lennox Head Combined Sports Association to identify as to what the layout for the markets will be when Lake Ainsworth is in flood and the markets require relocation to Williams Reserve.*

The draft reviewed Market Policy has been exhibited and one submission was received. A copy of the submission is provided in attachment one.

In relation to point three a meeting has been held with the Lennox Head Combined Sports Association (LHCSA) and a draft procedure for the temporary relocation of the Lennox Community Market has been prepared and sent to the LHCSA for comment and finalisation. The procedure has operated effectively since being drafted and in summary it ensures there is consultation between Council and the LHCSA prior to any decision being made to move the markets to Williams Reserve. When this has occurred to date the practice has been to locate the markets to the southern end of the reserve.

#### **Key Issues**

- Adoption of the final draft of the Market Policy

#### **Information**

This matter has been delayed for a number of months due to on-going discussions with external and internal parties, which have been designed to ensure that the policy reflects the needs of all users.

In respect to the formal exhibition process was submission has been received and a copy of the submission is attached to this report.

The submission addresses two points:

1. Section 5 (a) of the draft policy states that:

Only one market will be approved to operate on any one day within Ballina Shire, unless it can be established to the satisfaction of Council that more than one market operating concurrently will not result in any significant adverse economic, social or cultural impacts upon authorised existing markets. Markets may only be conducted on any one site at a frequency of not more than once per week.

2. Toilets – Section 5(m) of the draft policy requires that toilets must be connected to Council's sewage system.

#### Market Frequency

The submission asks why it is necessary for Council to regulate markets on private land and makes the point that market forces should determine how many markets the shire can support, especially markets located on private land.

The submission also makes the point that this clause means that once a market is established then no other markets can be established on that day. The policy does not allow any opportunity for new markets to be established if there is an existing market operating on that day in Ballina Shire.

While it is doubtful that the shire and the region can support more than one market on a day the argument offered does have merit in terms of equity and the competition could have the affect of lifting the standard of competing markets.

This provision was originally included in the policy to regulate the use of public land and to protect existing markets from competition.

In response to this submission the following change is recommended for inclusion in the draft Market Policy:

- a) *Location and Frequency*

#### *Public Land*

*Only one market located on public land will be approved to operate on any one day within Ballina Shire, unless it can be established to the satisfaction of Council that more than one market operating concurrently will not result in any significant adverse economic, social or cultural impacts upon authorised existing markets. Markets located on public land may only be conducted on any one site at a frequency of not more than once per week.*

### *Private Land*

*The frequency of markets located on private land will be assessed and determined via the Development Application process.*

These two paragraphs will replace the existing first paragraph of Section 5(a) of the policy.

### Toilets

The submission raised an important point that there are areas of the shire that are not connected to Council's sewage system and so the following change to the draft policy is recommended.

The inclusion of the words "Council approved on-site sewage management system" has been added to Section 5 (m) of the draft policy.

In addition to these two changes, there have been a number of other minor administrative changes to improve the overall language used in the policy.

### **Sustainability Considerations**

- **Environment**  
Appropriate management of markets reduced the impacts to the environment from the operation of the market.
- **Social**  
Markets provide an opportunity for social connections within the community. This policy also seeks to support community groups.
- **Economic**  
Markets contribute to the economy of the Shire.

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

The policy aims to manage the resources required by Council to manage the markets and assist to ensure that market activities are compliant with the regulatory framework. There are no financial implications associated with the revision of this policy.

### **Consultation**

The policy has been exhibited and one submission received.

### **Options**

1. Council may determine to adopt the final Market Policy with the amendments suggested in this report to reflect the submission received. The points raised in the submission are considered to be reasonable and have been recommended for inclusion in the final policy.

2. Council may determine not to include the changes made in response to the submission received and adopt the draft policy as it was exhibited.

The recommendation is to adopt the policy, as exhibited and as amended.

**RECOMMENDATIONS**

1. That Council adopt the revised Market Policy, as exhibited, inclusive of the changes outlined in this report and included in the attachment to this report.

**Attachment(s)**

1. Submission
2. Policy (Final) – Markets

**10.4 Policy (Draft) - Social Media**

<b>File Reference</b>	Council Policies
<b>CSP Linkage</b>	Transparent and accountable governance
<b>Delivery Program</b>	Tourism
<b>Objective</b>	To consider a Social Media Policy

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**Background**

The use of social media continues to expand rapidly, particularly with younger people and children. Councils often find it difficult to engage with this segment of the population and appropriate use of social media provides an opportunity to overcome a current weakness in the consultation processes

If the use of social media becomes more prevalent across all generations it will also provide an efficient, immediate and cost effective method of information distribution and collection.

Social media methods also continue to evolve and it is important that any policy provide the flexibility needed to ensure it remains relevant to modern technology and its uses.

**Key Issues**

- Content of policy
- Relevance of policy

**Information**

A draft policy has been prepared for consideration by Council. The policy objective is to promote and actively encourage the use of social media to provide enhanced opportunities for engagement and to assist Council in obtaining information and feedback from the community.

In using social media it is important that Council officials acknowledge that they, at all times, are representing Council. This means that the information provided and the type of behaviour presented must be consistent with Council's Code of Conduct and the organisation's vision and corporate goals.

To ensure this occurs, the balance of the policy deals with how social media interaction is to be managed and the processes to be followed. It covers the following:

1. Areas of Responsibility
2. Engagement Principles
3. Content Management
4. Training
5. Branding
6. Implied Endorsements
7. Personal use of social media
8. Monitoring
9. Risk Management
10. Records Management
11. Formal Correspondence
12. Comments Policy
13. Standards of Conduct

Council's Tourism Section and the Flat Rock Tent Park are more and more considering or accessing the use of social media therefore it is important that Council has a policy to guide the management of this technology.

### **Sustainability Considerations**

- **Environment**

Not applicable

- **Social**

Social media is seen as an important tool for Council to engage with the younger demographic in our community.

- **Economic**

Not applicable

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

There are no direct legal, resource or financial implications arising from this report.

### **Consultation**

It is recommended that this policy be placed on exhibition for public comment.

### **Options**

Council may endorse the exhibition of this draft policy, amend it or resolve not to proceed with the policy. The feedback from staff is that the policy will assist in day to day operations and on that basis it is recommended that Council endorse the exhibition of the policy for public comment.

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



**RECOMMENDATIONS**

That Council exhibit the draft Social Media Policy, as attached, for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required and the policy is considered to be adopted.

**Attachment(s)**

1. Draft Policy – Social Media

**10.5 Flat Rock Tent Park - Adoption of Fees and Charges 2012/13**

<b>File Reference</b>	Asset Management/Flat Rock Tent Park
<b>Sustainability Plan</b>	Transparent and accountable governance
<b>Management Plan</b>	Commercial Services
<b>Objective</b>	Setting of fees and charges for Flat Rock Tent Park for 1 April 2012 to 31 March 2013

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**Background**

Council resolved to advertise a set of draft Flat Rock Tent Park fees and charges, and associated notes, for 2012/13 for public comment at the 25 January 2012 meeting. The purpose of this report is to comment on any submissions received.

**Key Issues**

- Increases in fees and charges
- Conditions attached to the fees

**Information**

The draft fees and charges and associated notes have been on public exhibition for the required twenty eight days and as a result of the exhibition process no submissions have been received.

**Sustainability Considerations**

- **Environment**  
Council needs to operate the tent park in a sustainable manner, taking into account any environmental impacts.
- **Social**  
The tent park plays a major social role in that people holidaying in the tent park come from broad socio-demographic groups, this creates a large social interaction of people.
- **Economic**  
The tent park provides economic benefits to both Council and the broader business community.

**Legal / Resource / Financial Implications**

Council is legally required to exhibit and adopt its fees. The tent park budget is formulated as part of Council's annual budget deliberations

**Consultation**

The documents were subsequently placed on public exhibition from 9 February 2011 to 7 March 2012.

The documents were exhibited to encourage public comment and exhibited at Council's normal consultation points (administration centre and libraries) and on the Council website.

**Options**

Council can adopt or not adopt the fees and charges as exhibited (complete copies of the fees and charges and associated notes were included in the January 2012 business paper). The recommendation is to adopt the fees as exhibited.

**RECOMMENDATIONS**

That Council adopts the draft Flat Rock Tent Park fees and associated notes, as presented to the January 2012 meeting and subsequently exhibited, for 2012/13.

**Attachment(s)**

Nil

**10.6 Festival and Event Support Program - Funding 2012/13**

<b>File Reference</b>	Public Events/Policies
<b>CSP Linkage</b>	Transparent and accountable governance
<b>Delivery Program</b>	Community Planning
<b>Objective</b>	To confirm the allocation of funding for the Festivals and Events - Council Support Program for 2012/13

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**Background**

The Festival and Event Support program is now in its third year. The program provides a \$50,000 allocation of funding to community groups coordinating events in the Ballina Shire. Applications under the 2012/13 program provide funding to events held between July 2012 and June 2013.

The purpose of this report is to consider the applications for the Festival and Event Support Program for 2012/13.

**Key Issues**

- To allocate funds in a fair and equitable manner

**Information**

Council called for applications for the Festival and Event Support Program by way of advertisement in the local newspaper, home page of Council's website, Council's electronic newsletter Community Connect, in the Tourism e-newsletter, Paradise FM community announcements and media releases.

Individual letters/e-blasts were also sent to community groups, sporting organisations, events and festivals on the tourism database, chambers of commerce and local schools.

Applications for funding opened on Monday 12 December 2011 and closed Friday 17 February 2012. Applications were made available online and applicants were encouraged to read the revised Festivals & Events - Council Support Policy in conjunction with the application. There were four lodgement options being post, email, hand delivered or facsimile.

A total of seven applications were received and the next table provides a summary of those applications.

Ref	Organisation/Person	Name of Festival/Event	Requested Council Contribution (\$)
1	Apex Club of Alstonville	New Years Eve Family Festival	15,000
2	Alstonville Agriculture Society	Annual Show	5,000
3	Rotary Club of Ballina on Richmond	Ballina Fine Food & Wine Festival	15,000
4	Summerland House with No Steps	Country Fair – Annual Family Fun Day	18,780
5	Volunteer Marine Rescue NSW	Ballina Boat & Leisure Club	12,500
6	Kawaihae Outrigger Canoe Club Ballina & Ballina Lighthouse & Lismore SLSC	Ballina Paddle Regatta	15,000
7	Cancer Council NSW	Relay for Life	10,000
<b>Total Requested</b>			<b>91,280</b>

Council convened an internal staff team to review and assess the applications based on eligibility and responses to the Community Development, Economic and Environmental Value Assessment Criteria. Their recommendations and notes are outlined in the options section of this report.

In respect to the assessment process, the three clauses from the *Festival and Event Support Policy* that are of most relevance include:

Clause 8 – To be eligible for support the total cost of the festival / event must be estimated at over \$20,000 with a minimum of \$15,000 allocated towards cash expenses, excluding the Council contribution. Products and services donated i.e. in-kind products and services, will be valued as a cash expense when they carry a tax invoice from the donated service or business i.e. printing, advertising, placement etc.

Clause 9 – Council's contribution offers funding of up to 50% of the total cash expenses from the festival / event organiser. Council may exceed the 50% threshold in extenuating circumstances i.e. anti-social behaviour activities.

Clause 10 – Funding from this program will not be provided for the following items;

- a) capital expenditure
- b) contributions to charities
- c) On-going operational / administrative costs not directly related to the festival /event
- d) Retrospective projects

#### **Sustainability Considerations**

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

- **Social**  
As above.
- **Economic**  
As above.

### Legal / Resource / Financial Implications

The 2012/13 budget includes \$51,500 for the Festival and Event program. This includes a surplus of 1,500 to be spent on an event workshop for successful funding applicants. It is important to note, Council resolved at the Ordinary Meeting held 27 October 2011 to approve funding of \$25,000 for the Ballina Coastal Country Music Festival. The funding commitment was to allow the co-ordinators to market and promote the Ballina festival at the January 2012 country music festival in Tamworth.

### Consultation

Significant consultation was undertaken to encourage submissions for the 2012/13 year as outlined in the information section of this report.

### Options

In reviewing the applications the preference of the panel was to allocate \$35,000 of funding as per the following table.

Ref	Organisation/Person	Name of Festival/Event	Council Contribution (\$)
1	Apex Club of Alstonville	New Years Eve Family Festival	10,000
2	Alstonville Agricultural Society	Annual Show	0
3	Rotary Club of Ballina on Richmond	Ballina Fine Food & Wine Festival	10,000
4	Summerland House with No Steps	Country Fair – Annual Family Fun Day	8,000
5	Volunteer Marine Rescue NSW	Ballina Boat & Leisure Club	6,000
6	Kawaihae Outrigger Canoe Club Ballina & Ballina Lighthouse & Lismore SLSC	Ballina Paddle Regatta	1,000
7	Cancer Council NSW	Relay for Life	0
<b>Total Requested</b>			<b>35,000</b>

The problem with this proposal is that it means an increase in expenditure for the 2012/13 Festival and Event Support Program budget to \$61,500.

The major points for discussion in considering the applications were as follows.

**Eligible and Recommended Events**

Apex Club of Alstonville - New Years Eve Family Festival

Agreement that this event was performing well and meeting the objective of providing a family friendly event for New Year's Eve, whilst mitigating potential anti social behaviour. It was also agreed that the event has reached its capacity and does not require increased funds from Council. Apex's application stated that a marketing coordinator would be employed to drive sponsorship dollars. Given this, a reduced allocation was the consensus.

Rotary Club of Ballina on Richmond – Ballina Fine Food & Wine Festival

Strong support for this proposal as it was consistent with the Council policy objectives of creating a signature event. Event is professionally run and coordinated by a team of experienced event coordinators. The consensus is this event has significant tourism potential for Ballina.

Summerland House with No Steps – Country Fair Annual Family Day

Strong support for this proposal as it was consistent with the Council policy objectives of creating a signature event. With over 2,000 attendees in the events inaugural year (2011) the event also has potential to grow and be a standalone event in the Shire.

Volunteer Marine Rescue NSW – Ballina Boat & Leisure Show

General consensus was still to provide a level of support however the question was raised on whether the event has the potential to grow into a signature event for the Shire. Council have funded this event for the past two years and consensus was that now it should be generating its own sponsorship dollars. The overall objective of the policy is to provide funding to support events in their initial years, with the plan that they become self funded through sponsorship dollars and event income (i.e. ticket sales). Marine Rescue has employed the services of a professional event coordinator to try and grow the event this year and raise the profile outside of the Northern Rivers. Therefore given the above, an amount of \$6,000 has been allocated. Note, last year \$16,725 was allocated by Council and only \$6781.51 was utilised, just under \$10,000 was returned.

Kawaihae Outrigger Canoe Club Ballina & Ballina Lighthouse & Lismore SLSC (joint application)

General consensus was to support the event concept but felt that the idea needed to be developed further, perhaps tie in an ocean swim. Concerns were raised over the applicants' lack of financial support and expectation of Council to contribute \$15,000 towards the total \$21,500 cash expenses.

**Ineligible - Not recommended**

Alstonville Agricultural Society – Annual Show

General consensus that investment in a 'wood choppers arena' is not consistent with the policy objectives.

## Cancer Council – Relay for Life

General consensus that as this event is largely a charity fund raiser it is not consistent with the policy objectives and funding is not supported. Council has its general community donations budget available if it wishes to provide funding to charities.

Based on the assumption that \$25,000 has been allocated from the pool of funds for the Ballina Coastal Country Music Festival, and that only \$25,000 remains to be allocated, the revised staff recommendations are as follows:

Ref	Organisation/Person	Name of Festival/Event	Council Contribution (\$)
1	Apex Club of Alstonville	New Years Eve Family Festival	10,000
2	Alstonville Agricultural Society	Annual Show	0
3	Rotary Club of Ballina on Richmond	Ballina Fine Food & Wine Festival	5,000
4	Summerland House with No Steps	Country Fair – Annual Family Fun Day	5,000
5	Volunteer Marine Rescue NSW	Ballina Boat & Leisure Club	5,000
6	Kawaihae Outrigger Canoe Club Ballina & Ballina Lighthouse & Lismore SLSC	Ballina Paddle Regatta	0
7	Cancer Council NSW	Relay for Life	0
<b>Total Requested</b>			<b>25,000</b>

This recommendation reduces the allocations to the events and removes the Paddle Regatta entirely. This is considered to be a reasonable balance based on the funding available and events listed.

**RECOMMENDATIONS**

That Council support the following funding allocation for the 2012/13 Festival and Event Program.

Ref	Organisation/Person	Name of Festival/Event	Council Contribution (\$)
1	Apex Club of Alstonville	New Years Eve Family Festival	10,000
3	Rotary Club of Ballina on Richmond	Ballina Fine Food & Wine Festival	5,000
4	Summerland House with No Steps	Country Fair – Annual Family Fun Day	5,000
5	Volunteer Marine Rescue NSW	Ballina Boat & Leisure Club	5,000
7	Cancer Council NSW	Relay for Life	0
<b>Total Requested</b>			<b>25,000</b>



**Attachment(s)**

Nil - Copies of the applications are available from Council's Tourism Section.

## 11. Civil Services Group Reports

### 11.1 Coastal Recreational Pathway

<b>File Reference</b>	Coastal Cycleway - Ballina to Lennox Head
<b>CSP Linkage</b>	A built environment contributing to health and wellbeing
<b>Delivery Program</b>	Engineering Works
<b>Objective</b>	To endorse concept design for the section of Coastal Recreational Path from Boulder Beach to Pat Morton Lookout.

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#### **Background**

At the Council meeting held January 2012, Council made a number of decisions to advance the development of the Coastline Recreational Path (CRP). The following was included in the resolutions made by Council;

*That the segment of the Coastal Recreational Path from Boulder Beach to Pat Morton car park and Pat Morton Lookout be referred to a workshop with the consultant being present to explore what can be achieved to optimise access and the direction of this path with a standard to asphalt and boardwalk surface.*

The workshop in response to this resolution was conducted on 16 February 2012. Having regard to the discussion at the workshop, the purpose of this report is to provide the Council with an opportunity to determine its next position in relation to this section of the CRP.

The Council also resolved the following at the meeting in February in response to a notice of motion.

*That Council endorses, for the segment of the Coastal Recreational Path from Sharpes Beach underpass to Boulder Beach, the use of consolidated gravel or similar treatment, at natural grade, as required, as per Revision D, as attached to this report.*

Staff have further considered this direction and some comments are provided in the information section of the following report.

#### **Key Issues**

Confirm concept design for Coastline Recreational Path

### Information

The earlier deliberations of Council had identified that there were environmental constraints in respect of meeting desired access standards for the CRP within this section. In response to this, the discussion at the workshop focussed on achieving the most appropriate balance between the access and environmental objectives of the project.

Attached to this report are five aerial photographs marked with design concepts. The design concepts are for paths that achieve the following maximum grade outcomes.

5% (1:20)      10% (1:10)      13% (1:7.5)      15% (1:1.65)      20% (1:5)

To assist with comparisons, for each drawing the next steepest and flattest grade option is also shown.

It is suggested to the Council that the 5% and 10% represent an unacceptable reduction in the amenity of this location.

When comparing the 13% and 15% options, the drawings indicate to achieve the 2% reduction in grade approximately double the number of switchbacks are required.

The 20% option generally is able to follow the natural contour. This option has the least impact on amenity. The Council could therefore prefer the 20% option on the basis that as it could not meet access standards, the criterion to minimise the environmental impacts becomes the primary factor in the determination.

The 15% option however provides some relief to users from the grade of the steepest sections with a reduction in amenity that is considered reasonable. This report recommends that the advantages of the 15% option be pursued in the detail design. In the case that the detail design identifies that the impacts on the environment and amenity of the location are unacceptable, then the design can be based relatively closely on the natural contours.

The recommendation also seeks for Council to confirm that a consolidated gravel path is the preferred surface type for the design.

### Sustainability Considerations

- **Environment**

Avoiding and mitigating environmental impacts has been a major factor in the assessment of the design options for this project. The recommended option represents a reasonable balance between the access objectives of the project and the environmental constraints.

- **Social**

The path will provide significant social benefits to the community. The comparison of options in this report is neutral in respect of social considerations.

- **Economic**

The path will provide opportunity to promote Ballina Shire as a tourist destination. The comparison of options in this report is neutral in respect of economic considerations.

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

The cost difference between the 15% and 20% option, (15% likely to be more expensive) is not considered significant within the context of the whole project and having regard to the project's objectives.

The flatter grade options however would require additional funds. The amount required has not been calculated at this time, however if these options were the preference of Council, it suggested that Council request that information before making a final decision.

### **Consultation**

The route options for the CRP has been the subject of a formal community consultation process. The more recent processes to refine the design have included community input from deputations and other communications to Council.

### **Options**

The design options were discussed in the information section of this report. The five drawings presented follow the same route, however the options differ through an increase the number of switchbacks for the purposes of reducing the maximum grade of the walk.

The report identifies that the alignments with a grade of less than 15% have an unacceptable impact on the amenity of the location. The 15% does require some ramps, however the number is considered reasonable and this proposition can be tested further during the work to prepare a detail design.

As the recommendation refers to a drawing presented to Council at its January 2012 meeting, that drawing is attached for completeness.

### **RECOMMENDATIONS**

That Council endorses for the segment of the Coastal Recreational Path from Boulder Beach to Pat Morton the use of consolidated gravel / boardwalk or similar treatments, as required, as per Revision D, as attached to this report, and with a preferred maximum grade of 15% (1.65).

### **Attachment(s)**

1. Aerial Photographs - Design Concepts (under separate attachment)
2. Aerial Photograph - Revision D (under separate attachment)

**11.2 Public Place Recycling Trial**

<b>File Reference</b>	Ballina Shire Integrated Waste Minimisation and Management Strategy
<b>CSP Linkage</b>	Responsible and efficient use of resources
<b>Delivery Program</b>	Waste Services
<b>Objective</b>	To seek Council's endorsement of the arrangements proposed for a public place recycling trial.

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**Background**

At the October 2011 meeting Council resolved;

- 1. That Council provides in principle support for 'trailing' public place recycling alongside existing garbage bins.*
- 2. That Council receives a report on the preferred locations for the trial, costs/benefits to Council and design options that will encourage proper use.*
- 3. That Council approach local shopping centres to encourage them to consider public place recycling within their shopping precincts.*

This report is provided in responds to that direction and seeks some an endorsement of the proposed arrangements.

Public place recycling usually has a high contamination rate and as such the benefits of the system are found not in the contribution to waste diversion from landfill but in raising awareness for both local residents and visitors about the recycling message generally. To date Council has not undertaken public place recycling due to the risk that the higher levels of contamination in the product will lead to loads being rejected at the contractors processing facility. This in effect reduces outcomes of the recycling efforts undertaken by the community domestically.

The strategy to reduce the impact of the expected contamination is the use of bin enclosures with ample provision for waste disposal as well as recycling and this are accompanied by appropriate signage that discourages contamination and a campaign to promote the benefits of public place recycling.

**Key Issues**

- Design options to facilitate proper use
- Location and operational considerations for the trial
- Costs/benefits and financial implications

### Information

The Office of Environment and Heritage (OEH) NSW document “*Better Practice Guide for Public Place Recycling*” provides guidance on the design of recycling stations to encourage proper implementation. The guide includes information on developing the system, configuration of the bins, reducing litter, signage, location and implementing the system. This guide will be used to inform the implementation of the public place recycling trial.

The proposed location of the trial is Ballina Street, Lennox Head in six of the existing bin locations that are closest to food outlets. This location has been proposed as the preferred location, as opposed to other town centres or shopping centres for the following reasons:

- Ease of access and organisation as Council already collects the waste from these bin locations.
- The size of the Lennox Head community.
- As Council will be investing in the trial, it is preferred that a council public site as opposed to a shopping centre should enjoy the benefits that arise from the trial. The new bin enclosures will enhance the Lennox Head main street
- The existing Lennox Head bin enclosures are in need of upgrade at some stage in the future as they are aging and in a relatively poor condition.

If approved, the trial would be conducted over six months, with an audit to take place of the collected materials. As indicated above, contamination of the material collected is one of the biggest problems in public place recycling systems and an extensive campaign will need to be undertaken to support the trial. However there is also an opportunity to raise awareness in the community on the need to avoid waste to landfill, decrease resource use and choose recyclable packaging when they are buying food away from home. Therefore an awareness campaign will be required prior to and during the trial and this will require resourcing.

Operationally, the trial will be inefficient as the current recycling collection is undertaken fortnightly and the public place recycling bins will need to be collected twice a week and possibly more. Initially the bins will need to be collected manually by waste staff using a utility. These collections will be additional duties that may require additional resourcing. By collecting the product in this way Council will have a much better understanding of contamination and can avoid contaminating the bulk loads collected at household.

Research has been conducted into the most operationally suitable and attractive design for the bin enclosures. The attached Gossi Park bin enclosures are recommended as providing functionality and aesthetic appeal. They enclose the mixed waste bin and recycling bin separately, with a small round yellow coloured hole for recyclable container placement.

Signage can be attached to the enclosures and the cost for twelve (six waste, six recycling and delivery) bin enclosures is \$23,776.50 (inc. GST).

### **Sustainability Considerations**

- **Environment**

As indicated in the above report, the trial will determine the amount of direct environmental benefit and operational inefficiency associated with the proposal. Indirectly environmental benefits will arise from the reinforcement of the recycling program to the community.

- **Social**

The trial provides an education opportunity for Lennox Head residents, businesses and visitors to reduce their waste to landfill and extend their recycling habits away from home.

- **Economic**

Sustainable waste management practices assist long term economic development strategies.

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

There is a significant cost in setting up for and running the public place recycling trial. The cost to purchase the bin enclosures is \$23,776.50, and the trial will need to be supported by regular collection, education and promotional support.

There is currently no budget provision for the trial so the budget will need to be amended.

### **Consultation**

No community consultation has been undertaken in the preparation of this report, however a community awareness program will be required to support the trial.

### **Options**

The options available to Council are;

1. Endorse the trial program and location as suggested in the above report.
2. Endorse an alternative approach or location.
3. Take no further action at this time and defer interest in the trial.

Option one takes the Council's resolved position forward in a manner that is supported by the advice of Council's technical officers and is therefore recommended.

**RECOMMENDATIONS**

1. That Council endorse the proposed arrangements outlined in this report for the trial of public place recycling.
2. That Council allocate a maximum budget of \$30,000 within the Landfill Management and Resource Recovery program to undertake this trial.

**Attachment(s)**

Nil



**11.3 Traffic Management - William Street, Lennox Head**

<b>File Reference</b>	Traffic Concerns & Requests
<b>CSP Linkage</b>	A built environment contributing to health and wellbeing
<b>Delivery Program</b>	Engineering Works
<b>Objective</b>	Review Parking Arrangements at William Street, Lennox Head

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**Background**

At the January 2012 meeting, Council resolved the following in response to a Notice of Motion.

- 1. That Council approve, subject to point three, funding of \$8,000, from working capital, to allow kerb and gutter to be installed on the northern side (\$6,000) of William Street, Lennox Head (between Pacific Parade and Cliff Murray Lane) and to formalise the parking on the southern side (\$2,000) of this street. This work will provide a clear delineation for parking and a safer environment for pedestrians in this location, which currently has a mix of pedestrians walking to the beach and customers to the restaurant located on this intersection.*
- 2. That Council also investigate formalising the parking in this locality on the eastern side of Pacific Parade as part of the 2012/13 budget.*
- 3. That this item be given priority subject to 50% monetary contributions to the kerbing and guttering by the residents and the restaurant.*
- 4. That Council commence enforcement of parking regulations in the area.*

In response to this resolution, letters were sent to the landholders with frontage to William Street where the proposed kerb and gutter is to be installed on the northern side. The parking on the southern side has been assisted by the installation of bollards to delineate a pedestrian area.

Council has received replies to its letters from the adjoining land owners and both owners have declined to make a contribution as requested by part three of the resolution.

The purpose of this report is to seek Council's next position in regards to this matter.

**Key Issues**

- Pedestrian Safety
- Adequate Parking

### **Information**

The northern side of Williams Street is marked for parallel parking. This was installed in response to resident concerns that nose in parking was creating potential hazards for pedestrians and that the parking blocked the preferred route for pedestrians.

Whilst the parallel parking is appropriately signed, the geometry of the layback gutter and paved area in front of the café is of a form that results in drivers not understanding that the parking arrangement is parallel. Council's enforcement officers have not been able to effectively enforce the parking controls because of the misunderstanding of drivers visiting the café.

The barrier kerb was therefore proposed in response to this situation as the removal of the layback would confirm the parallel parking.

The Council has not recorded reports of pedestrian incidents under the current or previous arrangements. On this basis, Williams Street has not been identified as a project with priority within the Council's adopted Pedestrian Access Management Plan (PAMP). The priorities in the PAMP are determined by a formal assessment process, with accident history and pedestrian safety risk critical factors in the assessment. Pedestrian traffic volumes are another critical factor.

An allocation of funds to works in this location represents an opportunity cost for projects within the PAMP program. In addition to this the Council receives many requests for footpath improvements and the PAMP is the basis for staff to communicate a response to these requests as a policy and priority. Therefore the Council should be mindful that in assessing this matter it should be satisfied that the merits of the case justify setting aside the PAMP itself and the process of consultation and assessment behind its development.

It is also noted that the proposal to install the barrier kerb is a compromise solution as the full request from the residents is for the installation of a formed footpath at this location.

### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Residents are asking for a footpath to improve the amenity of this location
- **Economic**  
Any potential impacts to the adjacent business needs to be considered in determining this matter

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

The Council may elect to allocate funds to complete the works as requested by the residents. No current budget allocation exists for such expenditure. As identified above, whilst the required funds are not substantial, there is an opportunity cost associated with these works and this should be considered in the context that an established process to determine priorities for footpaths exists and the Council receives many requests for this type of work.

There are no legal or resource implications with any of the options discussed below.

### **Consultation**

Letters have been sent to adjoining land owners. Submissions from landowners and residents in the area have been received by Council. Meetings have been conducted in response to those submissions.

### **Options**

The following options are provided for Council's consideration.

1. Install the Barrier Kerb

This option would assist in formalising parallel parking at this location. As indicated in the above information, the works are not considered a priority and there are no funds allocated to support the project at this time.

2. Maintain the Status Quo.

This option maintains the response to the original concerns of the residents in respect of the nose in parking and its impacts on pedestrian safety. The disadvantage of this is that it is difficult for Council officers to enforce the parking controls. However, as is the case with enforcement generally, regular patrolling and infringement will result increased compliance.

3. Revert to the original parking arrangements (remove the parallel parking control).

This option removes the compliance issue associated with option two. It does not address the concerns of residents who are advocating for improved pedestrian safety at the location.

As this option includes a change to regulatory parking controls, it would be necessary to seek the concurrence of the Local Traffic Committee. It is expected that if this was the preferred direction of the Council, the LTC concurrence would be achieved.

When this issue first came to the attention of Council officers they were satisfied that having regard to the lack of accident history, the satisfactory nature of the road geometry, and the traffic and pedestrian volumes that it was not necessary to amend the parking controls or provide an engineering solution. Looking for a compromise solution to assist in addressing the concerns of the residents, the parallel parking option was supported on the basis that while it was unnecessary, it was an acceptable technical alternative. Reverting to the original parking arrangements is an option for the Council. This is particularly so as the bollards have now been provided on the southern side of the street, thereby providing safe access.

Having regard to the technical assessment of this matter, setting aside the PAMP priority program, Option One, is not a recommendation that staff are able to support.

Option Two is not preferred because it maintains the confusion at the site and this will result in issues for the owner of the café and Council's rangers as they manage these parking controls.

Whilst Option Three will not be supported by the residents holding the concerns about the amenity and safety of pedestrians, the advice to Council is that the original arrangements are satisfactory from a technical perspective. The performance of this option can be monitored by staff to ensure that this assessment remains current. Therefore this option forms the recommendation to Council for this matter.

### **RECOMMENDATIONS**

That having regard to the contents of this report including the issues for parking control enforcement at this location, and that Council has an adopted priority program for improvements to pedestrian facilities, the Council seek the concurrence of the Local Traffic Committee to a proposal to revert from parallel parking to nose in parking in the relevant sections of William Street, Lennox Head.

### **Attachment(s)**

Nil

**11.4 Policy (Final) - Backflow Prevention**

<b>File Reference</b>	Council Policies
<b>CSP Linkage</b>	Transparent and accountable governance
<b>Delivery Program</b>	Governance
<b>Objective</b>	To adopt the Backflow Prevention Policy.

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**Background**

Council at the 24 November 2011 Council meeting resolved to place on public exhibition a revision of the Backflow Prevention policy.

The draft policy was placed on public exhibition with the closing date of 29 December 2011. The draft policy document was exhibited for a period of 28 days to allow for public comment. The exhibition was notified via Council's website and by way of advertisement in the local newspaper. Copies of the document were made available at Council's Community Access Points. The policy was also exhibited through Council's new electronic newsletter Community Connect eNews, with a link to an online feedback form.

No submissions were received in response to the exhibition.

Staff however have given further considerations to the policy and the recommendations to this report include suggested modifications to the policy. These matters are discussed in the information section of the following report.

Ongoing water theft and illegal/misuse of water from Council hydrants via the use of standpipes predominantly by contractors for commercial uses such as road construction, vacuum excavating, directional drilling etc, and in some cases members of the public has increased.

**Key Issues**

- Content of policy
- Relevance of policy
- Address amendments since exhibition period

### **Information**

To reduce the risks of damage to Council assets from the unauthorised use of hydrants and to prevent the ongoing misuse and theft of water, it is suggested that changes be made to the backflow prevention policy. The current process has not been successful and is prone to abuse. Expensive standpipes (\$1,500) are currently provided to the applicant by Council and these can be misused or not returned efficiently.

A particular concern is that these activities create a risk to the health of other water users as it is often the case that there is no backflow prevention devices fitted to the standpipes being used.

It is proposed that persons wishing to access the Council water supply via hydrants make an application for approval as required Under Section 68 of the LG Act to do so, and pay an appropriate fee.

Any approval granted would be for the term of the financial year, and would include operating conditions. Applicants will need to provide a suitable standpipe which must meet the required Council specifications. The approval will be linked to the registration number of the applicant's nominated vehicle, similar to the arrangements under the approvals for the current Liquid Trade Waste Service Agents.

The proposed annual fee of \$540 incorporates Council's standard \$140 Section 68 approval fee, and up to 125kL of water at \$3.20/kL, which equates to \$400.

It is proposed that the Standpipe meter reads be submitted annually to Council, and that any usage in excess of 20% of the total fee amount be then billed to the user.

Standpipes proposed to be used by the applicant will be checked for suitability including ensuring that backflow prevention is in place before an approval is issued.

A copy of the amended draft policy is included as the final attachment to this report.

### **Sustainability Considerations**

- **Environment**  
A regulated approach to the access of water supplies will assist to protect the environment.
- **Social**  
It is essential that Council meets best practice for the protection of the drinking water to ensure public health is protected.
- **Economic**  
It is acknowledged that for some business operators it assists their business if access to bulk water from the mains system is available.

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

The proposed changes will mean that Council complies with the LG Act by requiring person's who wish to access water from hydrants via a standpipe make the appropriate application as required under Section 68 Part B (2) as an activity that requires the prior approval of Council.

From the suggested changes to the policy, Council will be in an improved position to meet it's obligation to provide high quality & safe drinking water to the public as standpipes will have the appropriate backflow prevention installed.

No financial implications are foreseen for Council.

### **Consultation**

The draft policy was placed on public exhibition with the closing date of 29 December 2011.

Given the changes include a fee and new arrangements for access to water mains, it is recommended to again exhibit the revised policy.

### **Options**

As the policy has been revised, including new fee arrangements, it is recommended that Council exhibits the policy. It is also open for the Council to adopt the revised draft policy at this meeting. The Council can also determine to reject the suggested changes and adopt the policy that was exhibited.

### **RECOMMENDATIONS**

That Council place the revised Backflow Prevention 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. Policy Final - Backflow Prevention (with amendments highlighted) (also includes new application form)

**11.5 Motorised Wheelchairs and Scooters**

<b>File Reference</b>	Road Safety
<b>CSP Linkage</b>	People attaining health and wellbeing
<b>Delivery Program</b>	Operational Support (Engineering)
<b>Objective</b>	To invite the Council to consider outcomes from a review of injury associated with motorised mobility scooters and to support the implementation of community education programs to increase awareness of safety issues.

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**Background**

At the Council meeting of Thursday 23 February 2012, in response to a notice of motion, Council resolved to write to the local Member for Ballina and Minister for the North Coast, Hon Don Page expressing concerns regarding the proliferation of motorised scooters using footpaths. The Council indicated its view that there were concerns about safety from the use of scooters and that there is limited regulation applying to their use. In expressing these concerns the Council did acknowledge that mobility scooters provided opportunities for independent access and transport to community facilities that may not otherwise be available to some individuals.

This report has been prepared to provide further information to Council about this issue. The letter to Mr Page has not yet been sent and it is also intended for the following information to assist the Council to further refine its position if it is inclined to do so.

**Key Issues**

- Regulatory environment governing the operation of motorised scooters from the appropriate authority/authorities.
- Safety of motorised scooter users and other community members.

**Information**

A motorised wheelchair, motorised mobility scooter or gopher are terms used interchangeably to define a mobility aid with two or more wheels and a maximum speed of 10km/h on level ground. The unladen mass must not be more than 110 kilograms. Motorised mobility scooters have been specifically built to transport a person who is unable to walk, or has difficulty in walking.

People using them are defined as pedestrians under the NSW Road Rules and accordingly they should be used on footpaths. A motorised scooter should not travel along the road unless it is impractical to travel along the footpath or nature strip next to the road.



In NSW a motorised wheelchair does not require a licence or third party insurance and does not need to be registered. In all other states and territories except Queensland, it is necessary to register a motorised mobility scooter.

There is no formal test to use a motorised wheelchair, but if a potential user is concerned about their operating skills, a doctor or health care professional may arrange an assessment.

Motorised mobility scooters have become an increasingly viable option for older people to maintain independence and engagement with the community and provide physical, social and health benefits to the user. However, there are important safety concerns that various agencies are working to address, including the increase in hospitalisations related to mobility scooter accidents. There is a substantial emerging upward trend in relation to deaths and serious injuries among persons aged 60 years and older. Falls, collisions with motor vehicles, collision with objects and roll-overs are common circumstances of injury.

Following various publications and media reports on the growing problem of motorised mobility scooter-related injuries, the Australian Competition and Consumer Commission (ACCC), in September 2009, called a national reference group meeting of key informant agencies. The ACCC then commissioned the Monash University Department of Forensic Medicine and Accident Research Centre to conduct a targeted study of injury data involving motorised mobility devices.

The report published on Thursday 24 March 2010, represents the initial step in understanding the problems associated with motorised mobility scooters and determining what opportunities that exist to prevent injury and death whilst minimising negative effects on mobility for older persons. Possible areas of focus which were identified in the report included:

- Design standards (in the form of a potential Australian Standard).
- Education for motorised mobility scooters drivers and the public – particularly about the sharing of the footpath and road and the benefit of wearing a helmet.
- Assessment and advice prior to sale – providing consistent information to users, families, carers, health professionals and retailers highlighting the risks to older persons and how to avoid common injuries.
- Data and research – improvement to data collection and analysis and investigating design and safety features.

Consultation with a range of interested people, motorised mobility scooter users and organisations (i.e. road safety experts, health and aging professionals, mobility scooter suppliers) was also undertaken.

The primary issues of concern to stakeholders included:

- The supply of mobility scooters to the Australian market and concerns that the unregulated nature of the industry could be contributing to the unsafe and inappropriate use of motorised scooters.

- General lack of policy related to motorised scooters suggesting the incorporation of mobility scooter use in planning, transportation and aging documents.
- General lack of clarity in current definitions of motorised mobility scooter and the rules and regulations relating to them and their appropriate use.
- The lack of a third party insurance schemes for scooters users.
- The need for scooter training and education to improve the safety of users and the wider community.
- Concerns about the quality of imported models and second-hand motorised mobility scooters being purchased.
- The design of motorised mobility scooters in terms of stability, lack of safety design features, poor visibility of scooters, steering, braking, speed and size of mobility scooters.
- Whether users possess the attributes and skills to operate the scooter (e.g. requirements for well-developed vision, cognitive function, and physical strength).
- Environment conditions for operating scooters (e.g. surface quality and access to footpaths, and provisions of places to park and charge scooters within the community).

Since the release of the report the ACCC has been working in partnership with key agencies to develop and implement strategies for a united approach to minimise death and injuries related to motorised mobility scooters. These stakeholders include representatives from the mobility scooter industry, health, injury prevention and aged care organisations, and other government agencies.

The ACCC is also working with Standards Australia on a possible voluntary standard covering issues such as appropriate safety requirements for scooters and effective safety warnings.

The mobility scooter injury data research report is available at [www.productsafety.gov.au](http://www.productsafety.gov.au).

Training and education of users and the wider community emerged as a primary contributing factor to the safety of mobility scooters. Specific education requirements included: road rules, sharing public space, common reasons for accidents and skills required to prevent accidents from occurring.

### The role of Ballina Council

Ballina Council has always been a strong advocate of local government's role in road safety education. This has been demonstrated by the employment of a Road Safety Officer (RSO) and the delivery of a variety of road safety programs. As a long-term supporter of the Local Government Road Safety Program, Council currently works with the Roads and Maritime Services (RMS) and key stakeholders to address motorised scooter safety and behavioural issues impacting on the community.

Since the development of the Council' Road Safety Strategic Plan in 2007, the RSO has delivered road safety education programs specifically for motorised scooter users including the delivery of education workshops, a senior road safety road show, the printing of a mobility map and most recently an ongoing community education project titled, "The Path is There to Share", focusing on

the responsible use of shared pathways by all path users. The education workshops for scooter users have been well supported and it is proposed to continue these as part of Council's road safety program.

Further information about the program is discussed below in the options section of the report.

Council has also conducted a review of its Pedestrian Access and Mobility Plan (PAMP) to ensure a coordinated approach to planning pedestrian facilities across the Ballina Shire.

### **Sustainability Considerations**

- **Environment**

The use of motorised scooters may reduce the use of a motor vehicle for short trips.

- **Social**

Motorised scooters can provide social benefits to the user, keeping users active, enables them to maintain their independence, reduce isolation and improve overall quality of life. However, as noted in this report, there are concerns arising from the use of scooters, specifically in relation to safety.

- **Economic**

The emerging trend and increase use of motorised scooters supports access to commercial and retail centres for the users and it supports a mobility scooter retail industry in the Shire.

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

In the 2011/2012 financial year, Council received a \$4,000 grant from RMS to address older road user safety including motorised scooter safety.

In February 2012, Council applied for and received an additional \$1,750 in grant monies to fund a series of pedestrian and motorised scooter safety workshops in the community.

### **Consultation**

Community consultation has occurred through the development of the Road Safety Strategic Plan (2007). On an annual basis the RSO consults with motorised scooter users, mobility scooter retailers, local health professionals, the NRMA, the RMS and the Access Reference Group to develop the motorised scooter workshops, distribute education materials and increase awareness of safety issues.

### **Options**

The RSO in partnership with the RMS and other key stakeholders will continue delivering a road safety seminar titled, 'Road Wise' in June 2012. The project increases awareness of issues effecting older road users, including a session on motorised scooter use. The seminar is delivered in partnership with the NRMA, NSW Police, a local occupational therapist and mobility scooter retailers.

A series of pedestrian and motorised scooter safety workshops will commence on 22 March up until 2 April 2012, in conjunction with Seniors Week. The workshops will inform the scooter users of their rights and responsibilities as a pedestrian and provide information on safe scooting practices, including their use on footpaths, shared-paths and in shopping precincts. The workshops will be delivered in retirement villages, independent living centres and to seniors groups.

Remaining funds will be allocated to updating the mobility maps.

An ongoing road safety program titled, "The path is there to share" will also be delivered this financial year to encourage all shared path users to be considerate of other path users.

In respect of Council's resolution it is proposed that the information in the above report form the basis of Council's submission to Mr Page. In particular it is proposed to highlight that other states do have regulation and that the work of the ACCC would indicate a need for the NSW Government to be developing a response to this issue.

### **RECOMMENDATIONS**

1. That Council notes the contents of this report on motorised wheelchairs and scooters.
2. That the information in this report provide the basis for the submission to the local Member for Ballina and Minister for the North Coast, the Hon Don Page.

### **Attachment(s)**

Nil

12. Public Question Time

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**12. Public Question Time**

13. Notices of Motion

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**13. Notices of Motion**

**13.1 Rescission Motion - DA 2011/373 - Wollongbar Sporting Fields**

**File Reference** DA 2011/373/Notices of Motion

**Councillor** Cr Alan Brown  
Cr Susan Meehan  
Cr Ben Smith

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We, the above Councillors, move that Resolution 230212/13, as follows, be rescinded:

*That DA 2011/373 for the staged construction of sporting fields with associated amenities, carparking, sporting field lighting, Clubhouse facilities, bulk earthworks, civil works associated with the construction of public access roads, the planting of a biological buffer and the provision of utility services to the site at Lot 4 DP 578242, Rifle Range Road and Lot 2 DP 875030, Lot 4 DP 600108, Frank Street, Wollongbar, (Now known as Lot 2 DP 1168781) be **Approved** subject to applicable planning, engineering and environmental condition including the following particular conditions (refer to February motion).....*

*That construction of the connection to the sports fields from Pearces Creek Road be moved to Stage one of the project.*

**Councillor Comment**

The aim of this rescission motion is to transfer the condition for Pearces Creek Road back to stage two, as per the original staff recommendation. The proposed replacement motion is as follows:

*That the Council authorises the General Manager to take appropriate actions to alter the existing consent for DA 2011/373 to transfer the condition for the construction of the Pearces Creek Road from stage one to stage two of the project.*

**Staff Comment**

From a planning perspective rather than rescinding the original consent the preferred options could be for Council to deal with a reconsideration request made by Council's property section or alternatively an application to seek to amend the consent by deleting the condition.

**COUNCILLOR RECOMMENDATION**

That Resolution 230212/13 be rescinded.

**Attachment(s)**

Nil

13. Notices of Motion

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**13.2 Rescission Motion - Land Sale - Lennox Head**

<b>File Reference</b>	Notices of Motion/PN 1437 & 1438
<b>Councillor</b>	Cr Jeff Johnson Cr Susan Meehan Cr Sharon Cadwallader

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We, the above Councillors, move that Resolution 230212/12, as follows, be rescinded:

*Commercial Services Committee Minutes - 20 February 2012*

*That Council confirms the minutes of the Commercial Services Committee meeting held Monday 20 February 2012 and that the recommendations contained within the minutes be adopted.*

If the above resolution is rescinded, we propose to move the following motion:

- 1. That Council confirms the minutes of the Commercial Services Committee meeting held Monday 20 February 2012 and that the recommendations contained within the minutes be adopted, excluding Item 4.2 - Land Sale - Lennox Head.*
- 2. That Council defer a decision on the sale of this land until after the Lake Ainsworth precinct management plans have been reviewed*

**COUNCILLOR RECOMMENDATION**

That Resolution 230212/12, as follows, be rescinded:

*Commercial Services Committee Minutes - 20 February 2012*

*That Council confirms the minutes of the Commercial Services Committee meeting held Monday 20 February 2012 and that the recommendations contained within the minutes be adopted.*

**Attachment(s)**

Nil

**14. Advisory Committee Minutes**

**14.1 Finance Committee Minutes - 5 March 2012**

**File Reference**                      Finance Committee

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**Attendance**

Cr P W Silver (Mayor - in the chair), S L Cadwallader, B C Smith, K H Johnson, P J Moore, R A Hordern, D E Wright, J L Johnson, A J Brown and S M Meehan.

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Steve Barnier (Strategic & Community Services Group Manager), Peter Morgan (Manager Finance & Governance), Paul Tsikleas (Commercial Services Manager) and Sandra Bailey (Secretary) were in attendance.

There were two people in the gallery at this time.

**1. Apologies**

Nil

**2. Declarations of Interest**

Nil

**3. Deputations**

- **Steve McCarthy, Ballina Basketball Association** – spoke in relation to Item 4.9 – Property Reserves and Capital Projects and in particular to the proposed sporting and events centre.

**4. Committee Reports**

**4.1 Delivery Program and Operational Plan 2012/13 - Overview**

**RECOMMENDATION**

(Cr Sharon Cadwallader /Cr Susan Meehan)

That Council notes the contents of this report in respect to the preparation of the Delivery Program and Operational Plan for 2012/13.

FOR VOTE - All Councillors voted unanimously.



#### **4.2 Policy (Review) - Investments**

##### **RECOMMENDATION**

(Cr Keith Johnson/Cr Robyn Hordern)

1. That Council adopts the revised Investment Policy, as attached to this report, subject to the following minor changes:

Clause 3 - Definitions (page 1) – the last sentence – include the word “person” after the word “prudent”.

Clause 9.2 (page 4) – last sentence to be rephrased in a positive manner.

2. That Council place this adopted 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.

FOR VOTE - All Councillors voted unanimously.

#### **4.3 Financial Performance Indicators and Benchmarks**

##### **RECOMMENDATION**

(Cr Ben Smith/Cr Keith Johnson)

That Council notes the contents of this report in respect to Council's performance against our key financial indicators as at 30 June 2011.

FOR VOTE - All Councillors voted unanimously.

#### **4.4 Constitutional Recognition of Local Government - Contribution**

##### **RECOMMENDATION**

(Cr David Wright/Cr Keith Johnson)

1. That in respect to the proposal from the Local Government and Shires Association for funding to assist with a national advertising campaign for the proposed referendum on the constitutional recognition of Local Government, Council advises that its preference is to only provide a financial contribution if there is bi-partisan support for the referendum.
2. The reason for this qualification is that Council finds it difficult to justify the expenditure of public monies, knowing that the likelihood of a referendum being successful without the support of both parties is minimal.

FOR VOTE - Cr Silver, Cr Cadwallader, Cr K Johnson, Cr Smith, Cr Moore, Cr Hordern, Cr Wright, Cr Brown, Cr Meehan

AGAINST VOTE - Cr J Johnson

**4.7 Northern Rivers Community Gallery - Update**

**RECOMMENDATION**

(Cr Susan Meehan/Cr Robyn Hordern)

1. That Council notes the contents of this report which provides an overview of the current operation of the Northern Rivers Community Gallery.
2. That Council consider as part of the 2012/13 budget the allocation of an additional \$6,500 to support the installation of the floating walls.

FOR VOTE - All Councillors voted unanimously.

**4.5 North Creek Dredging - Preliminary Investigations**

**RECOMMENDATION**

(Cr David Wright/Cr Sharon Cadwallader )

1. That Council approves funding of \$5,000, sourced from Council's Industrial Land Development Reserve, to allow a scoping study to be completed into the dredging of North Creek, Ballina.
2. The outcomes from that study are to be reported to Council to allow a determination to be made on whether or not Council will pursue a licence to dredge North Creek.

FOR VOTE - All Councillors voted unanimously.

**4.6 Lennox Head Community Centre - Improvements and Update**

**RECOMMENDATION**

(Cr Sharon Cadwallader /Cr Susan Meehan )

1. That in respect to the provision of additional services at the Lennox Head Community Centre Council confirms its priority for funding is as follows:
- 2.

**Year One**

Chairs	\$20,000
Soundproofing consultancy	\$5,000

**Year Two**

Blackout Blinds	\$7,500
Portable Stage	\$5,500

**Year Three Onwards**

Public Address and Audio Visual	\$36,000
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3. That the program of works listed in point one be considered as part of Council's 2012/13 budget deliberations for the allocation of the Community Infrastructure Program (i.e. approximately \$200,000 per annum) funding.
4. That Council approves a variation to the 2011/12 Lennox Head Community Centre budget as per the following table, along with the draft 2012/13 figures for inclusion in the 2012/13 Operational Plan.

Item	2011/12 Budget	Revised 2011/12 Budget	Draft 2012/13 Budget
<b>Operating Revenues</b>			
Casual Hire	52,000	52,000	57,000
<b>Operating Expenses</b>			
Employee Costs	128,000	128,000	128,000
Sundry Administration	6,000	6,400	6,000
Insurance	27,000	27,000	27,000
Rates (Internal)	4,500	4,000	4,300
Security	4,000	3,500	4,000
Cleaning Contracts	30,700	29,000	32,000
Building Mtce & Equip	9,000	9,000	20,000
Electricity	8,000	7,700	0
Contract Management	5,200	16,800	0
Vehicle Running Costs	9,600	9,600	9,600
Contract Waste	0	0	1,200
Centre Programs	0	0	2,000
Lease - State Govt	0	0	8,900
<b>Total Expenses</b>	<b>232,000</b>	<b>241,000</b>	<b>243,000</b>
<b>Net Cost</b>	<b>180,000</b>	<b>189,000</b>	<b>186,000</b>

5. The increase in the deficit of \$9,000 for 2011/12 is to be offset by matching savings in other programs managed by the Strategic and Community Services Group.
6. That Council authorises the calling of tenders for the contract management of the Lennox Head Community and Cultural Centre and Alstonville Leisure and Entertainment Centre.

FOR VOTE - All Councillors voted unanimously.

#### 4.8 Wardell Community Centre

##### RECOMMENDATION

(Cr David Wright/Cr Keith Johnson)

1. That Council approves the discontinuation of Council's operations at the Wardell Community Centre due to the low levels of community patronage and the inability to attract agency and other service providers to the Centre.

2. That Council receive a further report on the offer made by the Trustees of the Wardell and District War Memorial Hall to acquire the property with that report examining matters such as the status/condition of the hall, opportunities for its future improvement, use and management.

FOR VOTE - Cr Silver, Cr Cadwallader, Cr K Johnson, Cr Smith, Cr Moore, Cr Hordern, Cr Wright, Cr Brown, Cr Meehan

AGAINST VOTE - Cr J Johnson

#### **4.9 Property Reserves and Capital Projects**

A **Motion** was moved by Cr Susan Meehan and seconded by Cr Robyn Hordern.

1. Council endorses the property reserve cash flows and associated works programs, for the period 2012/13 to 2014/15, as per tables one, two and three of this report, with that information to be included in Council's draft Delivery Program and Operational Plan for 2012/13.
2. Council approves any amendments identified in tables one, two, and three of this report in respect to the 2011/12 budget.

Cr Silver declared a pecuniary interest in the Ballina CBD upgrade from the Cherry Street roundabout to Fawcett Park and departed the meeting at 5.51 pm

Cr David Wright, Deputy Mayor, assumed the Chair.

#### **RECOMMENDATION**

(Cr Susan Meehan/Cr Robyn Hordern)

That Council receive a further report on funding the Ballina CBD upgrade to the 20 March 2012 Finance Committee.

FOR VOTE - Cr Cadwallader, Cr K Johnson, Cr Smith, Cr Moore, Cr Hordern, Cr Wright, Cr Brown, Cr Meehan

AGAINST VOTE - Cr J Johnson

ABSENT. DID NOT VOTE - Cr Silver

Cr Silver returned at 06:13 PM and resumed the Chair.

The **Motion** was **CARRIED**, therefore it was

#### **RECOMMENDED**

(Cr Susan Meehan/Cr Robyn Hordern)

1. Council endorses the property reserve cash flows and associated works programs, for the period 2012/13 to 2014/15, as per tables one, two and three of this report, with that information to be included in Council's draft Delivery Program and Operational Plan for 2012/13.

2. Council approves any amendments identified in tables one, two, and three of this report in respect to the 2011/12 budget.

FOR VOTE - Cr Silver, Cr Cadwallader, Cr K Johnson, Cr Smith, Cr Moore, Cr Hordern, Cr Wright, Cr Brown, Cr Meehan

AGAINST VOTE - Cr J Johnson

#### **4.10 Ballina - Byron Gateway Airport - Long Term Financial Plan**

##### **RECOMMENDATION**

(Cr Alan Brown/Cr Sharon Cadwallader )

1. Council endorses for inclusion in the draft 2012/13 Operational Plan the airport long term financial plan as attached to this report.
2. Council authorises an increase in the Ballina - Byron Gateway management staff through the addition of one administrative support position as outlined within this report.
3. Council approves the following amendment to the 2011/12 airport budget to reflect the anticipated cash flows for the apron extension project, which result in a net increase in cash flows to the airport of \$325,000, along with the estimated reduction in drainage expenditure.

##### **Capital Expenditure**

Airport Drainage - Decrease budget from \$50,000 to \$25,000

Apron Extension - Increase budget from \$300,000 to \$525,000

##### **Capital Funding**

Federal Grant - Include capital grant of \$525,000

Reserve Fund - Reduce funding from reserve by \$325,000

FOR VOTE - Cr Silver, Cr Cadwallader, Cr K Johnson, Cr Smith, Cr Moore, Cr Hordern, Cr Wright, Cr Brown, Cr Meehan

AGAINST VOTE - Cr J Johnson

#### **4.11 Local Infrastructure Renewal Scheme**

##### **RECOMMENDATION**

(Cr Keith Johnson/Cr Robyn Hordern)

1. That Council approves an application for the following projects as part of the Local Infrastructure Renewal Scheme:
  - Airport - Runway Renewal - \$7 million
  - Roads - Resealing and Renewal - \$1 million
  - Marine Rescue Tower
2. The loan repayments for the airport are to be financed from airport operating revenues, whereas the repayments for the roads are to be financed from quarry reserves.

Cr J Johnson left the meeting at 07:02 PM.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr J Johnson

## **5. Confidential Session**

### **RESOLVED**

(Cr Sharon Cadwallader /Cr Robyn Hordern)

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

#### **5.1 Ballina - Byron Gateway Airport - Airline Pricing**

##### **Reason for Confidentiality**

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the release of any confidential information could prejudice those negotiations.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr J Johnson

(The Committee moved into Confidential session at 7.07 pm)

#### **5.1 Ballina - Byron Gateway Airport - Airline Pricing**

##### **RECOMMENDED**

(Cr Alan Brown/Cr David Wright)

1. That Council authorises the General Manager to finalise the negotiations and the pricing arrangements for Jetstar as per the terms and conditions outlined in this report.
2. That Council authorises the General Manager to finalise the negotiations and the pricing arrangements for Virgin Airlines as per the terms and conditions outlined in this report.
3. Council authorises the Council seal to be placed on the final agreements.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr J Johnson

**Open Council**

**RESOLVED**

(Cr Sharon Cadwallader /Cr Ben Smith)

That Council move into Open Council and out of Committee of the Whole.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr J Johnson

(The Council moved into Open Council at 7.21 pm)

The General Manager reported to the Open Meeting the recommendation made while in Confidential Session:

**Adoption of Recommendation from Confidential Session**

**RESOLVED**

(Cr Sharon Cadwallader /Cr Ben Smith)

That the recommendation made whilst in Confidential Session be adopted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr J Johnson

**MEETING CLOSURE**

7.22 pm

**RECOMMENDATIONS**

That Council confirms the minutes of the Finance Committee meeting held Monday 5 March 2012 and that the recommendations contained within the minutes be adopted.

**Attachment(s)**

Nil

14. Advisory Committee Minutes

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**14.2 Finance Committee Minutes - 20 March 2012**

**File Reference**                  Finance Committee

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The Minutes will be distributed prior to the meeting.

**RECOMMENDATIONS**

That Council confirms the minutes of the Finance Committee meeting held Tuesday 20 March 2012 and that the recommendations contained within the minutes be adopted.

**Attachment(s)**

Nil



14. Advisory Committee Minutes

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**14.3 Commercial Services Committee Minutes - 20 March 2012**

**File Reference**                      Commercial Services Committee

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The Minutes will be distributed prior to the meeting.

**RECOMMENDATIONS**

That Council confirms the minutes of the Commercial Services Committee meeting held Tuesday 20 March 2012 and that the recommendations contained within the minutes be adopted.

**Attachment(s)**

Nil

15. Reports from Councillors on Attendance on Council's behalf
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**15. Reports from Councillors on Attendance on Council's behalf**

**15.1 Mayoral Meetings**

<b>File Reference</b>	Mayoral
<b>Councillor</b>	Cr Phillip Silver

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Activities since the February 2012 Ordinary meeting:

<u>Date</u>	<u>Function</u>
24/2/12	Media - ABC and NBN re LEP
24/2/12	Meeting Don Page, Regional issues in Ballina
28/2/12	Meeting Police LAC Command in Lismore
1/3/12	Meeting Essential Energy in Ballina
2/3/12	Service 3C Church in Ballina
5/3/12	Meeting Lennox Developer with staff in Ballina
6/3/12	Meeting Ballina Ratepayers Association with staff in Ballina
7/3/12	Combined Services Club dinner in Ballina
8/3/12	C Ward meeting in Alstonville
9/3/12	Minister Jason Clare, Lights at Saunders Oval, Elizabeth Ann Brown Park and Bicentennial Gardens
10/3/12	Cumbalum Information session in Lennox Head
10/3/12	Art exhibition opening in Ballina
14/3/12	Media ABC, Basketball Association
14/3/12	Ballina Anglican Parish Council meeting in Ballina
15/3/12	County Council constituents meeting in Lismore
20/3/12	Internal Audit Committee meeting in Ballina
20/3/12	Jali Land council meeting with staff in Ballina
20/3/12	Minister Don Page and Duncan Gay, Regional Action Plan meeting in Ballina
21/2/12	Minister Don Page, Deputy Premier and Cross Border Commissioner meeting in Ballina
21/3/12	Merrymakers function in Ballina
21/3/12	Quota friendship dinner in Alstonville

**RECOMMENDATION**

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

**Attachment(s)**

Nil

- 16. Questions Without Notice
  - 17. Confidential Session
- 

**16. Questions Without Notice**

**17. Confidential Session**

Nil items