



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, 40 Cherry Street, Ballina on **Thursday 27 September 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

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 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.

Table of Contents

1.	Australian National Anthem	1
2.	Acknowledgement of Country	1
3.	Apologies.....	1
4.	Confirmation of Minutes.....	1
5.	Declarations of Interest and Reportable Political Donations.....	1
6.	Deputations	1
7.	Mayoral Minute	2
7.1	Mayoral Minute - Lennox Head Surf Club Re-development	2
8.	Regulatory Services Group Report.....	4
8.1	DA 2012/300 - Strata Title Duplex Development, Lennox Head	4
8.2	DA 2012/315 - Caretakers Residence - Alstonville	12
8.3	Development Applications - Works in Progress - September 2012	19
8.4	Development Consent Statistics - August 2012	28
9.	Strategic & Community Services Group Reports	29
9.1	LEP Amendment - Burns Point Ferry Road (Former Motel Site)	29
9.2	Policy (Draft) - Naming of Council Owned Facilities	35
10.	General Manager's Group Reports	38
10.1	Use of Council Seal	38
10.2	Investment Summary - September 2012	39
10.3	Councillor Attendance	43
10.4	Rates and Charges Write Offs - 2011/12	45
10.5	Ballina Cup 2013	50
10.6	Councillor Fees	53
10.7	Deputy Mayor - Election	55
10.8	Committees - Internal - Appointments	57
10.9	Committees - External - Appointments	67
11.	Civil Services Group Reports.....	74
11.1	Tender - Provision for Sprayed Bituminous Surfacing	74
11.2	Ballina Bypass - Handover	77
11.3	Australian Research Council Grant - Southern Cross University	83
12.	Public Question Time.....	87
13.	Notices of Motion.....	88
13.1	Notice of Motion - Harvesting of Pipis	88
14.	Advisory Committee Minutes	90
15.	Reports from Councillors on Attendance on Council's behalf	91
16.	Questions Without Notice	92
17.	Confidential Session.....	93
17.1	Lease - 64 Crane Street, Ballina	93
17.2	Tender - Construction of Apron Extension and Taxiway	94

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

1. Australian National Anthem

The National Anthem will be performed by Nick Wheeler.

2. Acknowledgement of Country

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

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

3. Apologies

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 August 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 August 2012.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7.1 Mayoral Minute - Lennox Head Surf Club Re-development

7. Mayoral Minute

7.1 Mayoral Minute - Lennox Head Surf Club Re-development

Councillor David Wright

At the June 2012 Ordinary meeting Council resolved to proceed with the sale of 2-4 Ross Street, Lennox Head with the sale proceeds to be allocated to the re-development of the Lennox Head surf club and Lake Ainsworth precinct. The actual resolution passed by Council was as follows:

That Council use the proceeds of the sale of 2-4 Ross Street, Lennox Head to the State Government to:

1. *Fund temporary/emergency repairs to the Lennox Head Surf Club (approximately \$50,000)*
2. *Fund the planning of the development of a new surf club to DA stage – including use of the site surrounding it, for community use.*
3. *Assist the upgrade of the Lake Ainsworth Management Plan and to fund some of the main priorities.*
4. *With the remaining funds to be allocated to the reconstruction of the Lennox Head Surf Club.*

The vote for this resolution was unanimous.

The General Manager advises that the sale proceeds (\$1.36 million GST excluded) have now been received by Council. Also as part of the 2012/13 budget Council allocated \$11,000 to the Lennox Head Surf Club which is assisting the Club with interim repair arrangements.

It is understood that the newly elected Council has to review all its major capital works priorities for the next four years and this review will occur over the next three to four months as part of the Councillor Induction Program. However planning for projects such as a surf club can take many months, or even years, to progress and with funding immediately available for the design and approval process it may well be in the community's interest to have planning approvals in place prior to any forthcoming Federal election.

With these comments in mind it is recommended that Council endorse a proposal, similar to the June 2012 Ordinary meeting resolution, to allow planning for the re-development of the Lennox Head Surf Club precinct to be immediately advanced. Overall, there is across the board support for a proposal that would see plans for the surf club redevelopment in place, along with detailed planning for improved drainage on the eastern side of Lake Ainsworth, increased car parking and likely closure of the eastern road.

As a very preliminary estimate the total cost of this project could be around the \$5 million mark based on an estimate of \$3.5 to \$4m for the building and \$1m to \$1.5m for the drainage and road works. No detailed estimates have been prepared to date.

Council currently has \$1.36 million available from the land sale and the preference would be to aim for a Council allocation of around \$2 million to the

7.1 Mayoral Minute - Lennox Head Surf Club Re-development

project with the balance (\$3 million) being provided by Federal and / or State Governments. This is considered to be a realistic goal for Council to pursue.

Typically the design and approval process for such a project may absorb up to 8% or 10% of the total cost and on that basis it is recommended that Council allocate \$400,000 (8%) from the Ross Street land sale proceeds to allow tenders to be called for a firm to prepare the necessary drawings and plans to allow a development consent to be obtained.

The firm appointed would need to be multi disciplinary to cover all facets of the project (i.e. car parking, drainage, road works, building design etc). There will also need to be extensive consultation with the Surf Club and other interest groups.

Time is considered paramount for this project and even though we have not reviewed the entire priorities for this Council with a large part of our funding already available it is timely for Council to advance the planning for this project.

The recommendation that follows only mentions the "possible" closure of the eastern road, as even though this is the preferred outcome as per Council's adopted Lake Ainsworth Master Plan, it is appropriate that this be technically analysed as part of the detailed design process. It is envisaged that Councillors will be actively involved in endorsing the final detailed designs for the precinct.

RECOMMENDATION

That Council authorises the allocation of \$400,000 from the proceeds of the Ross Street land sale to engage a suitably qualified firm to prepare the detailed designs and associated plans for the redevelopment of the Lennox Head Surf Club, including improved drainage and parking outcomes, along with the possible closure of the eastern road access, as per the Lake Ainsworth Master Plan. The remaining Ross Street land sale proceeds are to be retained for the balance of the works required for this project.

Attachment(s)

Nil

8.1 DA 2012/300 - Strata Title Duplex Development, Lennox Head

8. Regulatory Services Group Report

8.1 DA 2012/300 - Strata Title Duplex Development, Lennox Head

Applicant	Paul R. Gray Architect P/L
Property	Lot 10 DP 11687 No. 5 Stewart Street Lennox Head
Proposal	Strata Titled Duplex Development
Effect of Planning Instrument	The land is zoned 2a Living Area under the provisions of the Ballina Local Environmental Plan (BLEP) and M1 Medium Density under Council's Combined Development Control Plan (DCP) No.1
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

Council is in receipt of an application for a two storey detached strata title duplex development at the above property. The 728.4m² vacant site is situated within the Lennox Head Village area, located approximately 100 metres from the foreshore and immediately to the west of the existing Lennox Hotel and 14 unit Lennox Head Residential Apartment complex.

The site has dual frontage to both Stewart Street and Cliff Murray Lane with the applicant intending to have separate vehicle access and garaging to each unit off the street and lane. Unit One is to be accessed off Stewart Street whilst Unit Two is to be accessed via Cliff Murray Lane.

The proposed dual vehicle access and garaging is considered to be inconsistent with the existing planning controls that affect the Lennox Head Village area and is the reason the application is being reported to Council. The relevant planning controls and objectives that affect the site will be detailed later in the report.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The application was notified and advertised in accordance with Council policy with one written submission being received from planning consultants Ardill Payne and Partners on behalf of the Lennox Hotel owners.

8.1 DA 2012/300 - Strata Title Duplex Development, Lennox Head

The attached submission, although not an objection, raised concerns over the fronting of Unit Two to Cliff Murray Lane and potential conflicts with the operation of the hotel. On receipt of the submission, on-site discussions have been held between the applicant, owners, and Council staff, with the original design plans for Unit Two now being modified to those that are currently before the Council.

The modifications have been supported by the Hotel owners and are considered to have addressed the issues raised in their submission. This matter will be discussed further within the report.

Applicable Planning Instruments

The site is zoned 2a Living Area under the BLEP, R3 Medium Density Residential under the Draft BLEP and designated M1 Medium Density under Council's Combined DCP No.1.

Under the above planning documents, the construction of a strata title duplex is permissible on the land with Council consent. The proposal complies with the building height reference of 6.4 metres as measured from natural ground level to the upper ceiling level as contained in clause 17 (2) of the BLEP.

The land is also currently affected by Chapter 16 (CH16) – Lennox Head; contained within Council's Combined DCP No.1. The proposal is generally consistent with this Chapter with the exception of Part 4 of the document, requiring off street car parking and garaging to be accessed from a laneway where available. The requirements and objectives of CH16 will be discussed later in the report.

Report

The proposed development consists of two detached two storey residential units as depicted in the plan attachments accompanying this report. The units differ in their design layout, however generally comprise double garages, bedroom, bathroom and laundry facilities to the lower floor with main bedroom, living areas and decks to the upper floors.

The proposed exterior materials of construction comprise a combination of painted rendered blockwork, weatherboard and fibre cement wall cladding with Colorbond roofing. The composite use of lightweight external materials and skillion roof design is encouraged under CH16.

CH16 was adopted by Council on 27 September 2007, which introduced certain planning controls to the Lennox Head area. These controls include issues of building design, overall building height, building setbacks/ building height planes, floor space ratios, privacy, solar access and vehicle access. Importantly, Council's current Shire DCP is under review.

The new draft plan is currently on public exhibition and proposes modifications to Council's current residential planning controls across the Shire, including those contained within the current CH16 document.

This review will see the abolition of CH16, with the proposed introduction of a new Shire-wide Chapter 4 specific to Residential Development, intending to maintain and clarify some of the planning controls currently within CH16.

8.1 DA 2012/300 - Strata Title Duplex Development, Lennox Head

The following table assesses the proposal against the relevant criteria contained within CH16.

Planning Control	Requirement	Proposal/ comment
Building height	8.4 metres overall height	Proposal complies; approx. 7 metres overall height.
Floor space/ site ratio	0.5:1	proposal complies; 0.47:1
Building Height Plane (BHP)	BHP applies to Stewart Street and side boundaries only.	Proposal generally complies with exception to minor encroachments within the BHP to the northern elevation of each unit by approx. 200-300mm. There are no impacts with these minor departures regarding overshadowing of the adjoining properties. Similar variations have been given in the area where no amenity issues exist.
Building line setback	BHP dictates setback to Stewart Street. One metre setback to Cliff Murray Lane permissible for "non residential frontage lane" lots.	Proposed 5.8 metre setback to Stewart Street and minimum 2.8 metre setback to Cliff Murray Lane; proposal complies.
Solar access	Habitable rooms/ living spaces of adjoining properties to have min. 4 hours of sunlight between 9.00-3.00pm.	Proposal complies. The development will not significantly overshadow adjoining residents as the BHP is maintained to the southern elevation, with the upper floor set back a minimum 3.7 metres from the southern boundary.
Privacy/ overlooking	Implement protection measures as detailed in Part 3 of CH16.	Proposal satisfies the objectives of CH16 with there being no significant issues regarding privacy. High set windows utilised to the southern elevation of both units and privacy screen proposed to the southern elevation of the upper floor deck of Unit One. There are no privacy issues with the proposed northern elevation upper floor deck to Unit Two.

8.1 DA 2012/300 - Strata Title Duplex Development, Lennox Head

Planning Control	Requirement	Proposal/ comment
Vehicle access/garaging and dwelling frontage	Under Section 4.3.3, on-site car parking and garages are to be accessed from a laneway where available. Dwellings are to only front lane on nominated "residential frontage lane lots."	Proposal does not comply with proposed vehicle access and garage parking to Unit One off Stewart Street. Unit Two complies, having vehicle access and garaging off Cliff Murray Lane. CH16 identifies the site as a "non residential frontage lane lot". Unit Two has the front door entry frontage to Cliff Murray Lane. Original plans have been modified to re-orientate the living areas and deck of the dwelling to the north, it is considered that they now comply.
Building design	Reflect beach style character of Lennox Head.	Proposal complies, use of composite building materials and skillion roof design.

With reference to the above table and the frontage of Unit Two, the original plans submitted depicted this unit as having frontage to Cliff Murray Lane, including the lower floor front door entry, upper floor living and deck areas. The plans now submitted have been substantially modified, with the living areas and upper deck to Unit Two now being orientated to the north rather than east, toward the hotel.

Certain existing sites (total 27) within the Lennox Head Village Stewart/Gibbon Streets precinct have been identified under CH16 to remain as "residential frontage lane lots" (ie able to have dual residential frontage and vehicle accesses/garaging to both the street and the lane), however this site is not one of them as it is identified as a "non residential frontage lane" lot.

This requirement has been reiterated in the submission received from the adjoining hotel owners, where Section 4.3.3 and Figure 4.1 of CH16 have identified the site as being a "non residential frontage lane lot". The development controls supporting this section also state;

"(ii) the creation of residential frontage to lanes shown as "non residential frontage lane" in Figure 4.1 is prohibited".

Although CH16 contains no clear definition on what a "residential frontage" design entails, the Unit Two design depicts the front entry door facing the laneway, however this component forms a minor portion of the eastern lane elevation view. At ground floor level, the double garage and driveway forms the dominant feature to the lane as encouraged under CH16. The ground floor yard area of Unit Two is orientated to the north and secured with a 1.8 metre high laneway frontage solid fence and sliding driveway access gate.

This lane frontage fencing and solid driveway gate assists with the screening of the front entry door as viewed from the lane and visitors to Unit Two are encouraged to gain pedestrian access off Stewart Street via the common walkway between Units One and Two.

As stated previously, the original plan submission for Unit Two indicated the upper floor living room and deck areas to be oriented directly to the east, toward the carpark entry of the Lennox Hotel. This design, as acknowledged by the submission from the owners of the hotel, had serious potential for noise and other amenity conflicts to arise regarding the general hotel operations.

The design plans now before Council, have been sensibly modified to redirect the orientation of the upper floor living rooms and deck areas to the north, rather than the lane and hotel carpark to the east. The modified plans have also resulted in a re-design of the window and door layout to the upper floor living room areas.

It is also proposed to utilise acoustic 6.38mm laminated glazing to the northern, southern and eastern windows and doors of the living room and kitchen areas. Acoustic wall insulation to the upper floor eastern and southern walls of the living room and kitchen areas is also proposed. These modifications are supported by the adjoining hotel owners, and are considered to sufficiently address the potential conflicts with the normal hotel operations.

Accordingly, the design of Unit Two as viewed from the lane is considered acceptable, being compliant with the objectives of CH16 and in keeping with other existing development in the area.

As is demonstrated in the earlier table, the only area of departure from CH16 warranting comment, particularly relates to Unit One having vehicle access and garaging off Stewart Street, not Cliff Murray Lane. The purpose of Section 4.3.3 of CH16 was to introduce standards to “curb the use of laneways as a residential street frontage” and utilise lanes as “slow ways” for traffic movement.

This purpose was seen as moving toward the past, traditional, use of Lennox’s laneways, being predominantly for traffic movements and service delivery.

The design objectives of Section 4.3.3 further “encourages the use of laneways for providing vehicular access to all development” and part (v) of the development control standards which supports this section states;

“(v) on-site car parking and garages are to be accessed from a laneway where available”.

The requirement for having all vehicle access including garaging off the laneway is considered restrictive on design. This has been demonstrated by the applicant who has submitted documentation in support of their application, including four alternative design options (as attached).

Design Option 1 is the applicant’s preferred submitted application with dual lane and street vehicle access, whilst Options 2-4 all depict vehicle access and garaging to both units off the laneway.

Option 2 demonstrates the poor use of quality open space areas for required driveway and vehicle manoeuvring areas. It is acknowledged the driveway areas could be relocated to the southern side of the units, however this would result in the buildings moving further northward and encroaching into desired private northern yard areas.

Option 3 indicates the need for connecting the Unit One garage off the lane to the dwelling fronting Stewart Street which could result in greater pedestrian traffic and the need for privacy screening. Additional weatherproofing through the roof covering of the walkway may also be required.

Option 4 results in a poor lengthy mirrored floor plan layout having inadequate quality private open space and solar access. Option 4 exists with many of the current three unit developments in the area, which have resulted in poorer outcomes regarding solar access, privacy, noise and other social issues.

Option 1 as proposed with independent attached garages, does appear to provide greater design flexibility for a clearly defined front and rear detached dwelling design, having defined strata boundaries with suitable independent private open space and solar access.

Since the introduction of CH16, Council staff members have been involved in several discussions with land owners of “non residential frontage lane lots” regarding their concerns over the requirement for all vehicle accessing and garaging to be off the lane where available. The requirement has in some instances stifled and delayed re-development where some owners have indicated they would prefer to await a Council review of CH16.

The requirement has proven difficult for design purposes, particularly for infill development on narrow sites. Most sites in the Lennox Village Stewart/Gibbon Streets precinct have narrow lots approximately 16 metres wide. The width of the subject site is only 15.5 metres.

There are also examples of other development that has proceeded in the vicinity under the NSW Government State Environmental Planning Policy (SEPP) Exempt and Complying Development Code’s 2008 approval process which overrides any local council planning instrument and permits vehicle access/garaging off both the street and lane.

For advice purposes, the laneway access requirement has recently been discussed with Council’s Strategic Services Group. Strategic Services acknowledges that a requirement for all vehicle access and garaging to be to the laneways would be restrictive, and advise that it was not the intention of the document to prohibit vehicle access and garaging off the main street frontages, such as Stewart and Gibbon Streets. Although laneway access and garaging is encouraged off the lane, access and garages off the street frontages in their view is permissible, providing the objectives of CH16 are maintained.

This advice has been supported through Strategic Services’ recent review of Council’s Local Environmental Plan and Combined Development Control Plan No.1. The Draft Ballina Shire Development Control Plan 2012 (presently on public exhibition) Chapter 4- Residential Development, still “encourages the use of laneways for providing vehicle access”, however will not prohibit access off street frontages.

8.1 DA 2012/300 - Strata Title Duplex Development, Lennox Head

Council's Civil Services Group also support one unit having vehicle access and garaging off Stewart Street due to the potential for laneway traffic congestion with both the Lennox Hotel and the 14 unit Lennox Residential Apartment complex being located opposite to the east with entry/egress points to the lane.

In view of the comments from both the Strategic Services and Civil Services Groups and the proposed amendments to the Shire DCP, the proposed vehicle accessing and garaging to Unit One off Stewart Street is considered acceptable and functional.

Conclusion

The development is permissible and considered to be generally consistent with the planning controls that apply to the Lennox Head Village area precinct with exception to Section 4.3.3 of CH16 where on-site car parking and garages are to be accessed from a laneway where available.

As discussed within the report, the proposed dual access off both Stewart Street to Unit One and Cliff Murray Lane to Unit Two is considered reasonable in providing a functional and desirable duplex layout. Council's Strategic Services Group has confirmed that although laneway access and garaging is encouraged, vehicle access directly off Stewart Street is permissible and was not intended to be prohibited under CH16. This advice is now supported within the proposed Shire Draft Development Control Plan, currently on exhibition.

The plans submitted have been sufficiently modified to address the concerns raised by the adjoining hotel owners. The re-orientation of the living areas to the north, window redesign to the upper floor living areas, solid laneway fencing and inclusion of passive acoustic attenuation measures to the building fabric of Unit Two will minimise the risk of any noise issues arising. The consent is to be sufficiently conditioned to cover these issues.

In conclusion, the scale of the development will sit well within the existing urban surrounds and contribute positively to the streetscape.

Options

1. Approve the Development Application as submitted.

It is considered this option is the appropriate action with the development being generally consistent with Council's existing planning controls including Council's Draft Development Control Plan 2012.

2. Refusal of the application as submitted, being inconsistent with Council's Combined Development Control Plan No.1, Chapter 16 Section 4.3.3.

It is considered this action would be inappropriate. Any refusal would be difficult to defend based on the advice received from both the Civil Services and Strategic Planning Groups and the proposed modifications to the Shire Draft Development Control Plan.

RECOMMENDATION

That Development Application 2012/300 for the construction of a two storey detached strata titled duplex be **APPROVED** subject to the following conditions. Additional standard consent conditions will also be applied.

1. The upper floor living room area northern sliding doors, eastern and southern windows of Unit Two are to consist of a minimum 6.38mm toughened glass
2. The upper floor kitchen area southern window of Unit Two is to consist of a minimum 6.38mm toughened glass
3. The upper floor living room/ kitchen areas eastern and southern walls of Unit Two are to be suitably foil sarked and provided with acoustic R2 insulation within the wall cavities.

Attachment(s)

1. DA 2012/300 - Locality Plan
2. DA 2012/300 - Modified Plans
3. DA 2012/300 - Options Plan
4. DA 2012/300 - Submission (Ardill Payne & Partners)

8.2 DA 2012/315 - Caretakers Residence - Alstonville

8.2 DA 2012/315 - Caretakers Residence - Alstonville

Applicant	SJ Connelly Pty Limited
Property	Lot 62 DP 789127, No's 15-17 Northcott Crescent, Alstonville
Proposal	To Undertake the Use of Part of an Existing Industrial Building for the Purpose of a Caretaker's Residence
Effect of Planning Instrument	The land is zoned Industrial under the provisions of the Ballina LEP
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

The Northern Light Candle Company proposes to use part of an existing industrial building as a caretaker's dwelling in association with bees wax candle production. The proposed caretaker's dwelling is to occupy two levels with a proposed fire wall separating the industrial use to the dwelling (proposed at the eastern end of the building) (site plan attached).

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The application was not placed on public exhibition.

Report

The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, and is recommended for refusal. The proposed caretaker's dwelling (even if directly associated with the existing industrial use) will not be compatible with the general industrial nature of the estate and is not considered to be in the public interest as it has the potential to sterilise existing and/or future industrial uses on other nearby land.

Zoning

Ballina Local Environmental Plan 1987 (BLEP)

The current zoning of the site under the BLEP is:

4 – Industrial – which is identified to become I2 General Industry under the Draft Ballina Local Environmental Plan 2011 (DBLEP).

8.2 DA 2012/315 - Caretakers Residence - Alstonville

The proposed caretaker's accommodation is defined as a "dwelling" under the BLEP and "residential accommodation" within the DBLEP.

Notwithstanding this, the applicant is attempting to rely upon the fact that the caretaker's dwelling is ancillary to the existing approved industrial use as it is specifically for use by staff of the Northern Light Candle Company.

Although the use may be considered ancillary, and can be considered under the BLEP, it is inconsistent with the provisions of the Industrial DCP as outlined later in this report.

It is also considered that the caretaker's dwelling is inconsistent with the objectives of the Industrial Zone which are:

A The primary objectives are:

(a) to regulate the subdivision and use of land to permit its use for industrial purposes and other uses specified in clause 27 and Schedule 3,

Comment

The proposed caretaker's dwelling is not an industrial use or a specific use in clause 27 and Schedule 3. The proposal is therefore considered to be inconsistent with Primary Objective A (a):

(b) to allow detailed provision to be made, by means of a development control plan, to set aside specific areas within the zone for different industry types and intensities of development, and

Comment

Council has made detailed provisions via the Ballina Combined Development Control Plan, outlining that caretaker's dwellings are not a preferred land use in General Industrial (I2) areas. This is further reinforced by Policy Statement No. 5 - Industrial Development which specifically states:

"caretaker's residences will only be permissible in Control Plan Areas I1 - Local Industry in order to protect operations developed within Control Plan Areas I2 - General Industry from being constrained by conflicting activities."

Council has consistently applied this standard since the introduction of the principal DCP in 1994 and has only permitted caretaker's dwellings in certain areas of industrial land (not including the Russellton Industrial Estate).

The proposal is therefore considered to be inconsistent with Primary Objective A (b).

(c) to ensure industrial development creates areas which are pleasant to work in, safe and efficient in terms of transportation, land utilization and service distribution.

Comment

The applicant contends that due to the unusual nature of the work currently carried out and need for technical supervision, that the proposal will ensure a safe and efficient industrial use consistent with the objective.

8.2 DA 2012/315 - Caretakers Residence - Alstonville

This is not supported as staff can reasonably conduct shifts to carry out required processes and/or staff can reside in the nearby residential villages of Wollongbar or Alstonville and travel to the premises when required, (as occurs for other industrial or commercial land uses/businesses which regularly require similar staffing/supervision requirements).

This industrial use was approved via DA 2003/272 and has been operating suitably since this time without the need for a caretaker to reside on-site.

A general industrial estate with associated potentially offensive land uses is generally not conducive to residential accommodation, even where utilized in association with an existing industrial use.

The proposal is therefore considered to be inconsistent with Primary Objective A (c).

B The exception to these objectives is development of land within the zone for public works and services, outside the parameters specified in the primary objectives.

Not applicable in this instance.

Draft Ballina Local Environmental Plan 2011

The subject site is proposed to be zoned IN1 – General Industrial and the proposal could be defined as “residential accommodation” which is prohibited in the IN1 Zone. Residential accommodations means:

“a building or place predominately used as a place of residence.”

The applicant contends that the proposal does not “fit” this definition as it is ancillary to the primary use of the land for light industrial purposes.

This interpretation is not supported in this context. Although the primary use of the building may be considered as industrial, the proposal is for a separately defined land use.

Even if Council did not consider the proposal to be defined as residential accommodation and therefore not strictly prohibited, it must still be consistent with the objectives of the zone. The applicant has not provided comments specifically in relation to consistency with the objectives.

The objectives of the IN1 General Industrial zone are as follows:

- *To provide a wide range of industrial and warehouse land uses.*

Comment

Not applicable to this application.

- *To encourage employment opportunities.*

Comment

Not applicable to this application.

- *To minimise any adverse effect of industry on other land uses.*

Comment

Not applicable to this application.

- *To support and protect industrial land for industrial uses.*

Comment

The provision of a caretaker's residence may support the existing use within this building, however the placement of residential accommodation whether or not ancillary to an existing industrial use is not considered to be protecting surrounding industrial land for industrial uses.

It is evident that the current (and possibly future) surrounding land uses comprise significant and substantial general industries (not considered to be low intensity) that generate emissions such as noise and odour that are not compatible with residential accommodation (including a "caretaker's dwelling").

The potential for land use conflict on residents and therefore the sterilization of surrounding industrial lands for legitimate industrial uses is probably the main reasoning for applying the restrictions on any form of residential accommodation in the principal general industrial areas of the Shire, (which includes the entire area of the Russellton Industrial Area).

The protection of industrial land from the potential for complaint, particularly when there is a large existing vacant industrial allotment immediately adjoining the site to the north-east is fundamental to the on-going functioning of an industrial estate.

- *To enable non-industrial uses that are compatible with the industrial nature of the locality.*

Although this is a non-industrial use that is considered by the applicant to be compatible with the nature of the industrial use within the building, it is not one that is considered compatible with the industrial nature of the locality. This industrial estate can have what are considered to be offensive and/or hazardous industries which are not compatible with residential occupation, whether the residents be workers or not.

- *To provide for the efficient use of industrial land.*

The use of part of an existing industrial building for residential uses is not considered an efficient use of industrial land or an industrial building. This use reduces the available floor area for industrial uses.

- *To encourage development that achieves the efficient use of resources such as energy and water.*

Not generally applicable to this proposal.

8.2 DA 2012/315 - Caretakers Residence - Alstonville

- To ensure that development does not expose adjoining uses to hazard risks.

The caretaker's dwelling itself will not expose adjoining uses to hazard risks, however the existing and/or future uses of surrounding industrial uses may expose the residents of the caretaker's dwelling to hazard risks.

As can be seen from the existing and proposed objectives of the Industrial zones, the provision of a caretaker's dwelling is not consistent with the majority of the objectives.

Ballina Combined Development Control Plan

Potential Land Use Conflict

The I2 – General Industry control plan area objective aims;

"To encourage the establishment and expansion of general industries service trades and selected retail and commercial activities in accessible location reasonably separated from existing and proposed living areas".

As previously outlined within this report, the primary reason that Council has restricted the placement of caretaker's dwellings within general industrial estates is due to the potential for adverse impacts on occupants/residents from industrial uses and the potential for such residents to restrict legitimate industrial activities in adjoining and nearby premises.

The current (and possibly future) surrounding land uses comprise significant and substantial general industries that generate emissions such as noise and odour that are not compatible with any form of residential accommodation (including a "caretaker's dwelling").

There are macadamia processing industries and a concrete batching plant within the immediate locality. The applicant has also failed to address that the adjoining vacant property to the east has recently gained approval for a Waste Resource Management Facility and Depot (DA 2012/88) involving the use of mobile crushing machines and the like for construction and demolition waste.

The noise report that accompanied the proposal had due regard for the nearest dwelling at the time, being 145 metres to the north of the subject site, however did not envisage any dwelling closer than this (particularly immediately adjoining).

If this consent is relied upon and activated, notwithstanding the other surrounding land uses, it is clear that there will be a future impact on the amenity of the proposed occupants of the caretaker's dwelling, if it is approved, and the residential use will be generally incompatible with the land uses permitted within the industrial estate. The proposal is inconsistent with the I2 Objectives of Chapter 1 – Urban Land.

8.2 DA 2012/315 - Caretakers Residence - Alstonville

Council should also note that the existing building that is proposed to contain the caretaker's dwelling is of light weight construction (i.e. painted hebel walls and colourbond wall sheeting), thereby not providing occupants with much noise attenuation. The caretaker's dwelling is also orientated and is proposing additional openings to the north, i.e. immediately facing the proposed Waste Resource Management Facility and Depot which will allow noise to easily penetrate the dwelling.

The current owner has had the benefit of the original consent since 2003, which permitted the candle manufacturing. Since this time the owner has operated without the need for a caretaker's dwelling on site for workers.

Council Officers have requested clarification as to why staff cannot reasonably conduct shifts to carry out required processes and/or why staff cannot reside in the nearby residential villages of Wollongbar or Alstonville and travel to the premises when required, (as occurs for other industrial or commercial land uses/businesses which regularly require similar staffing/supervision requirements).

The applicant has simply provided the following advice in this regard...*"I am advised by the owner and operator of the business that it is not plausible for staff to operate in shifts nor reside in areas in the immediate residential villages of Alstonville and Wollongbar."*

Conclusions

The proposal is clearly inconsistent with the objectives of the Industrial zone and the Combined Development Control Plan which has been consistently applied in relation to caretaker's dwellings.

Notwithstanding that the applicant intends to limit the use of the caretaker's dwelling only whilst the candle manufacturing is occurring, this does not negate the possibility of amenity impacts on occupants from surrounding industrial land uses (existing, approved and possible).

This is an important industrial estate for the area and should not be put at risk by allowing a caretaker's dwelling. This could set a precedent for further caretaker's dwellings within this and other general industrial zones when Council has carefully planned to avoid this since the mid 1990's via the consistent application of development controls limiting caretaker residences to identified light industrial areas.

RECOMMENDATION

That Development Application 2012/315 be **REFUSED** for the following reasons:

1. The proposal is inconsistent with the objectives of Zone No. 4 – Industrial of the Ballina Local Environmental Plan 1987
2. The proposal is inconsistent with the objectives of the proposed IN1 – General Industrial Zone of the Draft Ballina Local Environmental Plan 2011
3. The proposal is inconsistent with Council's Combined Development Control Plan and would create land-use conflicts within an important industrial area of the Shire
4. The proposal is not in the public interest.

Attachment(s)

1. DA 2012/315 - Locality Plan
2. DA 2012/315 - Site Plan/Elevations

8.3 Development Applications - Works in Progress - September 2012

8.3 Development Applications - Works in Progress - September 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.

DA No.	Date Rec'd	Applicant	Proposal	Status
2006/242	20/10/2005	Ardill Payne & Partners	Site Filling - No. 21 Cumbalum Road, Cumbalum	Awaiting Additional Information
2008/578	6/2/2008	A Koellner	Erection of a Shed for Steel Fabrication - No. 21 Cumbalum Road, Cumbalum	Awaiting Additional Information
2010/278	6/11/2009	Ardill Payne & Partners	To Establish a dwelling/house site – No. 263 Sneesbys Lane, East Wardell	Determination Pending
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
2011/320	22/07/2011	Ballina Shire Council	To change the method of extraction of an existing 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	Being Assessed

8.3 Development Applications - Works in Progress - September 2012

			rehabilitation works - (Ballina Airport Sandpit) Southern Cross Drive, Ballina	
2011/506	23/11/2011	C Lonergan	Regularise and Expand existing Caravan Park from 55 Sites to 178 Sites and construct new Amenities Block and Recreation Building, 440 South Ballina Beach Road, South Ballina	Being Assessed
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
2011/541	20/12/2011	Ballina Shire Council	Construction of a Surf Club Storage Building, 78 space carpark, bulk earthworks and landscape works; Cedar Crescent, Light House Parade & Compton, Drive East Ballina	Awaiting Additional Information
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	Awaiting Additional Information

8.3 Development Applications - Works in Progress - September 2012

			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	
2012/69	7/03/2012	D Cope	Erection of a Rural Worker's Dwelling, 161 Broken Head Road, Newrybar	Determination Pending
2012/137	16/04/2012	SJ Connolly CPP Pty Ltd	Two Lot Subdivision, 61 Jorgensens Lane, Brooklet	Determination Pending
2012/201	01/06/2012	SJ Connolly CPP Pty Ltd	Two Lot Boundary Adjustment Subdivision – L76 The Coast Road Skennars Head & L50 Condon Drive, East Ballina	Determination Pending
2012/238	22/06/2012	The Ryan Family Trust Superannuation Fund	Erection of an Industrial Building for general industry use purpose - 27 Piper Drive, Ballina	Determination Pending
2012/245	26/06/2012	RJ Cunningham	Alteration and Additions to an existing Industrial Building - 5 Robb Street, Alstonville	Determination Pending
2012/256	29/06/2012	Newton Denny Chapelle	Staged Erection and Strata Title Subdivision of a	Determination Pending

8.3 Development Applications - Works in Progress - September 2012

			Residential Flat Development Comprising Three Units and associated works - 59 Pacific Parade, Lennox Head	
2012/261	4/07/2012	Ardill Payne & Partners	Construction of Sports Clubhouse/Amenities and Car Park - Chilcott Circuit, Cumbalum	Being Assessed
2012/271	10/07/2012	SJ Connelly CPP Pty Ltd	Two Lot Subdivision to create 1 x 2ha and 1 x 40ha allotments - 142 Martins Lane, Knockrow	Being Assessed
2012/274	11/07/2012	Ardill Payne & Partners	Alterations and Additions to the Southern End of the Ballina Fair Shopping Centre including Demolition of Existing Pool and Gym Tenancy and Relocation of Mini Major Tenancy into the Demolished Pool and Gym Space and Construction of a New Loading Dock in the South-Western Corner of the site - 84 Kerr Street, Ballina	Being Assessed
2012/291	23/07/2012	Newton Denny Chapelle	To undertake a staged 47 Lot Community Title residential subdivision with lots ranging in size from 303m ² to 773m ² , associated	Referred to Government Departments plus Awaiting Additional Information

8.3 Development Applications - Works in Progress - September 2012

			road, earth and infrastructure servicing works, creation of a public road and one 6.4 hectare Torrens Title residue lot - 565-589 River Street, East Ballina	
2012/297	24/07/2012	Ardill Payne & Partners	To enable the permanent occupation of the existing Lennox Head Rural Fire Service Brigade Shed - 3 Byron Street, Lennox Head	Being Assesed
2012/304	27/07/2012	Ardill Payne & Partners	To establish a weekly farmer's market on a 12 month trial basis to be held on Saturdays between 7.00am and 2.00pm in the public car park located between Bugden Lane and Commercial Road, Alstonville	Determination Pending
2012/325	15/08/2012	SJ Connelly CPP Pty Ltd	The Application Seeks to Undertake a Boundary Adjustment of Lot 2 DP 1099980 (73.14ha) and Lot 8 DP 1011671 (16.4ha) into Proposed Lot 1 (1ha) and Proposed Lot 2 (88.54ha) - 61 Jorgensens Lane, Brooklet	Being Assessed

8.3 Development Applications - Works in Progress - September 2012

			& 145 Brooklet Road, Newrybar	
2012/331	17/08/2012	Newton Denny Chapelle	To Undertake a 2 Lot Boundary Adjustment of a Rural Property – 7 Short Street, Alstonville	Referred to Government Department
2012/333	17/08/2012	Newton Denny Chapelle	Change of use from motor showroom to funeral home incorporating chapel, office, showroom, function centre, carparking, landscaping and advertising signage – 338 River Street, Ballina	On Exhibition
2012/334	17/08/2012	Ballina Shire Council	The Construction of Hutley Drive connection to the Pacific Pines Estate via a round-about, connection to Elevation Estate & Vegetation clearance in SEPP 14 affected area – North Creek Road, Lennox Head	Awaiting Additional Information
2012/335	20/08/2012	Nasmyth Pty Ltd atf Piper Drive Unit Trust	The establishment of 7 Industrial Sheds, 6 Storage Sheds, 11 Car Parking Spaces, Advertising Sign and Landscaping – Cessna Crescent, Balina	Determination Pending
2012/337	20/08/2012	Ardill Payne &	The removal of	Awaiting

8.3 Development Applications - Works in Progress - September 2012

		Partners		Additional Information
2012/339	21/08/2012	TW Dorey & Sons Pty Ltd	Proposed subdivision to create 2 lots from 3 existing lots. Existing Lot 20 DP 1142118 (41.24ha), Lot 21 DP 1142118 (54.25ha) and Lot 1 DP 1129680 (1.3ha) are to be subdivided into Proposed Lot 11 (72.79ha) & Proposed Lot 12 (24ha) under the provisions of SEPP 1 - 287 & 258 North Teven Road, Teven	Referred to Government Departments
2012/346	27/08/2012	Australian Fishing Tournaments Pty Ltd	The erection of a temporary sign for the boat and leisure show - 319-321 River Street, Ballina	Being Assessed
2012/348	28/08/2012	Fishheads at Byron Pty Ltd	To undertake the redevelopment of the Shelly Beach Café with a new single storey 120 seat Café and an upper level storage area, the removal of a number of trees and compensatory regeneration and landscaping on adjoining land -	On Exhibition

8.3 Development Applications - Works in Progress - September 2012

			Shelly Beach Road, East Ballina	
2012/351	28/08/2012	Ardill Payne & Partners	The establishment of a 21 lot residential subdivision and residual lot - Unara Parkway, Cumbalum	Being Assessed
2012/354	30/08/2012	Michael Hajjar Surveying	Two lot subdivision including a road widening - 7 Southern Cross Dr & 13 North Creek Rd, Ballina	Being Assessed
2012/355	30/08/2012	Michael Hajjar Surveying	Two Lot Industrial Subdivision – 8-10 Cessna Crescent, Ballina	Being Assessed
2012/357	30/08/2012	Newton Denny Chapelle	The subdivision of 4 Lots into 5 Lots and a Road Reserve - Hutley Drive & Henderson Drive, Lennox Head	Being Assessed
2012/358	30/08/2012	Newton Denny Chapelle	Proposed 2 Lot Boundary Adjustment from Lot 5 (8.627ha) to Lot 6 (35.9ha) to proposed Lot 2 (8.63ha) - 131 Tuckombil Lane, Tuckombil	Referred to Government Departments

Regional Development (Determined by Joint Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
Nil				

8.3 Development Applications - Works in Progress - September 2012

Major Development (Determined by Minister)

Major Project No./DA No.	Date Rec'd	Applicant	Proposal	Status
MP 07_0026 MOD 4 (DA 2008/510)	01/08/2012	Geolink (on behalf of The Royal Bank of Scotland)	To modify the approved concept plan and project application layout - Hutley Drive, Lennox Head	Being Assessed
MP 05_0009 MOD 2 (DA 2006/394)	02/08/2012	Glenn Mills (on behalf of Wantana Pty Ltd)	To modify the consent by extending the project approval for 2 years - 256-274 River Street, Ballina	Being Assessed

RECOMMENDATION

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

Attachment(s)

Nil

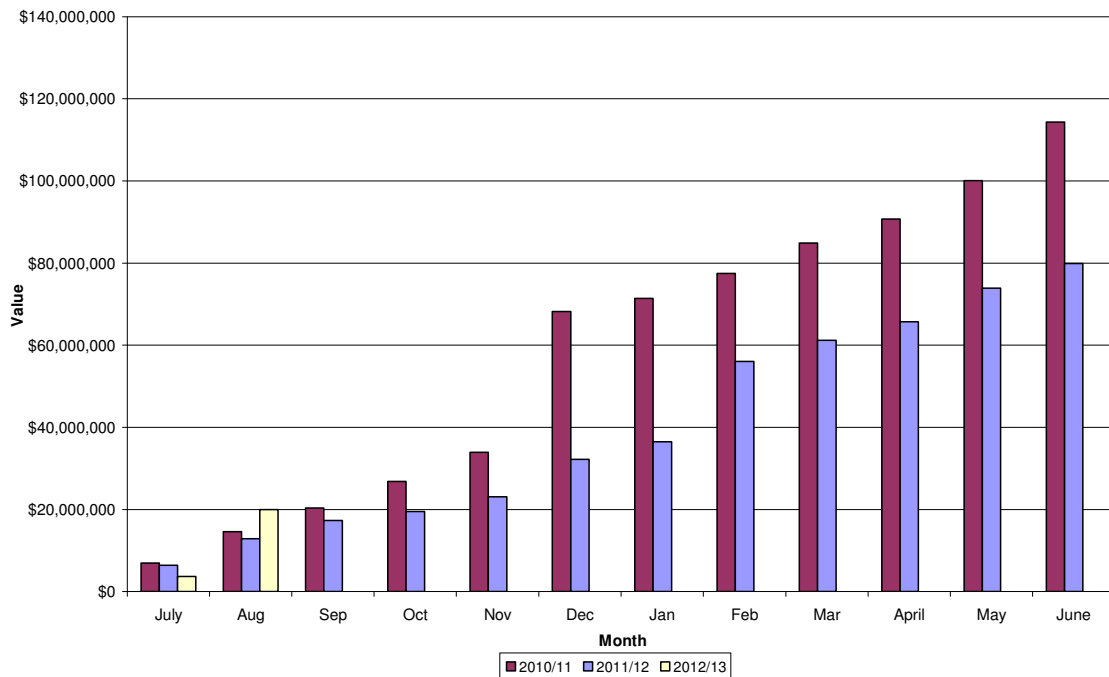
8.4 Development Consent Statistics - August 2012

8.4 Development Consent Statistics - August 2012

During the period of 1 August 2012 to 31 August 2012 the Regulatory Services Group issued Development Consents comprising of:

Number of Applications	Value of Work
28 Other Building Related	\$ 1,323,000
9 Dwelling/Duplexes/Residential Flat Buildings	\$ 14,885,150
8 General Developments	\$ 1,323,000
Total Value	\$ 16,210,150

The following chart details the cumulative consent figures for 2012/13 as compared to 2011/12 and 2010/11. It is too early in the year to provide a useful trend line for 2012/13.



RECOMMENDATION

That Council notes the contents of the report on development consent statistics for 1 August 2012 to 31 August 2012.

Attachment(s)

Nil

9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site)

9. Strategic & Community Services Group Reports

9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site)

Delivery Program Strategic Planning

Objective To seek direction from the Council with respect to a request to amend the Ballina Local Environmental Plan 1987 in relation to land at No. 8 Burns Point Ferry Road, West Ballina.

Background

Council is in receipt of a request for the rezoning of Lot 1 DP 522558, No. 8 Burns Point Ferry Road, West Ballina (Attachment 1). The request was submitted by Newton Denny Chappelle on behalf of the landholders, being CM & JM Elliott & DR & CM Westaway. The proposed amendment involves the application of a residential zone to Lot 1 DP 522558 to enable medium density residential development as detailed in the Development Concept Plans submitted with the request.

The subject land is identified in Attachment 2 and has an area of 4047m². It is located at the south western corner of River Street and Burns Point Ferry Road, West Ballina. The land is currently vacant and previously contained the derelict Ferry Boat Motel which was demolished in 2008. The land parcel is commonly known as the former Ferry Boat Motel site (and is referred to as Lot 1 within this report).

Under the *Ballina Local Environmental Plan 1987* (Ballina LEP 1987), the subject land is zoned 1(d) Rural (Urban Investigation) Zone (Attachment 3). The Council-endorsed Draft Ballina LEP 2011 (draft LEP) applies the RU2 – Rural Landscape Zone to the land (Attachment 4).

Following the receipt of the above request, a separate fresh proposal for the rezoning of the adjoining land, being Lot 4 DP 537419 (referred to as Lot 4 in this report), was received by Council on 18 July 2012. The land that is the subject of the July 2012 request is shown in Attachment 2. It should be noted each of these rezoning requests has been submitted to Council independent of the other.

The relationship between the proposals for the rezoning of Lot 1 and the adjoining land is the subject of considerable history. This history, from the perspective of the proponents for the rezoning of the former Ferry Boat Motel site is set out in Attachment 1. Council's chronology of the consideration of the rezoning of the land is contained in Attachment 5. Significantly, Council has consistently sought to address the consideration of the two land parcels on an integrated basis in accordance with Council's long-standing practise of holistic land use planning in potential urban release areas and in accordance with the objectives of the 1(d) – Rural (Urban Investigation) Zone.

9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site)

From the information available in relation to both proposals, it appears that the respective parties involved cannot agree on an approach that provides for an integrated consideration of both land parcels (Lot 1 DP 522558 and Lot 4 DP 537419). Whilst it is preferable that the rezoning proposals for the two sites are considered together, it is evident that this will be difficult to achieve. Further, it is important to recognise that Lot 1 does not appear to be subject to the extent of potential constraints applicable to the adjoining Lot 4. Lot 1 is also the subject of a Site Compatibility Certificate issued by the Department of Planning and Infrastructure under *State Environmental Planning Policy (Housing for Seniors and People with a Disability)* 2004 which enables an application for housing for older and/or disabled people to be considered on the land. Essentially, consideration of the proposed rezoning of Lot 1 is likely to be less complex compared to the adjoining Lot 4.

Having regard for the above circumstances, this report addresses the proposal to rezone the former Ferry Boat Motel site from 1(d) – Rural (Urban Investigation) Zone to a residential zone independent of the new request to rezone the adjoining Lot 4. It is anticipated that a separate report regarding Lot 4 will be presented to a meeting of the Council, as soon as is practicable.

Key Issues

- Progress of the proposed LEP amendment.
- Integration of a planning proposal applying to adjoining land.

Information

The LEP amendment request submitted by Newton Denny Chapelle for the former Ferry Boat Motel site (Lot 1) provides an overview of the background to the subject land and its characteristics (Attachment 1). Key site issues for consideration include site contamination, geotechnical constraints (soft soils), flooding and acoustic mitigation. Adjoining the site to the north and east are existing residential land uses currently zoned 2(a) – Living Area under the *Ballina Local Environmental Plan 1987* and R2 – Low Density Residential and R3 – Medium Density Residential Zones under the draft LEP.

Based on a preliminary review of the information submitted, there does not appear to be any significant site constraints that would render the application of a residential zone to Lot 1 inappropriate. However, should Council proceed to further process a planning proposal for the land, a more detailed analysis will be undertaken. This analysis may necessitate the provision of additional information from the proponent.

With respect to the strategic planning framework, the application of a residential zone to Lot 1 is generally consistent with both Council and State Government urban land release planning policy. More specifically, the following provides an overview of the proposed amendment with respect to the key applicable planning policy documents.

9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site)

Far North Coast Regional Strategy (FNCRS)

The *Far North Coast Regional Strategy* (FNCRS) is intended to guide the region's land use over the next 20 years. The strategy identifies Town and Village Growth Boundaries which provide for land required to meet the region's urban housing and employment needs for the planning period to 2031. It is noted in the FNCRS that not all land identified within the Town and Village Growth Boundaries can be developed for urban uses, and that more detailed investigations will determine the capability and yield of the land.

The site is located within the Town and Village Growth Boundaries identified in the FNCRS for the Ballina township, with the area identified as 'proposed future urban release area'. As such, the application of a residential and/or other urban zone to the land is consistent with the strategy.

Ballina Shire Growth Management Strategy

The *Ballina Shire Growth Management Strategy* (GMS) was adopted by Council on 26 July 2012. The GMS identifies Lot 1 as a strategic urban growth area, meaning the land has been identified as having potential to accommodate urban development. Given this, the application of a residential zone to Lot 1 is consistent with the GMS.

Ballina Local Environmental Plan 1987

Lot 1 is currently zoned 1(d) Rural (Urban Investigation) Zone under the Ballina LEP 1987. As such, the land is identified as being suitable for further investigation to determine its urban land use potential. The consideration of the proposed residential zone for Lot 1 is consistent with the current zoning of the land.

Draft Ballina Local Environmental Plan 2011

Under the provisions of the draft LEP, Lot 1 is zoned RU2 – Rural Landscape. While zoned rural under the draft LEP provisions, Lot 1 is not currently used for agricultural activities and has limited future potential for productive agricultural land uses by virtue of its size and proximity to residential development. Notwithstanding the rural zoning, the urban development potential of the land is recognised in both the draft LEP and the Ballina Shire Growth Management Strategy. As such, the proposal is generally consistent with Council's urban planning policy and the intent of the draft LEP.

Sustainability Considerations

- **Environment**

Lot 1 is currently vacant and does not possess any significant environmental qualities other than being within a prominent location on the western entrance to the Ballina township.

- **Social**

The proposed zoning for Lot 1 does not raise any significant social implications and would result in the provision of additional land for housing development that is well integrated with the existing urban social structure.

9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site)

- **Economic**

There are no significant economic implications currently identified in relation to the proposed zoning. It is understood that in general terms, urban infrastructure to service potential new development within the site can be reasonably augmented.

Legal / Resource / Financial Implications

There are no significant resourcing or financial implications associated with the further processing of this LEP amendment. Council's adopted fees and charges associated with LEP amendment requests would be applied to the further processing of the request.

Consultation

There has been no consultation undertaken with either the community or government agencies in relation to this LEP amendment request to date as this matter is in the initial concept phase. However, should the proposal continue to proceed, public exhibition will be undertaken prior to the Council's final deliberations concerning the amendment request.

Options

1. Proceed to prepare a planning proposal for the application of an R3 Medium Density Residential Zone over Lot 1 DP 522558

The preparation of a planning proposal that applies the R3 Medium Density Residential zone over Lot 1 DP 522558 is recommended as this zone is compatible with the zoning of adjoining land along River Street to the east. In addition, there are no strategic planning policies or site constraints presently evident that warrant provision for a lower density outcome on the land.

It is noted that Council's current adopted housing density for medium density development in West Ballina is 1 dwelling per 200m² of site area. This means that the subject site (Lot 1) would have a potential yield of 20 dwellings. Council will note from the applicant's submitted material, however, that a yield of 25 dwellings is foreshadowed. Any decision to proceed to prepare a planning proposal based on the concept plans submitted should not be interpreted as an agreement to this increase in the established residential density.

The consideration of the rezoning of Lot 1 would not be directly linked to, or be reliant on, the proposal for the adjoining Lot 4 in preparing the planning proposal. The planning proposal would be reported to Council for further consideration prior to its submission to the Department of Planning and Infrastructure for gateway determination.

Importantly, Council may cease action on the proposed amendment upon review of the planning proposal or at any other time prior to its finalisation.

Further, in considering this option, it should be noted that the amendment would be progressed having regard for both the provisions of the Ballina LEP 1987 and the draft LEP given that the draft LEP is not yet finalised.

9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site)

Although this approach will not provide for an integrated consideration of the rezoning of land in the vicinity of Burns Point Ferry Road, it is considered that the circumstances are of a nature to warrant proceeding with the consideration of Lot 1 separate to the adjoining Lot 4. In particular, the history between the proponents, the characteristics of the land and the Site Compatibility Certificate issued for Lot 1 are relevant considerations.

Having regard for the specific circumstances associated with Lot 1, it is recommended that Council proceed to prepare a planning proposal for the application of the R3 – Medium Density Residential Zone to the land.

If this approach is adopted, it should not be interpreted as a gesture of support for any rezoning of part of the adjoining Lot 4. The proposal for Lot 4 will be subject to separate consideration based on the merits of that proposal.

2. Proceed to prepare a planning proposal for the application of the R2 Low Density Residential Zone over Lot 1 DP 522558

Under this approach, Council would support the preparation of a planning proposal for Lot 1 DP 522558 but indicate to the proponent that Council will only endorse the application of the R2 Low Density Residential Zone over the site. Applying the R2 Low Density Residential Zone to the site would generally mean the site can only be developed for single dwelling housing on allotments having areas of 600m² or greater. This is an option for the Council, but is not recommended having regard for the adjacent housing densities and the Department of Planning and Infrastructure's grant of a Site Compatibility Certificate for the site that allows the development of self-care accommodation for older and/or disabled people.

3. Proceed to prepare a planning proposal for Lot 1 DP 522558 but only in conjunction with the assessment of the planning proposal for Lot 4 DP 537419.

This approach would mean that Council would prepare the planning proposal for Lot 1 DP 522558 in conjunction with the assessment and preparation of a planning proposal for Lot 4. Because Lot 4 is a much larger site and has substantially more environmental constraints and a more diverse range of issues to consider than Lot 1, the assessment and reporting of the planning proposal for Lot 4 cannot be undertaken immediately. Staff are yet to form a view about the revised submitted proposal over Lot 4.

Under this approach, Council staff would assess the planning proposal for Lot 1 in conjunction with the assessment of the planning proposal for Lot 4. This will allow the integrated and holistic planning and assessment of land use outcomes to be considered for the entire locality (both lots). Once the initial assessment is complete, Council could elect to further process the proposals concurrently or separately based on the circumstances. The key disadvantage to this approach is that the progress of the proposal for Lot 1 is likely to be significantly delayed while the more complex assessment and consideration associated with Lot 4 is undertaken.

9.1 LEP Amendment - Burns Point Ferry Road (Former Motel Site)

In other circumstances, this option would be preferred. However, staff members are aware that the proprietors of Lots 1 and 4 have not been able to come to a mutually acceptable position regarding planning outcomes, and given the issues outlined in relation to option one, this course of action is not recommended.

4. Defer consideration of the LEP amendment request.

Council may defer consideration of the LEP amendment request in order to seek additional information in relation to the proposed rezoning.

The level of information provided with the LEP amendment request is considered to be sufficient to enable progress to the preparation of a planning proposal. The concept plans submitted with the request indicate the proponent's intention to develop the land for medium density residential use. Given this, and the consistency of the proposal with the applicable strategic planning framework, this option is not recommended.

5. Cease further consideration of the LEP amendment request.

It is open to Council to decline the requested LEP amendment. Endorsement of this option would mean that no further action would be taken by Council with respect to the processing of the request.

This course of action is not recommended given the characteristics of the land and the consistency of the proposal with the applicable strategic planning framework.

As per the contents of this report the recommendation that follows supports option one.

RECOMMENDATION

That Council initiate a planning proposal for the application of an R3 Medium Density Residential zone (under the Draft Ballina Local Environmental Plan 2011) over Lot 1 DP 522558, No.8 Burns Point Ferry Road, West Ballina.

Attachment(s)

1. Attachment 1 - LEP Amendment Request Lot 1 DP 522558
2. Attachment 2 - Locality Map
3. Attachment 3 - Land Use Zoning Map (BLEP 1987)
4. Attachment 4 - Land Use Zoning Map (Draft BLEP 2011)
5. Attachment 5 - Chronology Council Resolutions & Activity, Burns Point Ferry Road Rezoning

9.2 Policy (Draft) - Naming of Council Owned Facilities

9.2 Policy (Draft) - Naming of Council Owned Facilities

Delivery Program Governance

Objective To invite the Council's consideration of a new draft policy concerning the naming of Council owned facilities.

Background

Council has previously resolved to prepare a report on options for formulating a policy for naming proposals for Council owned facilities (Council Minute No.151211/23).

This matter arose as an outcome of the Council's deliberations concerning a proposal to name one of the exhibition spaces in the Northern Rivers Community Gallery after a deceased local person.

This report responds to the Council's request by providing a new draft policy which, if endorsed, would be exhibited for public comment.

By way of clarification, Council already has an adopted policy for naming of roads, bridges and public places. Consequently, it is intended that the draft policy would relate only to other types of Council owned infrastructure or assets, such as halls, community centres, galleries and the like. Consideration has been given to merging the two policies into one, but this is not preferred. The main reason for this is that the Geographical Names Board of NSW has a pivotal role to play in relation to the naming of other facilities.

Key Issues

- Equitable and transparent processes for naming of community facilities.

Information

From time to time suggestions are made from within Council or the community about acknowledging or commemorating individuals in the naming of Council owned facilities. A recent example of this was the proposal to change the name of the Ballina Community Services Centre located in Bangalow Road, Ballina to the Kentwell Community Centre, in recognition of the extremely generous private bequest provided toward the construction of that important facility.

Whilst in that instance, the Council was comfortable in making the recognition, it did so in the absence of an endorsed approach or policy. It is considered highly desirable, for both the Council and those who may wish to nominate individuals for the naming of facilities, that an open and transparent process is available.

9.2 Policy (Draft) - Naming of Council Owned Facilities

The attached draft policy has been prepared with a view to establishing a number of basic criteria which might assist the Council in assessing nominations that are made. The draft policy has been consciously written to convey a sentiment that naming of facilities after individuals should only be done in special or compelling circumstances.

This is consistent with the approach applied by the Geographical Names Board in relation to the naming of public places, roads and the like, to try and minimise contention in place naming and ensure the suggested name is appropriate and relevant.

The naming criteria referred to in the draft policy are not intended to be exhaustive, but are considered to provide a reasonable basis for the assessment of nominations. In any event, it is anticipated that Council will receive very few nominations, as the facilities that might be available under the policy are quite limited in number.

Sustainability Considerations

- **Environment**
Not applicable
- **Social**
Adoption of a policy for naming of Council owned facilities will have the potential to reinforce the 'sense of place' concept and reflect some of the cultural and social values of our community.
- **Economic**
Not applicable

Legal / Resource / Financial Implications

The drafting of the policy has been undertaken within available resources. Its adoption and implementation will not have any adverse consequences for Council from a resource perspective.

Consultation

The draft document, if supported by the Council, will be exhibited for public comment.

Options

The Council may endorse the attached draft policy for public exhibition, modify it for the same purpose, as considered appropriate, or take no further action.

The preferred and recommended course of action is to exhibit the draft document as presented.

RECOMMENDATION

That the draft policy relating to the Naming of Council Owned Facilities, as attached to this report, be exhibited for public comment, with any submissions received being reported back to the Council. If no submissions are received then the policy will be deemed to be adopted.

Attachment(s)

1. Draft Naming of Council Facilities Policy

10.1 Use of Council Seal

10. General Manager's Group Reports

10.1 Use of Council Seal

RECOMMENDATION

That Council affix the Common Seal to the following documents.

US12/26	<p>a) Agreement for Lease and Lease Agreement to the Department of Family and Community Services for an Aboriginal Child and Family Centre to be located on Council community land, being a part area of Porter Park, Ballina. The proposed lease is for a period of 21 years at nil rental.</p> <p>b) Plan of subdivision and Section 88B Instrument for the subdivision of Lot 30 DP 260335, being part of Porter Park, Ballina – Community Land set aside for Child & Family Centre</p> <p>Comment: As the Minister's delegate has determined to grant approval under Section 47(8) of the Local Government Act for Council to grant a 21 year lease of Council community land to the Department of Family and Community Services, consent is now required to affix the Common Seal upon the Agreement for Lease and the Lease Agreement. This should be the final step in the proposal to lease this property to the Department of Family and Community Services and if the seal is approved the Department will be in a position to commence construction of the building. A brief summary of the history of this project to date is as follows:</p> <ul style="list-style-type: none">• November 2010 - Council resolved to decline Treelands Reserve as the preferred site• February 2011 – Council resolved to prepare an amendment to the plan of management for Porter Park• July 2011 – Council adopted the amendment to the plan of management for Porter Park and approved lodgment of the development application• August 2011 – Council approved minimum conditions for the proposed lease• December 2011 – Development application approved• May 2012 – Council approved the lease following exhibition and forwarded the document to the Minister for approval• September 2012 – Minister has approved lease and Council seal required to finalise lease.
---------	--

Attachment(s)

Nil

10.2 Investment Summary - September 2012

10.2 Investment Summary - September 2012

Delivery Program Financial Management

Objective To provide Council and the community with details of how Council's surplus funds are invested.

Background

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

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

Council's investments are all in accordance with the Act, the Regulations and Council's Investments Policy. The balance of investments as at 31 August was \$87,256,000. This represents an increase from July of \$1,017,000.

The balance of the cheque account at the Commonwealth Bank, Ballina as at 31 August 2012, was \$3,225,521.

Council's investments as at 31 August are at an average (weighted) rate of 5.04% which is 1.42% above the 90 Day Bank Bill Index of 3.62%.

The majority of the approximately \$87 million of investments held by Council are restricted by legislation (external) and Council (internal) uses for the following purposes:

Reserve Name	Internal/External Restriction	Approx % of Portfolio*
Water Fund (incl developer contributions)	External	14
Wastewater Fund (incl developer contributions)	External	14
Wastewater Fund (unexpended loan)	External	24
Section 94 Developer Contributions	External	9
Bonds and Deposits	External	2
Other External Restrictions	External	6
Land Development	Internal	9
Employee Leave Entitlements	Internal	2
Carry Forward Works	Internal	8
Miscellaneous Internal Reserves	Internal	11
Unrestricted		1
Total		100%

* Based on reserves held as at 30 June 2012

Of the total investments, approximately \$20 million are unexpended funds borrowed by the Wastewater Fund.

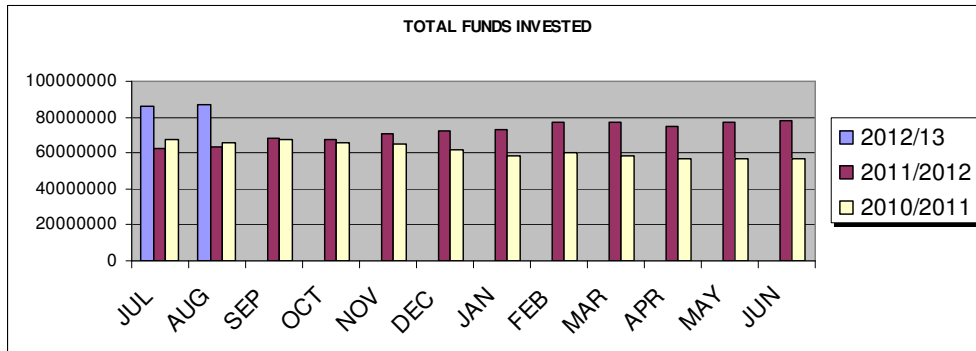
10.2 Investment Summary - September 2012

A. Summary of Investments by Institution

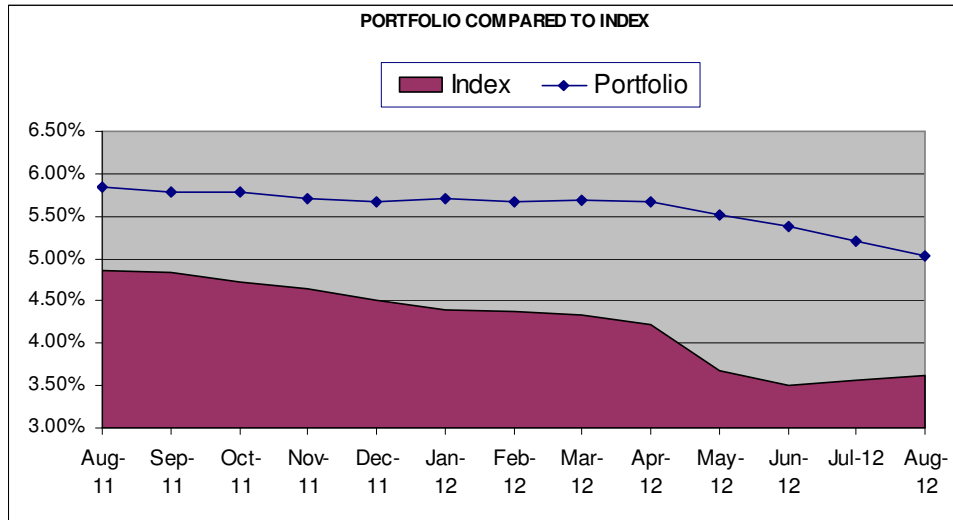
Funds Invested With	ADI Rating	Previous Month (\$'000)	Current Month (\$'000)	Quota %	% of Total	Total
Grandfathered Investments						
ANZ Bank	AA-	2,000	2,000	0	2.3	
Bendigo Bank Ltd	BBB	1,000	1,000	0	1.1	
Deutsche Bank	A+	4,000	4,000	0	4.6	
Goldman Sachs	AA-	1,000	1,000	0	1.1	
Heritage Building Society	BBB-	1,000	1,000	0	1.1	
HSBC Australia	AA-	1,000	1,000	0	1.1	
Longreach Capital Markets 28*	AA+	1,000	1,000	0	1.1	
Morgan Stanley	A	2,000	0	0	0	
National Australia Bank	AA-	1,788	1,788	0	2	
National Wealth M'ment Holding	A	2,000	2,000	0	2.3	17%
Rated Institutions						
ANZ Bank	AA-	20	15	20	0	
Bank of Queensland	BBB+	8,000	8,000	10	9.2	
Bank of Western Australia	AA-	10,000	12,000	20	13.8	
Commonwealth Bank of Aust	AA-	6,431	6,453	20	7.4	
Illawarra Mutual Bld Soc	BBB	2,000	2,000	10	2.3	
ING Bank Ltd	A	7,000	7,000	20	8.0	
Members Equity Bank	BBB	6,000	8,000	10	9.2	
National Australia Bank	AA-	11,000	11,000	20	12.6	
Newcastle Permanent Bld Soc	BBB+	1,000	1,000	10	1.1	
Suncorp Metway Bank	A+	16,000	16,000	20	18.3	
Westpac Banking Corporation	AA-	1,000	1,000	20	1.1	83%
Unrated ADI's						
Community CPS Credit Union		1,000	0	\$1m	1.1	0%
Total		86,239	87,256			100%

* Rating is on Capital only by Citigroup Pty Ltd

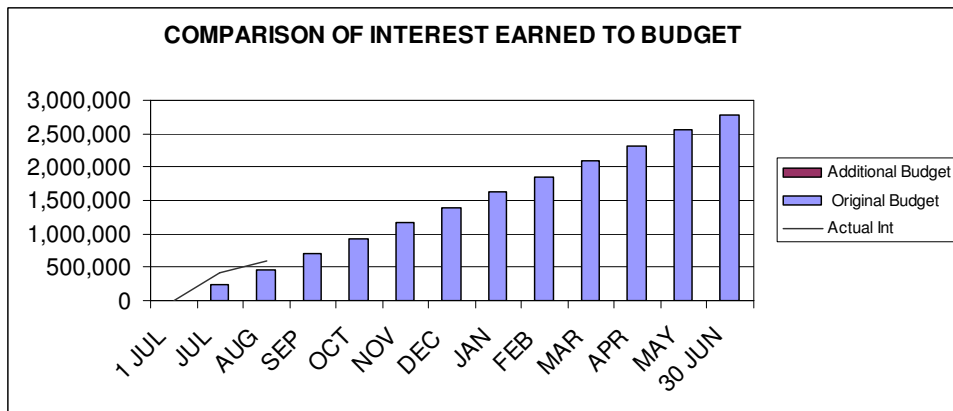
B. Monthly Comparison of Total Funds Invested



C. Comparison of Portfolio Investment Rate to 90 Day BBSW



D. Progressive Total of Interest Earned to Budget



Comment

The Reserve Bank Board again left the cash rate unchanged at 3.5% at its September meeting.

The accompanying statement was a repeat of recent statements regarding modest growth in the USA, Europe contracting and more modest growth in Asia.

Financial markets noted that a 'low appetite for risk has seen long-term interest rates faced by highly rated sovereigns, including Australia, remain at exceptionally low levels.'

On inflation the Bank noted underlying measures near two per cent over the year to June and headline CPI inflation is even lower. They believe that inflation will remain within the target range (2-3 percent) for the next year or two.

10.2 Investment Summary - September 2012

E. Investments held as at 31 August 2012

Purchase Date	Issuer	Type	Rate%	Call or Maturity Date	Purchase Value \$'000
23/04/04	Deutsche Bank	FRN	4.51	23/04/14	2,000
23/04/04	Deutsche Bank	FRN	4.51	23/04/14	2,000
20/09/04	National Australia Bank	FRN	4.90	Perpetual	1,788
12/04/06	Goldman Sachs	FRN	4.10	12/04/16	1,000
16/06/06	National Wealth M'ment Holdings	FRN	4.12	16/06/16	2,000
28/06/07	Longreach Series 28	FND	0.00	27/06/14	1,000
21/09/07	Bendigo Bank	FRN	4.74	21/09/12	1,000
18/10/07	Heritage Bank	FRN	4.83	18/10/12	1,000
18/10/07	ANZ Bank (FRN)	FRN	4.28	18/10/12	2,000
14/03/08	HSBC Australia Ltd	FRN	5.81	14/03/13	1,000
17/12/08	Commonwealth Bank of Australia	FRTD	4.69	17/12/13	1,000
17/12/08	Commonwealth Bank of Australia	TD	5.93	17/12/13	998
03/02/10	Commonwealth Bank of Australia	FND	3.45	At Call	4,455
20/07/11	ANZ Bank	FND	2.50	At call	15
24/01/12	ING Bank Ltd	FRTD	5.47	24/01/17	1,000
06/02/12	Westpac Bank	FRN	5.28	06/02/17	1,000
14/03/12	National Australia Bank	TD	5.89	11/09/12	1,000
03/04/12	Members Equity Bank	TD	5.90	03/10/12	1,000
20/04/12	National Australia Bank	TD	5.64	20/10/12	1,000
22/04/12	National Australia Bank	TD	5.64	20/10/12	4,000
24/04/12	Members Equity Bank	TD	5.90	22/10/12	2,000
04/05/12	Bank of Queensland	TD	5.60	05/11/12	2,000
09/05/12	Suncorp-Metway Bank	TD	5.30	09/11/12	2,000
06/06/12	Bank of Queensland	TD	5.25	04/09/12	1,000
27/06/12	Suncorp-Metway Bank	TD	5.00	25/09/12	2,000
03/07/12	Suncorp-Metway Bank	TD	5.10	31/10/12	2,000
23/07/12	BankWest	TD	5.00	05/11/12	1,000
24/07/12	Suncorp-Metway Bank	TD	5.10	21/01/13	4,000
24/07/12	Bank of Queensland	TD	5.20	26/11/12	4,000
24/07/12	BankWest	TD	5.05	06/11/12	2,000
25/07/12	Newcastle Permanent Bld Society	TD	5.00	23/10/12	1,000
30/07/12	ING Bank Ltd	TD	5.18	30/01/13	1,000
30/07/12	National Australia Bank	TD	5.06	29/10/12	3,000
30/07/12	Suncorp-Metway Bank	TD	5.15	27/11/12	2,000
01/08/12	Suncorp-Metway Bank	TD	5.15	29/01/13	2,000
03/08/12	National Australia Bank	TD	5.06	01/11/12	2,000
07/08/12	Illawarra Mutual Bld Society	TD	5.10	05/11/12	2,000
09/08/12	Members Equity Bank	TD	5.10	05/02/13	2,000
09/08/12	BankWest	TD	5.10	22/11/12	3,000
13/08/12	BankWest	TD	5.10	13/02/13	3,000
15/08/12	BankWest	TD	5.10	13/11/12	2,000
16/08/12	Suncorp-Metway Bank	TD	5.00	14/12/12	2,000
20/08/12	ING Bank Ltd	TD	5.06	18/12/12	4,000
20/08/12	Members Equity Bank	TD	5.10	19/11/12	2,000
21/08/12	BankWest	TD	5.10	19/11/12	1,000
27/08/12	Members Equity Bank	TD	5.05	26/11/12	1,000
28/08/12	ING Bank Ltd	TD	5.03	25/01/13	1,000
28/08/12	Bank of Queensland	TD	5.20	28/02/13	1,000
Totals:					87,256
TD=Term Deposit		FRN=Floating Rate Note		FND=Managed Fund	
ELN= Equity Linked Note		FRTD= Floating Rate Term Deposit			

RECOMMENDATION

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

Attachment(s)

Nil

10.3 Councillor Attendance

10.3 Councillor Attendance

Delivery Program Governance

Objective To provide Councillors with professional development opportunities.

Background

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

Details of the three conferences under consideration in this report are as follows:

- 2012 Local Government Association (LGA) Conference is to be held in Dubbo from 28-30 October 2012. Council normally sends delegates to this Conference.
- 2012 Coastal Conference is to be held in Kiama from 6 – 9 November 2012. Council normally sends delegates to this Conference.
- Cr Ben Smith has expressed an interest in attending the 2012 Zero Waste Summit to be held in Melbourne from 22 – 23 October 2012.

Key Issues

- Benefit of the conferences and cost

Information

A draft LGA conference program as at 9 August is attached. As an associate member of the Association, Council is entitled to two voting delegates. Registration is \$1,155 per delegate. Flights, accommodation and some meals would be in addition to this cost.

A draft Coastal Conference program as at 7 September is attached. Registration is \$840 per person. Flights, accommodation and some meals would be in addition to this cost.

The program for the 2012 Zero Waste Summit is also attached. Registration is \$1,895 per person. Flights, accommodation and some meals would be in addition to this cost.

Sustainability Considerations

- **Environment**
Environmental, social and economic issues are likely to be considered at these conferences.

10.3 Councillor Attendance

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

Legal / Resource / Financial Implications

Funds are available within the Council's professional development budget to finance these expenses.

Consultation

Provided for public information.

Options

Approve or not approve the travel. Typically Council sends delegates to the LGA and Coastal conferences.

RECOMMENDATIONS

1. That Council determine its delegates to the 2012 Local Government Association Annual Conference to be held in Dubbo from 28-30 October 2012.
2. That Council determine its delegates to the 2012 Coastal Conference to be held in Kiama from 6 – 9 November 2012.
3. That Council authorise the attendance of Cr Ben Smith at the 2012 Zero Waste Summit in Melbourne from 22 – 23 October 2012.

Attachment(s)

1. Draft LGA Conference Program
2. Zero Waste Summit Conference Program
3. Draft Coastal Conference Program

10.4 Rates and Charges Write Offs - 2011/12

10.4 Rates and Charges Write Offs - 2011/12

Delivery Program Financial Management

Objective To provide Council with details of the rates and charges written off during the 2011/12 rating year.

Background

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

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

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

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

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

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

Key Issues

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

Information

In accordance with clause 131 of the LGGR, details of the 2011/12 rates, charges, and interest, written off under delegated authority, are provided in table one. Detailed information regarding individual assessments is recorded in Council's rating files.

Although not required under clause 131 of the LGGR, further tables detailing amounts written off during 2011/12 have also been provided for information purposes.

All rates, charges and interest written off during the period 1 July 2011 to 30 June 2012, totalling **\$22,746.32**, are required to be included in Council's annual report (clause 132 LGGA).

10.4 Rates and Charges Write Offs - 2011/12

The majority of the amounts written off relate to concealed water leaks of \$20,669.22. The water leaks can be divided into two categories being those written off in accord with the policy \$8,129.27 and those written off following a report to Council in April 2012 advising of erroneous meter readings provided by a meter reading contractor \$12,539.32.

The remainder of the write off relates to postponed rates \$1,912.82 and very minor amounts that are not economical to collect totalling \$164.28. In respect to the postponed rates Council is required to write rates off where the property meets certain criteria (refer to notes in table two).

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

Assessment	Amount	Description
309 Assessments	\$164.28	Small balances (less than \$1.00 per assessment) uneconomical to collect - Section 567 LGA.
Assessment 289214	\$375.74	Water charges written off in accordance with Council's Concealed Water Leaks policy. 21 Midway Avenue Alstonville
Assessment 290299	\$475.75	Water charges written off in accordance with Council's Concealed Water Leaks policy. 5 Queens Park Court Wollongbar
Assessment 275184	\$370.10	Water charges written off in accordance with Council's Concealed Water Leaks policy. 109 Mellis Circuit Alstonville
Assessment 208543	\$971.90	Water charges written off in accordance with Council's Concealed Water Leaks policy. 48 Fig Tree Hill Drive Lennox Head
Assessment 202084	\$117.82	Water charges written off in accordance with Council's Concealed Water Leaks policy. 48 Ballina Street Lennox Head
Assessment 302834	\$328.69	Water charges written off in accordance with Council's Concealed Water Leaks policy. 22 Northcott Crescent Alstonville
Assessment 214463	\$90.18	Water charges written off in accordance with Council's Concealed Water Leaks policy. 41A Montwood Drive Lennox Head
Assessment 182161	\$160.23	Water charges written off in accordance with Council's Concealed Water Leaks policy. 16 Southern Cross Drive Ballina
Assessment 132475	\$864.23	Water charges written off in accordance with Council's Concealed Water Leaks policy. 95 Cherry Street Ballina
Assessment 289468	\$202.07	Water charges written off in accordance with Council's Concealed Water Leaks policy. 4 Mimosa Court Wollongbar
Assessment 255192	\$484.55	Water charges written off in accordance with Council's Concealed Water Leaks policy. 150 Lindendale Road Wollongbar
Assessment 208543	\$424.22	Water charges written off in accordance with Council's Concealed Water Leaks policy. 5 Fern Street Lennox Head
Assessment 121636	\$731.66	Water charges written off in accordance with Council's Concealed Water Leaks policy. 165 Rifle Range Road Wollongbar
Assessment 254162	\$930.74	Water charges written off in accordance with Council's Concealed Water Leaks policy. 17 Waratah Lane Alstonville

10.4 Rates and Charges Write Offs - 2011/12

Assessment 183735	\$156.98	Water charges written off in accordance with Council's Concealed Water Leaks policy. 1/6 Suvla Street East Ballina
Assessment 188612	\$165.33	Water charges written off in accordance with Council's Concealed Water Leaks policy. 77 Tamar Street Ballina
Assessment 260529	\$318.97	Water charges written off in accordance with Council's Concealed Water Leaks policy. 175 Ellis Road Alstonville
Assessment 192491	\$170.34	Water charges written off in accordance with Council's Concealed Water Leaks policy. 2/1 Jamie Place Ballina
Assessment 255574	\$512.55	Water charges written off in accordance with Council's Concealed Water Leaks policy. 143 Lindendale Road Wollongbar
Assessment 216041	\$277.22	Water charges written off in accordance with Council's Concealed Water Leaks policy. 26 Pacific Parade Lennox Head
Total:	\$8,293.55	

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

Assessment	Amount	Description
Six Assessments	\$1,912.82	Year six write off of postponed ordinary rate and interest charges - Section 595 LGA - Postponements typically relate to a single dwelling house that is zoned for multiple occupancy - The Valuer General supplies a land value for the highest potential - Upon application for postponement the Valuer General supplies an attributable value (i.e. extra value due to subdivision or higher potential) and Council levies but postpones the attributable component. Interest is also charged - After five years the postponed amount and interest is written off. If entitlement to postponement ceases at any time, any amounts not written off become due.
Total:	\$1,912.82	

Table Three - Write-offs – Erroneous Meter Readings Reported to Council

Assessment	Amount	Description
Assessment 258302	\$5,351.16	Water charges written off as a result of erroneous water meter readings supplied by contractor. 155 Rifle Range Road Wollongbar.
Assessment 145282	\$1,787.93	Water charges written off as a result of erroneous water meter readings supplied by contractor. 102 Fox Street Ballina. Approved by Council 26 April 2012.
Assessment 177302	\$1,305.17	Water charges written off as a result of erroneous water meter readings supplied by contractor. 27 Ross Street Ballina. Approved by Council 26 April 2012.
Assessment 283315	\$1,018.77	Water charges written off as a result of erroneous water meter readings supplied by contractor. 76 Wardell Road Alstonville. Approved by Council 26 April 2012.
Assessment 282254	\$893.82	Water charges written off as a result of erroneous water meter readings supplied by contractor. 75A Teven Road Alstonville.

10.4 Rates and Charges Write Offs - 2011/12

		Approved by Council 26 April 2012.
Assessment 286208	\$532.87	Water charges written off as a result of erroneous water meter readings supplied by contractor. 11 Campbell Avenue Wollongbar. Approved by Council 26 April 2012.
Assessment 279706	\$511.82	Water charges written off as a result of erroneous water meter readings supplied by contractor. 1/3 South Street Alstonville. Approved by Council 26 April 2012.
Assessment 403004	\$492.65	Water charges written off as a result of erroneous water meter readings supplied by contractor. 1/27 Cerreto Circuit Wollongbar. Approved by Council 26 April 2012.
Assessment 286834	\$388.29	Water charges written off as a result of erroneous water meter readings supplied by contractor. 46 Cerreto Circuit Wollongbar. Approved by Council 26 April 2012.
Assessment 264890	\$257.47	Water charges written off as a result of erroneous water meter readings supplied by contractor. 2 Cawley Close Alstonville. Approved by Council 26 April 2012.
Total:	\$12,539.95	

Council considered a report at the 26 April 2012 meeting that provided information regarding the supply of erroneous water meter readings from our reading contractor. One of the contracted meter readers was supplying understated readings, which were difficult to identify during our normal audit reporting procedures.

The assessments listed in table three experienced water leaks during the period in which we were receiving "estimated" readings. As a result, these substantial water leak events were not highlighted in our quarterly high consumption audit reports. These customers were not alerted to their substantially higher than normal water consumption by Council, which is our usual procedure.

The amounts written off in table three represent the difference between their normal quarterly account and the actual charges levied once we received a correct water meter reading.

A claim has been lodged with the contractor for \$19,000, which includes the \$12,539.95 write off, for loss incurred by Council due to the false readings providing. Hence it is hoped that these write offs will be recovered.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable
- **Economic**
See Below.

10.4 Rates and Charges Write Offs - 2011/12

Legal / Resource / Financial Implications

Revenue to the value of \$22,746 has been foregone however it is anticipated that \$12,539 will be recovered.

Consultation

Report provided for public information.

Options

This report is provided for information purposes only

RECOMMENDATION

That Council notes the rates, charges, and interest written off under delegation of the General Manager for the 2011/12 rating year, pursuant to clause 131 of the Local Government (General) Regulation 2005, as outlined within this report.

Attachment(s)

Nil

10.5 Ballina Cup 2013

10.5 Ballina Cup 2013

Delivery Program Administration

Objective To determine if Council wishes to apply for a half-day public holiday or local event day for the 2013 Ballina Cup.

Background

In past years the Ballina Jockey Club has requested that Council apply to the NSW Department of Finance & Services – Industrial Relations Office for a half-day public holiday for the Ballina Cup.

In 2012 the applicable legislation changed and the half-day public holiday was granted under the Public Holidays Act 2010 and not the Bank & Banks Holidays Act (now repealed). Advice from the NSW Department of Finance & Services – Industrial Relations Office is that councils may now apply for a half-day public holiday or a local event day. The first attachment to this report provides an overview of the differences between these two options.

A number of concerns were expressed in respect to the 2012 Cup due to teachers now being eligible for the public holiday and schools having to close in the afternoon.

With there now being two options available the purpose of this report is to determine Council's preference for the 2013 Ballina Cup day.

Key Issues

- Difference in options available
- Schools closing

Information

In order for the Ballina Shire to have a half day holiday to acknowledge the Ballina Cup, Council is required to apply for a holiday to the NSW Department of Finance and Services. Council's response for 2013 is due at the Department by 12 October 2012.

Council has written to the three local Chambers of Commerce seeking their preference for the event, along with the Ballina Jockey Club.

Formal responses have not been received to date albeit that it is understood that the Ballina Chamber of Commerce is leaning towards having the day as a local event day, primarily due to the overtime rates that apply to businesses for a public holiday.

10.5 Ballina Cup 2013

The Ballina Jockey Club has indicated, although not yet formally in writing, that their preferred date is Friday 13 September 2013 and their preference is for a public holiday. Attendance numbers and turnover were well up for the Ballina Jockey Club for 2012, no doubt in part due to many more residents having access to the holiday.

As per the attachment to this report the major differences between the declaration of a Local Public Holiday and a Local Event Day are as follows.

Local Public Holiday

- Banks required to close unless it holds a special approval to open
- Shops are free to open without restriction
- All employees are entitled to be absent from work
- Employees who work are entitled to penalty rates

Local Event Day

- Does not preclude banks or shops from opening
- Does not automatically mean employers are compelled to treat the day as a public holiday
- Entitlements to paid time off work or penalty rates will only apply where they have been agreed at the workplace level usually in the form of an enterprise agreement.

In summary it appears that the Local Event day does not entitle staff to have the half day off or to be paid penalty rates if they work. In the case of Council, as there is no agreement in place, the Council staff would be required to work.

Sustainability Considerations

- **Environment**
Not applicable
- **Social**
The Ballina Cup is a major part of the social calendar for the Ballina Shire.
- **Economic**
There are significant economics benefits gained from the staging of an event such as the Ballina Cup through promotional activities however there is also a significant cost to businesses in closing for the afternoon.

Legal / Resource / Financial Implications

The NSW Industrial Relations Office invites councils to apply for approval for the half-day to meet their legislative responsibilities.

Consultation

Correspondence has been forwarded to the Chambers of Commerce and the Ballina Jockey Club. Council has previously received objections in respect to the half day holiday and one objection was received for 2012. A copy of that objection is attached.

10.5 Ballina Cup 2013

Options

The options are to approve a half-day Public Holiday or a Local Event Day for 2013. This is largely a political decision, therefore both recommendations are provided for Council determination.

RECOMMENDATION

Option A

That Council supports the declaration of a half-day public holiday throughout the Ballina Shire for 2013 in respect to the 2013 Ballina Cup.

OR

Option B

That Council supports the declaration of a half-day local event day throughout the Ballina Shire for 2013 in respect to the 2013 Ballina Cup.

Attachment(s)

1. Letter from NSW Finance & Services
2. Objection

10.6 Councillor Fees

10.6 Councillor Fees

Delivery Program Governance

Objective To endorse a preferred approach for the management of Councillor fees for this term of Council.

Background

The Local Government Remuneration Tribunal reviews the fees paid to Councillors and Mayors on an annual basis. The Tribunal then releases a report with a range of fees allowed for the various categories of council.

The approach taken during the previous term of Council was to adopt the maximum fees as determined by the Tribunal for the entire term. This is considered to be a reasonable approach in that it saves having to report what is largely an administrative matter on an annual basis. The report that follows seeks Council endorsement of this approach for the 2012 to 2016 term.

Key Issues

- Whether to adopt the maximum fee or a lower amount
- Whether to have an agreed practice of adopting the maximum for the entire term.

Information

The last Remuneration Tribunal report was released in May 2012 with the Tribunal approving an increase of 2.5% in fees for Councillors and Mayors effective from 1 July 2012. The Tribunal also considered the categorisation of all councils and found there is no strong case to alter the current categories. The categories are listed below.

Category
S1 – Principal City
S2 – Major City
1A – Metropolitan Major
1 – Metropolitan Centre
2 – Metropolitan
3 – Regional Rural
4 – Rural
S4 – County Council Water
S3 – County Council

Ballina Council is a category three - Regional Rural.

The fees, as effective from 1 July 2012, are shown in the following table.

Category	Councillor Annual Fee		Mayor Additional fee	
	Min \$	Max \$	Min \$	Max \$
Three	7,740	17,060	16,480	37,230

10.6 Councillor Fees

It has been standard practice for Ballina Council for many years to adopt the maximum fee, as it is for most councils, and it is recommended that Council endorse this approach for this term.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Councillor fees are designed to ensure that Councillors are not out of pocket for what is primarily a community service role.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The 2012/13 budget provides for the maximum allowance.

Consultation

This report is provided for public information.

Options

The options are to adopt the maximum fee or a lower amount and to adopt the fee either for this year or agree to an approach that supports the maximum fee for the entire term. As recent Council practice has been to adopt the maximum for the entire term, this is the recommendation that follows.

RECOMMENDATION

That Council adopts the maximum annual Councillor and Mayoral fees for a category three councils for the 2012 – 2016 Council term.

Attachment(s)

Nil

10.7 Deputy Mayor - Election

10.7 Deputy Mayor - Election

Delivery Program Governance

Objective To determine whether Council wishes to appoint a Deputy Mayor and if so, how that position is to be elected.

Background

Section 231 of the Local Government Act states:

- (1) *The councillors may elect a person from among their number to be the deputy mayor.*
- (2) *The person may be elected for the mayoral term or a shorter term.*
- (3) *The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.*
- (4) *The councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no deputy mayor has been elected.*

Nominations for the office of Deputy Mayor are to be submitted in writing to the General Manager, signed by the nominee and at least one other Councillor, prior to this report being discussed at the ordinary meeting.

Copies of the nomination forms are attached under separate cover.

The Deputy Mayor can be paid an allowance for such time as the Deputy Mayor acts in the office of the Mayor. The Division of Local Government has advised that such an allowance cannot be established on an annual basis and paid as an annual figure. Rather it must reflect actual time acting as the Mayor. Therefore the Deputy Mayor will only receive an allowance if the Mayor is on a period of extended leave.

Key Issues

- To determine whether Council wishes to appoint a Deputy Mayor
- If yes, Council must determine the method of voting

Information

An election must be held if more than one nomination is received. Council must then determine whether the voting is to be by preferential ballot (if three or more candidates nominated), ordinary ballot (secret ballot) or open voting.

Section 251(5) of the Local Government (General) Regulation states as follows:

10.7 Deputy Mayor - Election

Voting at a council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot. (Reg 251)

Note: Part 11 of this Regulation provides that a council is to resolve whether an election by the councillors for mayor or deputy mayor is to be by preferential ballot, ordinary ballot or open voting (clause 394 and clause 3 of Schedule 7). Clause 3 of Schedule 7 also makes it clear that "ballot" has its normal meaning of secret ballot.

Sustainability Considerations

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

Legal / Resource / Financial Implications

There is no legal obligation for Council to elect a Deputy Mayor.

Consultation

Not applicable.

Options

The options are to either have or not have a Deputy Mayor and the method of voting. The recommendation that follows reflects Council's traditional practices.

RECOMMENDATIONS

1. That Council elect a Deputy Mayor for the period to September 2013.
2. That the method of voting for the election of Deputy Mayor be by way of ordinary (secret) ballot.
3. That the number of votes at the ballot be revealed at the meeting and that the General Manager, following the meeting, destroy the ballot papers.

Attachment(s)

Nil

10.8 Committees - Internal - Appointments

10.8 Committees - Internal - Appointments

Delivery Program Governance

Objective To determine Councillor appointments to Council formed or managed committees.

Background

Committees can provide a useful strategy for councils to manage the wide range of information and responsibilities that are presented to the elected Council. For example, a committee meeting, prior to a formal Council meeting, allows an opportunity for matters to be canvassed, and time allocated, that may not always be available in a more structured monthly Council meeting.

At the same time committees do consume resources and time and it is important to ensure that day to day operations do not become tied down with an overly cumbersome committee structure.

Councils across the State have many differing committee structures in place and it is matter for each council to determine what structure works best for their area. Section 377 of the Local Government Act allows a council to delegate certain functions to a committee and whether or not a committee is to have any delegated authority is also a key consideration in determining committee structures.

The report that follows provides an overview of the current internal committee structure, with Council having the opportunity to endorse or amend that structure.

Key Issues

- Format of committee structure including delegations
- Councillor appointments

Information

The existing Committee Structure can be grouped into three main categories:

1. Standing Committees – Consist solely of Councillors to consider items of business before the Council. Prior to the last term of Council the membership of the Standing Committees was limited to three to four Councillors, however the last Council included all Councillors on these Committees.
2. Ward Committees – Consist of Councillors and community representatives to discuss items of interest for each Ward.
3. Miscellaneous Committees / Taskforces / Working Parties – Formed to carry out a specific task or function and can be disbanded when a task is completed.

10.8 Committees - Internal - Appointments

An overview of each of these categories follows.

1. Standing Committees

The existing standing Committees are:

- Airport Committee – This Committee considers matters of a strategic nature for the Ballina/Byron Gateway Airport - Membership consists of all councillors with no delegated authority. With the appointment of the Airport Manager, this Committee has not met for the past two years. As the Airport function reports directly to the Commercial Services Unit, it is recommended that the committee be disbanded and that the Commercial Services Committee considered airport matters into the future.
- Civil Committee - Considers matters largely from the Civil Services Group; i.e. road network planning, flood management plans - Membership consists of all councillors with no delegated authority.
- Commercial Services Committee - Considers commercial and property dealings of Council, with the aim of any commercial activity typically being the provision of supplementary revenue streams that assist Council in the delivery of services to the community - Membership consists of all councillors with no delegated authority.
- Environmental & Sustainability Committee - Considers matters of a strategic planning nature; i.e. local environmental plan - Membership consists of all councillors with no delegated authority.
- Facilities Committee - Provides strategic input into the facilitation and construction of major community facilities - Membership consists of all councillors with no delegated authority. This Committee has met very rarely and typically the nature of the discussion will involve funding or perhaps commercial aspects of a project. Overall it is considered that this Committee could be disbanded with future matters to be considered by either the Finance or Commercial Services Committees.
- Finance Committee - Considers financial matters; i.e. budget development, funding proposals etc - Membership consists of all councillors with no delegated authority
- Reserve Trust – This Committee has delegated authority to determine matters where Council is the Reserve Trust manager for the land - Membership consists of all councillors – Also development applications for Council projects, with a value above \$20,000, are currently submitted to this Committee for approval to lodge the application.

This Committee was formed based on recommendations from the Department of Lands (now Department of Primary Industries). The principle being that when acting as a Reserve Trust, Councillors should make decisions in the interest of the Trust. Therefore it is appropriate to consider Trust related matters by sitting as a separate Reserve Trust meeting.

10.8 Committees - Internal - Appointments

The Standing Committees provide a forum outside the monthly Council meeting for Councillors to consider matters that may be quite complex or comprehensive. The meetings can operate similar to a workshop, which allows extensive dialogue between Councillors and staff or expert consultants. The Airport, Civil, Commercial Services, Environmental & Sustainability, Finance and Facilities Committees have traditionally had no delegated authority and any recommendations are submitted to the next ordinary Council meeting for final resolution.

The Reserve Trust Committee has delegations to make decisions for crown land matters.

2. Ward Committees

One of the major difficulties for any council is to actively engage with the broader community. Activities such as advertising, public meetings, use of flyers etc are often used to try and obtain broad community feedback on matters of importance.

Despite these on-going efforts it is often people with a potential vested interest who will respond to matters which means that Council does not obtain that wider community feedback on matters. The role of a Councillor is then to try and gauge what is the community position on issues placed before the Council.

Council continues to trial different ways to engage with the community and the Ward Committees (one for each ward) were set up during the last term to allow all interested not for profit community groups to have a set forum to engage with Council. The terms of reference adopted by Council for the Ward committees are:

"To provide Council with feedback and policy advice on matters referred by Council and/or raised by members on behalf of their community"

The Committees meet once every two months, in the evening and have no delegated authority. Minutes and agendas are distributed to all Councillors via the Councillor Bulletin. The current membership of the Ward Committees is as follows:

A Ward

Ballina Lions Club
Ballina Day View Club
Lighthouse Day Club
Ballina CWA
Ballina Environment Society
Ballina Retail Action Group
Ballina Chamber of Commerce
Paradise FM
St Andrews Ballina
Ballina High School
Ballina Probus Club
Ballina Evening View club
South Ballina Community Association

10.8 Committees - Internal - Appointments

B Ward

Lennox Head Residents Association
Lennox Head Chamber of Commerce
Lennox Head Combined Sports Association
Lennox Care
Lennox Head Landcare
Southern Cross School P & C Association
Ballina Environment Society Inc
Lennox Head Probus Club
Knockrow Newrybar Residents Group
East Ballina Landcare Group
Shaws Bay Residents Association
Lennox Head Lions Club
Ballina on Richmond Ritary club
Tintenbar School of Arts Inc

C Ward

Meerschaum Vale Hall Committee
Rous Mill Ratepayers Association
Wollongbar Progress Association Inc & Hall Committee
Alstonville Agricultural Society
Wardell Progress Association
Alstonville Combined Services Club
Alstonville & District Citizens & Ratepayers Association Inc
Ballina on Richmond Rotary Club
Alstonville Plateau Historical Society
Ballina Environment Society
Alstonville/Wollongbar Chamber of Commerce
Far North Coast Legacy
Tuckombil Landcare
Alstonville Rotary Club

The Ward Committees are considered to work reasonably well in that they provide an opportunity for Ward councillors and staff to hear directly from community group representatives on issues in their local areas.

One downside to the Committees is that there are times when it is unclear whether the people attending the meetings are representing their own personal views or that of their organisation. The organisation may not have met to review the matter being discussed, which then relies on the representative at the meeting to put forward what they think is their organisation's view. Concerns have also been expressed that many residents may not be members of these organisations and therefore do not have a view being considered at these meetings. This is a fair comment and the onus is then on Council to engage with the broader community in different ways.

The A Ward Committee has also expressed concerns that more sporting clubs should be encouraged to join the Committees, or at least encourage them to make deputations, and this proposal is supported.

Despite these comments, on balance, it is considered that the Ward Committees provide one important feedback mechanism to Council and as long as it is acknowledged that Council also needs to seek feedback from other sources, it is recommended that the Ward Committees continue.

3. Miscellaneous Committees / Taskforces / Panels

This section of the report outlines the remaining committees etc that currently exist.

Local Traffic Committee (LTC) – The LTC consists of representatives from the NSW Police, the Roads & Maritime Services (RMS) and Council. The committee is not formed by Council under the Local Government Act but rather is formed as a requirement of Council to meet its statutory obligations delegated by the Roads & Maritime Services (RMS) to Council in respect of the NSW Roads Act. The operation of the LTC is then managed by a technical direction from the RMS.

The representative from Council is the Chairperson in accordance with the RMS guidelines. Whilst the guidelines provide that Council is limited to this one position, the appointment can be a Councillor or staff member. Other persons from Council may attend the meeting, but cannot vote.

This Council has traditionally appointed its senior engineer to the position. This appointment has been made based on the RMS guidelines which state that:

"The LTC is primarily a technical review committee, which is required to advise the Council on matters referred to it by Council. The LTC should consider the technical merits of the proposal and ensure that the proposal meets current technical guidelines. "

The LTC considers a range of traffic control matters some of which are determined under delegation by Council staff, some of which need to be reported to Council and some of which are forwarded to the RMS for determination.

Alstonville Leisure and Entertainment Centre (ALEC) Committee – This Committee meets quarterly and oversees the operation of the ALEC. The membership of the Committee is set by a deed established when Council acquired the land on which the ALEC is located, with the deed reading as follows:

"The Alstonville Community Centre (ALEC) shall be managed, governed and controlled by a community centre committee that shall comprise seven members two of which shall be appointed by the Transferor (Alstonville Agricultural Society) and five of which shall be appointed by the Transferee (Council). Not more than two of the appointees by the transferees shall be members of the Council of the Shire of Ballina and the remaining three members shall be residents from within the area serviced by the Community Centre".

In accordance with the deed, the membership currently comprises two "C" Ward Councillors, with the other C Ward Councillor as alternate delegate, along with representatives from the Alstonville Agricultural Society and three community representatives appointed following an advertising process.

The Committee has no delegated authority. Any recommendations requiring action are subject to a separate report to Council.

10.8 Committees - Internal - Appointments

Access Reference Group - This Committee meets every two months to discuss mobility and access issues, particularly disabled access, for the Shire. Membership consists of community representatives who are either disabled or represent a disability group. The Committee has no delegated authority and there are no Councillor appointed representatives, although Councillors can attend as observers.

Northern Rivers Community Gallery Advisory Committee - This Committee provides community input into the operations of the Northern Rivers Community Gallery. The Committee consists of the following representatives:

- Two Ballina Shire Councillors
- General Manager (or nominated delegate)
- Maximum of three community representatives selected following an expression of interest process
- One representative from Arts Northern Rivers

The Committee was formed following the opening of the gallery and was especially important in the early stages when the gallery was operated by volunteers or a part time staff member. With a full time Gallery Co-ordinator now in place it is considered that the need for the Committee may not be as great, as the majority of the matters being considered are operational in nature.

One alternative being pursued is the possible creation of a Friends of the Gallery style model to assist with fund raising and with this in mind it is recommended that Council defer any decision on this Committee until a further report is submitted on more contemporary options for engagement with the community. Importantly the Gallery still has a strong volunteer program going which ensures there is on-going feedback with the community.

Conduct Review Panel - Council's Code of Conduct requires a panel to be established to handle code of conduct complaints as and when they arise. Complaints can be assessed by either one or a combination of two or three of the panel members, with complaints to be initially assessed by the General Manager (or Mayor if a complaint relates to the General Manager) prior to forwarding to the Panel.

Current panel members are Inspector Greg Moore, Gary Faulks, Peter Cordery, Donald Scott, Kim Holwell, Dennis O'Sullivan, Andrew McGinley and David Gibson. These members were appointed following an advertising process or by direct approach.

Payment is made to members based on the NSW Parliament Sitting Fees, adjusted by CPI, with the 2011/12 fees being:

Chair	\$390 full day	\$195 half day
Member	\$236 full day	\$118 half day

Payment to members is optional with the previous Council having determined that the above fees are considered appropriate. Tweed Council follows the same approach.

10.8 Committees - Internal - Appointments

The last term of Council had little, if any, complaints forwarded to the Panel, which meant that the majority of the panel members have not actually been involved in the management of a complaint to date.

The Division of Local Government is currently reviewing how the Conduct Review Panels operate and rather than advertising for new members it is recommended that Council confirm with the current members that they wish to remain on the panel. If a number of existing members do not reapply it may be worthwhile advertising and a determination on that can be made once the responses are received.

Public Art Advisory Panel – Council has a Public Art Policy which states that a Public Art Advisory Panel will be formed to provide guidance on the implementation of that policy (refer to our web site for details on the policy). In brief commercial, retail or tourist developments with a value in excess of \$1m must provide public art of a value of at least \$15,000. The Panel Members provide input into what is considered to be appropriate public art as funded by these contributions.

The Panel consists of three Councillors (one from each Ward, one of which will be Chair) and a representative from Arts Northern Rivers.

General Manager's Performance Review Committee - comprises the Mayor and Deputy Mayor with no delegated authority

Council has a number of options in managing the General Manger's performance appraisal process. Some councils use the whole council to conduct the appraisal while other councils vary this from the Mayor only to any sub-component of the elected council. The Council and/or General Manager also have the option of utilising an external consultant to assist.

Almost all of these options have been trialled by Council and the most effective process to date has been to use a small sub-committee (ie Mayor and Deputy Mayor) with all the Councillors then having an opportunity to comment when this report is presented to Council.

Sustainability Considerations

- **Environment**
The various committees created by Council have a responsibility to consider environmental, social and economic issues.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

It is important that Council, in creating any committees, ensures that the membership of the Committee is clear, along with the terms of reference and delegations, if any. Committees can impact heavily on staff resources and Councillor time so it is essential that the need for any Committee is clearly demonstrated.

Consultation

Committees provide one opportunity for Council consultation with the community and can also provide an opportunity for Councillors to consider matters prior to reporting to the monthly ordinary meeting.

Options

The committee structure adopted by a Council can play an important role in how that council operates.

With this being the first meeting of a new Council it may well be more appropriate to defer any final decision on this report until a workshop is held between Councillors and staff. That workshop would then allow an opportunity for Councillors to examine the advantages and disadvantages of the existing arrangements, along with reviewing other options.

Another possible option could be to endorse part or all of the existing structure, subject to a further review after six to 12 months of operation.

As it is important for Council to continue to operate effectively the preferred approach is to endorse the majority of the existing arrangements and allow a review to be completed at 30 June 2013. This will provide for a period of nine months, along with the completion of the financial year, which will then assist Councillors in determining whether the new Council wishes to make further improvements to the existing structures.

The changes recommended at this point in time:

- a) The disbanding of the Airport Committee and the Facilities Committee. Overall it is considered that matters of relevance to these two committees can be handled within the auspices of either the Finance Committee or the Commercial Services Committee and the recommendation that follows endorses that approach.
- b) The deferral of any renewal of the Northern Rivers Community Gallery Committee to allow a further report to be submitted on more relevant structures for the future operation of the Gallery
- c) The only other change Council may wish to consider is the removal of the \$20,000 caveat for development applications on crown land having to be submitted to the Reserve Trust Committee. Many minor projects can have a value higher than \$20,000 and to submit all these projects, when they normally already been approved in the Council budget, to a Reserve Trust Committee, consisting of all Councillors is considered to be an overly bureaucratic approach.

RECOMMENDATIONS

1. That Council confirms it will retain the following Standing Committees:
 - Civil Committee
 - Commercial Services Committee
 - Environmental & Sustainability Committee
 - Finance Committee
 - Reserve Trust
2. The terms of reference for these Standing Committees is to be as follows:
 - Civil Committee - To consider strategic and policy matters related to the objectives and functions of the Civil Services Group
 - Commercial Services Committee - To introduce, evaluate and review the commercial dealings and operations of Council, with the aim of any commercial activity being the provision of supplementary revenue streams that assist Council in the delivery of services to the community
 - Environmental & Sustainability Committee - To consider land use planning matters of a strategic and regulatory nature
 - Finance Committee - To consider financial matters of a strategic nature including Council's annual budget deliberations
 - Reserve Trust Committee - To consider crown land matters where Council is the appointed Trust Manager
3. Membership for the Standing Committees is to consist of all Councillors.
4. Council confirms it will disband the Airport and Facilities Committee as matters relating to those Committees can be considered by the Committees established in point one.
5. The Civil, Commercial Services, Environment and Sustainability and Finance Committees will have no delegated authority.
6. The Reserve Trust Committee will have the following delegated authority being:

"To determine all matters presented to the Committee in respect to items where Ballina Shire Council is the Reserve Trust Manager, excluding those not able to be delegated as per Section 377 of the Local Government Act".
7. Council confirms it will retain the existing structure and membership of the three Ward Committees, with expressions of interest to be called for additional membership, particularly from sporting bodies.
8. That Council notes the contents of this report in respect to the Local Traffic Committee and confirms that the General Manager (or nominated delegate) is the Council appointment to that Committee.

10.8 Committees - Internal - Appointments

9. That Council determine its two appointments, plus alternate, to the Alstonville Leisure and Entertainment Centre Committee, and approves the calling of expressions of interest for the remaining three community representatives.
10. That Council notes the comments of this report in respect to the Access Committee.
11. That Council defer any decision on the Northern Rivers Community Gallery Committee subject to a further report being submitted on more relevant consultation structures for the future operation of the gallery.
12. That Council approves the reappointment of all the existing members of the current Conduct Review Panel, subject to the General Manager writing to the members to confirm their acceptance. If there is a substantial reduction in members the General Manager is authorised to call for expressions of interest for membership with the applications to be submitted to Council for approval.
13. That Council confirms its remuneration for Conduct Review Panel members is to be based on the NSW Parliament Sitting Fees, adjusted by CPI, with the 2012/13 fees being:

Chair	\$400 full day	\$200 half day
Member	\$244 full day	\$122 half day
14. That Council determine its three representatives to the Public Art Advisory Panel, with a representative from Arts Northern Rivers to be the other member on the Panel.
15. That Council confirms the General Manager's Performance Review Committee is to comprise the Mayor and Deputy Mayor.

Attachment(s)

Nil

10.9 Committees - External - Appointments

10.9 Committees - External - Appointments

Delivery Program Governance

Objective To consider Council appointments to external Committees and Organisations.

Background

Council is represented by Councillors on a number of external committees and organisations. The purpose of this report is to review that representation to determine firstly whether Council still wishes to be represented on the committee / organisation and secondly who the representative(s) will be.

Key Issues

- Review of representation
- Nomination of delegates

Information

Council, as an organisation, provides input into a number of other organisations and groups. The majority of that representation is on a voluntary basis however Council is also a member of three county councils and delegates to those councils are entitled to a councillor allowance paid by those councils, along with travelling allowance, professional development etc.

The county council appointments, if an election is required, must be by preferential ballot. To be formal, at least two preferences must be marked. Also appointment to the county councils is for the term of the council. This means if a Councillor is interested in becoming a delegate to a county council they must be voted in at this meeting.

Appointments to the other committees and organisations can be made for one year or more. Recent practice has been to appoint representatives for the term of Council, albeit that if any Councillor wished to resign from their appointment this can be reported on at any time during the term.

In summary there are four main categories of external organisations on which Council is represented being:

1. County Councils – councils established by State legislation.
2. Council Constituted Organisations – organisations set up by the member councils.
3. Industry Based Groups – Professional groups / organisations / statutory bodies to which Council has been invited to have a representative attend meetings.
4. Community Based Groups – Community based groups / organisations to which Council has been invited to have a representative attend meetings.

1. County Councils

Council is a constituent council (i.e. member council) of three county councils being Rous Water, Richmond River County, and Far North Coast County. As councils these three entities are bound by the same legislation (i.e. NSW Local Government Act etc) as a general purpose council (i.e. Ballina Shire).

Details on the three county councils are as follows:

a) Rous County Council (Rous Water)

Rous is the regional water supply authority providing bulk water to the council areas of Lismore (excluding Nimbin), Ballina (excluding Wardell), Byron (excluding Mullumbimby) and Richmond Valley (excluding land to the west of Coraki). The key role for Rous is to ensure the adequate supply of water to the member councils, along with forward planning for the regional water supply.

In summary, Ballina Council purchases water from Rous and then we perform the role of network distributor; i.e. we own the water mains, pumping stations etc that deliver water within our Shire.

The water purchase figure payable to Rous by Ballina Council for 2012/13 is approximately \$5.1 million and the total estimated operating expense for Council's water operations for 2012/13 is \$8.5 million, excluding depreciation. These figures highlight the impact that the Rous charges have on Council's water operations.

The only locality in Ballina Shire that is not part of the Rous supply is Wardell which is supplied by Ballina Council's own water treatment plant at Marom Creek.

The Rous Water constituent councils are Ballina, Byron, Lismore and Richmond Valley, with each council having two delegates (i.e. total of eight). The Rous Water Chair is elected annually by the delegates.

Delegates to Rous are entitled to a current councillor allowance of \$8,530 per annum, with the Chair of Rous receiving an additional allowance of \$14,000 per annum. Travelling to and from meetings is paid by Rous Water to the delegate.

Rous Water is a reasonably sized organisation with 77 full time staff and meetings are held monthly.

b) Richmond River County Council (RRCC)

RRCC is responsible primarily for the management of flood control infrastructure, and related natural resources, on the Richmond River floodplain.

One of the key issues for RRCC is the health of the Richmond River and over the years RRCC has struggled to attract the finances to achieve major outcomes, as many of the projects needed for the Richmond River require significant capital investment. An important goal for this term of RRCC should be to increase the level of investment into the Richmond River.

10.9 Committees - External - Appointments

Ballina Council's annum contribution to RRCC is \$180,000.

The RRCC constituent councils are Ballina, Lismore and Richmond Valley, with each council having two delegates (i.e. total of six). The RRCC Chair is elected annually by the delegates.

RRCC only has seven full time staff (with six Councillor representatives) and the relevance of this governance structure is currently under review.

Delegates to RRCC are entitled to a councillor allowance of \$5,100, with the Chair of RRCC receiving an additional allowance of \$9,310. RRCC meets every two months.

c) Far North Coast County Council (Far North Coast Weeds) (FNCCC)

FNCCC is responsible for noxious weed control for the constituent councils being Ballina, Byron, Kyogle, Lismore, Richmond Valley and Tweed.

FNCCC has 11 full time staff (with six Councillor representatives) and the relevance of this governance structure is also under review.

Ballina Shire nominates one delegate to FNCCC with delegates entitled to a councillor allowance of \$5,100 with the Chair of FNCCC receiving an additional allowance of \$9,310. FNCCC meets every two months.

2. Council Constituted Organisations

a) Northern Rivers Regional Organisation of Councils (NOROC)

NOROC is a body formed by the member councils to advance regional issues. The members of NOROC are all the northern rivers councils (i.e. Tweed, Byron, Ballina, Clarence, Richmond Valley, Kyogle, Lismore plus Rous Water and Richmond River County Council).

Council's representation comprises the Mayor and the General Manager.

b) Richmond-Tweed Regional Library Committee (RTRL)

RTRL manages library services for Ballina, Byron, Lismore and Tweed councils. Council's representation comprises two councillors and an alternate delegate. The RTRL is administered by Lismore City Council (i.e. Lismore employs all the library staff) and discussions are currently underway to formalise a new agreement for these administrative arrangements.

c) Arts Northern Rivers

Arts Northern Rivers is a regional body consisting of all the NOROC councils, which oversees the promotion and development of arts in the region.

The Arts Northern Rivers constitution allows a council to select its own method of determining who will represent the local government area; i.e. it can be a local community representative, staff member or Councillor.

10.9 Committees - External - Appointments

Typically Ballina selects a Councillor.

3. Industry Groups

a) Australian Airports Association

The delegate to this is traditionally the Airport Committee chairperson. If there is no Airport Committee it would be a matter of Councillors asking for approval to attend these meetings as and when they arise.

b) Ballina & District Chamber of Commerce

Delegates are typically the "A" Ward Councillors plus the Mayor, however at times additional Councillors have been appointed as delegates, as this is the major Chamber for the Shire.

c) Lennox Head Chamber of Commerce

Delegates are typically the "B" Ward Councillors plus the Mayor.

d) Alstonville/Wollongbar Chamber of Commerce

Delegates are typically the "C" Ward Councillors plus the Mayor.

e) Cape Byron Marine Park Authority Advisory Committee

Council has one delegate with this appointment overseen by the NSW State Government. The Advisory Committee provides input into the operations of the Cape Byron Marine Park. Following the NSW State election the Government has been reviewing the operation of the marine parks. The latest advice from the State Government is to defer any decision on this appointment until the current review is completed.

f) Rural Fire Service Management Committee

Council has one delegate with this Committee providing input into rural fire services for the region.

g) Sustain Northern Rivers Steering Committee

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

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

10.9 Committees - External - Appointments

Council, Southern Cross University, Tweed Shire Council and the Youth Environment Society.

Council's representation on this steering committee is one Councillor delegate and an alternate Councillor delegate.

h) Joint Regional Planning Panel (JRPP)

This is a State Government appointed body that oversees the determination of development applications that meet certain criteria, i.e.

- development with a capital investment value (CIV) over \$20 million
- development with a CIV over \$5 million which is council related, lodged by or on behalf of the Crown (State of NSW), private infrastructure and community facilities or eco-tourist facilities
- extractive industries, waste facilities and marinas that are designated development
- certain coastal subdivisions
- development with a CIV between \$10 million and \$20 million which are referred to the regional panel by the applicant after 120 days
- crown development applications (with a CIV under \$5 million) referred to the regional panel by the applicant or local council after 70 days from lodgement as undetermined, including where recommended conditions are in dispute.

The NSW Government Joint Regional Planning Panel web site (jrpp.nsw.gov.au) states that “regional panels provide independent, merit based decision making on regional development. Regional development is development which is notified and assessed by a local council and then determined by the relevant regional panel”.

There are six regional panels across NSW, with each Panel comprised of five members, three appointed by the Minister and two appointed by the relevant local council.

At least one council member is required to have expertise in one or more of the following areas: planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism.

Community representatives, staff or Councillors can be nominated to the panel.

The practice to date has been to appoint the Mayor, with the Deputy Mayor as the alternate delegate and the Group Manager – Strategic and Community Services, with the Group Manager – Civil Services as the alternate delegate.

Councils are free to determine the fees they pay their members of the JRPP, with guidance provided by the Minister. The actual Council pays the attendance and any travelling fee, not the JRPP.

Ballina Council has to date adopted the maximum fee recommended by the Minister for Planning (through the Department of Planning) which is currently \$600 per meeting. This fee is only payable to the Councillor representative with Council staff not being eligible for any additional payment.

4. Community Based Groups

Ballina Naval Museum

Delegate numbers have varied from time to time and Council may well wish to not appoint a delegate but rather attend meetings on an as required basis.

Ballina District Community Services Association Board (BDCSA)

During the last term of Council, BDCSA invited Council to have a representative on their Board. This proposal was supported as BDCSA plays a major role in providing community services across the Shire.

Sustainability Considerations

- **Environment**
Environmental, social and economic factors will all be considerations in representing councils on other bodies.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

If nominated as a delegate Councillors are automatically entitled to claim travelling expenses to attend formal meetings. These expenses are paid by Ballina Shire Council, except in the case of the three county councils, which pay the expenses direct to the delegate.

Consultation

Representation on external bodies is an important component in Ballina Shire's consultation with the broader community.

Options

Election to the county councils must be in accordance with the Local Government Act and nomination forms have been included with the business paper. These forms must be signed by both the nominee and a councillor as a nominator and returned to the General Manager prior to the election taking place.

For the county councils, if an election is required, the system of voting must be by preferential ballot. To be formal, at least two preferences must be marked.

In respect to the other organisations Council can determine its representatives by consensus or by an election. If an election is needed the voting must be by open voting (show of hands). Typically a large number of these delegates are appointed by consensus without the need for an election.

RECOMMENDATIONS

1. That Council determine and confirm its representation for the following external committees / organisations:
 - a) Rous County Council (Rous Water) – Two delegates
 - b) Richmond River County Council (RRCC) – Two delegates
 - c) Far North Coast County Council (Far North Coast Weeds) (FNCCC) – One delegate
 - d) Richmond-Tweed Regional Library Committee (RTRL) – Two delegates, with an alternate
 - e) Arts Northern Rivers – One delegate
 - f) Australian Airports Association – One delegate
 - g) Ballina & District Chamber of Commerce – Three A ward Councillors plus Mayor (and any other interested Councillor)
 - h) Lennox Head Chamber of Commerce - Three B ward Councillors plus Mayor
 - i) Alstonville/Wollongbar Chamber of Commerce - Three C ward Councillors plus Mayor
 - j) Rural Fire Service Management Committee – One delegate
 - k) Sustain Northern Rivers Steering Committee – One delegate
 - l) Ballina Naval Museum – One delegate
 - m) Ballina District Combined Services Association – One delegate
2. That Council confirms its representation to the following organisations as listed below
 - a) Northern Rivers Regional Organisation of Councils (NOROC) – Mayor and General Manager
 - b) Joint Regional Planning Panel – Mayor with Deputy Mayor as the alternate. The Group Manager – Strategic and Community Services, with the Group Manager – Civil Services as the alternate. Council also adopts the maximum meeting fee as provided by the NSW Department of Planning and Infrastructure, which is currently \$600 per meeting, for the Councillor appointment.
3. That Council defer any new appointment to the Cape Byron Marine Park Authority Advisory Committee until the current State Government review of the marine parks is completed.

11.1 Tender - Provision for Sprayed Bituminous Surfacing

11. Civil Services Group Reports

11.1 Tender - Provision for Sprayed Bituminous Surfacing

Delivery Program Asset Management

Objective To provide Council with the results of Tender RFT638
- Provision of Sprayed Bituminous Surfacing

Background

Tenders closing on Thursday 28 August 2012 were invited for Tender RFT638 – Provision for Sprayed Bituminous Surfacing. The tender is initially for the period until 30 June 2013, with provision for extensions to 30 June 2015. The following tenders were received:

- Boral Asphalt
- RPQ Spray Seal Pty Ltd

This report provides details on the outcome of the tender evaluation process.

The scope of work and other tender requirements remain similar to the previous versions of this contract which has proven to be successful for Council's purposes.

Key Issues

- Appropriate assessment and selection of sprayed bituminous surfacing contractor

Information

The term of this contract is initially to June 2013 with the option of two one year extensions.

The tender called for 58 unit rates for various material and activities involved in undertaking bitumen resealing projects.

Each separate resealing project contracted by Council will involve differing item combinations and quantities of the 58 unit rates. To determine the most cost effective tender, a price comparison was made based on typical material quantities and items used for resealing projects. These typical material quantities were derived from actual resealing projects that have been previously undertaken. The comparison is provided in the table that follows.

RPQ has the lowest prices for these comparisons. RPQ has previously carried out this type of work for Council. The company has satisfactorily undertaken Council's contract for Sprayed Bituminous Surfacing for 2009-2012. Boral has also satisfactorily performed this service for Council in the past.

The prices received for the supply and spray of bitumen under this tender have increased by 14% to 32% over the previous tender. Sealing aggregate

11.1 Tender - Provision for Sprayed Bituminous Surfacing

costs have increased by 14% to 33%. Supply and spray of bitumen represents approximately 25% of the cost of bitumen sealing.

The renewal of this contract has consistently seen cost increases of this order of magnitude. It is important for the community to understand that these cost increases have an impact on the Council's ability to provide services and maintain its infrastructure.

PRQ is based at Chinderah, NSW and Boral is based in Lismore, NSW.

Schedule of Comparative Costs for Typical Projects

Project	Costs	
	RPQ Pty Ltd	Boral
Urban Reseal	\$38,875	\$39,994
Rural Reseal	\$67,000	\$68,217
Construction Seal (Rural)	\$21,208	\$21,976
Construction Seal (Urban)	\$15,769	\$16,197
2011/2012 Total Program	\$578,593	\$584,108

Sustainability Considerations

- **Environment**
The contract requires the contractor to establish and operate in accordance with an Environmental Management Plan.
- **Social**
This tender will assist in the maintenance of the road network and thereby support the community's transportation needs.
- **Economic**
This tender will assist to maintain the road network, an essential asset for economic development.

Legal / Resource / Financial Implications

Council's road resealing program is funded from within the Engineering Works Section roads budget.

The tender results do not directly impact the budget allocation. As per previous reports, the budget allocation for the road resealing program is currently inadequate to achieve the industry standards or norms for resealing frequency, although 15% increases are factored in for the next four years in the forward financial plan, which dependent on future price increases, should significantly narrow the funding gap. Currently the budget is managed by limiting the extent of resealing 'to fit' the budget allocated.

The tender from Boral Asphalt has several departures from Council's tender documents. These have been referred to Council's solicitor and the advice in response is that Council should not accept the amendments. The recommendation to this report deals specifically with this issue.

Consultation

11.1 Tender - Provision for Sprayed Bituminous Surfacing

A public tender process was conducted.

Options

Council on previous occasions has selected or nominated a preferred tenderer, but has also accepted the documentation from the other contractors. This allows Council the opportunity to use other contractors to meet the program requirements. Given the difference in pricing was materially insignificant, on this occasion it is recommended that Council simply accept both tenders with work to be awarded by staff based on availability, performance and program factors.

RECOMMENDATIONS

1. That Council accept the tender from RPQ Pty Ltd for the Supply and Application of Bituminous Products for the period 1 October 2012 to 30 June 2015.
2. That Council accept the tender from Boral Asphalt Pty Ltd for the Supply and Application of Bituminous Products for the period 1 October 2012 to 30 June 2015 subject to the tenderer's acceptance of the terms and condition in Council's documentation.
3. That Council notes that it will also reserve the right to accept alternative quotes which may be sought from other contractors to meet program requirements, if necessary.

Attachment(s)

Nil

11.2 Ballina Bypass - Handover

11.2 Ballina Bypass - Handover

Delivery Program Asset Management

Objective For Council to consider the Road & Maritime Service (RMS)'s offer to hand over assets associated with the Ballina Bypass project

Background

The RMS has been managing construction of the 11.5 kilometre Pacific Highway bypass of Ballina. The bypass commences at the Bruxner Highway intersection and rejoins the highway north of Ross Lane.

The construction of the Ballina Bypass was undertaken by the Ballina Bypass Alliance. Major roadwork construction commenced in mid 2008 and was substantially completed in mid 2012

The Ballina Bypass provides significant benefits including:

- Quicker journey times for local and through traffic
- Better traffic flow and safety along the existing highway
- Reduced through traffic and congestion in Ballina
- Reduced waiting times at intersections along the existing highway
- Reduced flow of heavy vehicles through Ballina

The Ballina Bypass is nearing completion and signoff from the RMS involves the official handover of a number of assets that will be Council's responsibility to maintain.

Council has been in ongoing discussion with the RMS regarding the scope and nature of these assets. These discussions can be categorised in two parts.

- The scope of the upgraded / new local assets that Council will be responsible for after the official handover.
- The reclassification of the (old) Pacific Highway to either Regional or Local Road and the adoption of an agreed ten year maintenance program on this road, funded largely by the RMS.

This report seeks Council's consideration of the handover arrangements.

Key Issues

- New road arrangement following the completion of the Ballina Bypass
- Potential Council liability

Information

The RMS has a formal policy in respect of considering these issues and negotiations have been conducted in accordance with the policy.

11.2 Ballina Bypass - Handover

The policy gives guidance in a number of areas, specifically these include:

- the process to determine what data is required to assess liabilities under the policy and what date is to be collected and shared
- the RMS will provide Council with a lump sum for handover of road assets with the lump sum being equivalent to the ten year maintenance and rehabilitation expenditure forecast by the RMS for the road
- the assessment process for the revised road classifications
- definition of responsibilities between the authorities.

The discussions have been the subject of detailed technical assessments. Therefore this report only attempts to discuss the issues at a broad level.

The old Pacific Highway will become a combination of Local and Regional Roads. One Regional Road will extend from the Teven Interchange, along River Street, Kerr Street and Tamarind Drive to Cumbalum Interchange. The other Regional Road will extend from the Tintenbar Road / Tamarind Drive intersection to the Ross Lane Interchange. Tamarind Drive from the Cumbalum Interchange to the Tintenbar Road intersection will be a Local Road. These roads will become the full maintenance responsibility of Council. The RMS provides some assistance to councils for regional roads through the Regional Road Block Grant. This grant does not cover all of council's expenses on regional roads.

Council staff argued that the section of the old highway from Teven Interchange to the River Street / Kerr Street intersection should become an extension of the Bruxner Highway. This would be a State Road classification and be the full responsibility of the RMS. The RMS rejected this argument in favour of a Regional Road classification. Copies of correspondence between Council and the RMS regarding this issue are attached to this report. The recommendation to this report suggests that Council should seek the Minister's review of this decision.

As part of the negotiations, the RMS also agreed to alter the route of Regional Road, MR545. The existing MR545 commences at the Kerr Street / Bentinck Street intersection, continues along Bentinck Street, Hill Street, Pine Avenue and the Coast Road to the Angels Beach Drive / Coast Road intersection at North Angels Beach. The new route for MR545 starts at the intersection of Kerr Street / Bangalow Road, continues along Bangalow Road to Angels Beach Drive and along Angels Beach Drive to the Coast Road intersection. This change has been made as the major route north for traffic from Ballina is along Angels Beach Drive. A plan showing the changes to Regional Roads is attached to the letter from the RMS regarding road classifications.

The following new roads will be designated as Local Roads and become the full responsibility of Council:

- Roseville Lane
- Paperbark Close
- Mangrove Lane
- Flathead Lane
- Albert Sheather Lane
- Mitchell Close
- Saddle Road

11.2 Ballina Bypass - Handover

A plan showing these roads is attached to this report.

Council staff and the RMS are in agreement in respect of the classifications of the new roads and the responsibilities that follow.

The RMS, as the Roads Authority for the state highway system, will maintain the new highway. The bypass is classified as a Freeway and the RMS is responsible for maintenance of both the road carriageway and the road reserve.

With respect to the old highway, staff have undertaken negotiations with the RMS to confirm what is an appropriate ten year maintenance plan. This has included pavement and surface assessments and estimating the costs of specific treatments for each road segment.

A formal offer is yet to be provided by the RMS however, it is expected that the formal offer will be in the range of \$4.8 million to \$5.2 million (this amount will be subject to net present value calculations). The amount will include approximately \$800,000 for asphalt overlays on Flathead Lane to correct anticipated settlement over the next 10 years.

The money is untied, meaning that it will be at Council's discretion to allocate the use of the funds. However, as the funds have been calculated based on the expected maintenance and renewal needs of these assets, it is recommended that the funds be placed in reserve and allocations be transferred to the roads budget annually to meet the road requirements predicted under the roads program.

Having regard to the RMS policy and the assessments undertaken, Council staff are satisfied that an offer equivalent to the above is reasonable. However Council staff are not satisfied that the policy provisions are acceptable. The reason for this is that the policy provides for the planned expenditure by the RMS programs.

Planned expenditure may not necessarily reflect the actual reality of the asset's requirements although the RMS are of the view that their asset management planning means that the planned expenditure will meet the needs of the road to maintain adequate service levels.

Furthermore, road pavements have a design life of more than ten years. Therefore the planned maintenance budget does not reflect the full lifecycle asset renewal costs. The RMS position is that it is only attempting to compensate Council for the deterioration in the asset from its use as a State Highway and the full renewal is a matter for Council.

The RMS officers have responded consistently with the policy. The options for Council are to seek additional funds from the Minister or accept the offer that will be made in accordance with the policy.

Staff have not allocated time to preparing an estimate that would be appropriate to pursue outside of the policy as we have already attempted, unsuccessfully, to raise this as an issue during the negotiations for the handover for the Alstonville Bypass.

11.2 Ballina Bypass - Handover

Road Maintenance Council Contract (RMCC)

The handover of the old Pacific Highway also has an impact on the Council's current highway maintenance contract with the RMS. Under this contract, known as RMCC, Council maintained the highway through Ballina from North Creek Road to Burns Point Ferry Road and the Bruxner Highway from the Teven Interchange to the boundary with Lismore City Council.

The RMCC was established as a single invitation contract. Traditionally councils had provided maintenance services on State Highways by agreement however some time ago the former RTA proposed that this work be subject to market competition. Local Government had concerns about this proposal as for many councils the decision had the potential to significantly reduce the economies of scale for local road maintenance and had impacts on local employment. A compromise was reached whereby councils agreed to work under contract, however under single invitation conditions, the councils have had the first option on the work.

The total length of highway under the current contract is approximately 20 kilometres. Under the new arrangements, the contract will only cover the Bruxner Highway, an approximate length of 15 kilometres. Of this length, the recently opened Alstonville Bypass represents over 6 kilometres.

The value of the contract in 2011/2012 was \$192,000. In addition to this we completed around \$800,000 of ordered work. The amount of ordered work is dependent on the RMS asset program and can vary significantly each year. Following the handovers the amount for routine maintenance is likely to reduce to around \$100,000 and the amount of ordered work is expected to be minimal because of the completion of the new highways and the work completed on the old highways in recent years. Furthermore, the majority of the ordered work is delivered by subcontract as it involves resealing and asphalt overlay.

Due to these changes, the RMS has recently asked Council if we would consider relinquishing our option for this contract. There are additional overheads for the RMS to manage each contract. Similarly, even with the reduced contract size, there is still significant administration required by Council to establish work, health and safety, environmental, and quality systems compliant with the specific RMS requirements. For the relatively small future value of the contract and income to Council the contract is no longer considered viable. Therefore the recommendation to this report is discontinue with the contract. There is no impact on employment for operational staff and relinquishing the contract will allow technical staff to be reallocated to other work.

Sustainability Considerations

- **Environment**

The Ballina Bypass will remove a great number of heavy vehicles and through traffic from Ballina and create a safer and quieter environment. Handover arrangements aim to establish the most appropriate governance arrangements to manage the public assets into the future.

- **Social**

As for Environment.

- **Economic**
As for Environment.

Legal / Resource / Financial Implications

The handover arrangements will result in additional liabilities to Council. However the RMS policy seeks to provide a reasonable basis for compensation for these issues.

Consultation

Ongoing consultation has taken place between the RMS and Council in regard to the handover period.

Options

As indicated in the report, the following options exist:

1. Accept the offer from the RMS for a lump sum compensation at handover
2. Seek the Minister for Roads to make a determination in addition to the policy
3. Make representations to the Minister for Roads and Ports regarding the classification of River Street as a State Road.

For option two, if achieved, it would result in a significant precedence for the RMS. The arguments about the extent of the asset renewal are somewhat subjective and general. Therefore without a very specific unresolved technical issue, the chances of successfully arguing a position around asset life beyond ten years are small and would consume Council staff resources to make the submission. For these reasons option 2 has not been recommended.

In regards to options 1 and 3, the recommendation that follows seeks to identify to the RMS that the technical negotiations are finalised, however the Council would like to pursue the road classification issue further.

RECOMMENDATIONS

1. That Council make a submission to the Minister for Roads and the Local Member to allow the classification of River Street as a State Road.
2. That following an assessment of the response to the submission in point one, the General Manager is authorised to finalise the handover of assets associated with the Ballina Bypass, subject to the formal offer from the RMS being generally in accordance with the terms outlined in this report.
3. That the full amount of the funds received from the RMS be placed in a reserve and allocations be transferred to the roads budget annually to meet the future maintenance and renewal requirements for these acquired assets.
4. That Council confirms it will cease to provide services to the RMS through the Road Maintenance Council Contract arrangements as the contract is no longer considered economically viable.

Attachment(s)

1. Map - Ballina Bypass - Roads Now Under Council Care & Control
2. Letter to RMS dated 14 February 2011
3. BSC Regional Road Network Review
4. RMS Letter to Council dated 24 May 2011
5. Map - RMS Proposed Road Classifications

11.3 Australian Research Council Grant - Southern Cross University

11.3 Australian Research Council Grant - Southern Cross University

Delivery Program Environmental & Public Health

Objective For Council to approve a request for support for a research program examining the health of the Richmond River.

Background

The previous term of Council identified improving the health of the Richmond River as a key priority. As part of its endeavours in this regard, in late 2010, Council received a presentation from Professor Leigh Sullivan. Professor Sullivan is the Director, Southern Cross GeoScience at Southern Cross University.

The presentation outlined research work that had been completed by the University. Professor Sullivan also outlined a proposal to apply for an Australian Research Council (ARC) grant for a project entitled "Episodic estuarine hypoxia: resolving the geochemistry of coastal floodplain blackwaters".

For an application to be successful, Council was advised that the proposal to the ARC would need a significant financial contribution from the University and partnerships from government or the private sector.

Council subsequently endorsed, in principle, that if the application was successful it would provide \$120,000 per annum for three years. Richmond River County Council (RRCC) also agreed to provide in kind contributions of \$60,000 being \$30,000 of staff time and \$30,000 for data collection.

The grant application was unsuccessful, however feedback from the assessment identified that some further background work would enhance a second application. In response to a request from the University and RRCC, Council provided \$15,000 in the 2011/2012 budget to facilitate this background work.

Recently Council was advised that the second application was successful. The ARC grant is \$320,000. The purpose of this report is to invite Council to confirm its commitment to the University.

Key Issues

- Health of the Richmond River
- Financial Contribution

Information

Brief Project Information

The following is information reproduced from SCU sources.

11.3 Australian Research Council Grant - Southern Cross University

The project will investigate better ways to manage water quality in the Richmond River, especially during summer floods when blackwaters draining from coastal wetlands devastate the river system by causing widespread deoxygenation events and fish kills. The geochemistry of deoxygenation events in the Richmond River is poorly understood despite regular major flood events in the Northern River region. A major cause of dead zones in our estuaries is the formation and release of blackwaters from coastal wetlands.

The Southern Cross GeoScience research team will use cutting-edge geochemical techniques to get a better understanding of the chemical nature of the compounds being exported as blackwaters into the river during flood events and of the landscape features and management practices that influence the production of these compounds. Entitled 'Episodic estuarine hypoxia: resolving the geochemistry of coastal floodplain blackwaters', the project will investigate the combination of soil, land use and vegetation factors that create deoxygenated dead zones.

This information will be brought together into a comprehensive model to allow local councils and state agencies to further optimise land use decisions to help minimise the intensity and duration of deoxygenation events in the Richmond.

Further Information

One of the reasons that the Council was supportive of this grant application is that it appeared to have the potential, based on earlier work, to provide practical and tangible outcomes reducing the risk of fish kills from the deoxygenating of the Richmond River from blackwater. Furthermore, at this time the RRCC, with the support of local councils and government agencies was completing a project to prepare an Estuary Management Study and Management Plan. The ARC project was considered to be an important resource to feed into the programs and activities contained in the Management Plan. The Management Plan has now been adopted by RRCC and was endorsed by Ballina Council.

This report has not attempted to provide detailed information in relation to the research program. Given the passage of time and the election of new Councillors, the recommendations to this report include a suggestion that Council invites Professor Sullivan to provide an update of his presentation to Council. As well as confirming the background, if the Council continues to support the grant, a presentation now will assist Council to monitor the progress of the program.

At the time Council was asked to make its commitment, we expressed a view that we would prefer for the RRCC to make the financial commitment. The RRCC, advised that to do that it would need to have agreement from the constituent councils to increase their annual contributions. The application close date did not allow enough time for those agreements to be sought, and being a much smaller organisation, RRCC advised it was not in position to make the commitment without endorsement from the constituent councils.

11.3 Australian Research Council Grant - Southern Cross University

Our preference remains for RRCC to be the local government partner to the University for several reasons. Firstly, the project relates directly to the core business programs of RRCC, secondly it would assist to recognise the important regional context of the project and thirdly it would allow some cost sharing amongst the constituent councils by way of their contributions to the overall RRCC budget.

It is noted here that whilst we consider the project to be of regional significance as it deals with land degradation and wetland health for the catchment, others maybe of the view that the lower reaches of the estuary is where the fish kill impacts occur.

The recommendation to this report is for Council to confirm its commitment to the project so that the University can proceed to accept the grant, however it is also recommended that Council further consult with RRCC with a view to establishing a regional commitment to the project.

Sustainability Considerations

- **Environment**
This initiative represents an opportunity to address a significant environmental issue.
- **Social**
Blackwater events and fish kills result in a range of issues impacting on the social amenity within Ballina.
- **Economic**
The fish kills have impacts on the fishing and tourism industries.

Legal / Resource / Financial Implications

It is intended that the project be funded by contributions as follows:

ARC Grant	\$320,000
Ballina Council	\$360,000
Southern Cross University	To be confirmed

Due to the large uncertainty over this project Council's 2012/13 and forward budgets do not make provision for a contribution to this project. It is a substantial commitment and it will be necessary to remove or delay projects in the existing budget to enable funding for this project.

It is considered reasonable that all councils that share in the management of the Richmond River should contribute to the project. Therefore one option would be to request the RRCC to take control of the project and in so doing seek contributions from constituent councils.

Consultation

This proposal has been developed in consultation with the RRCC and Southern Cross University.

11.3 Australian Research Council Grant - Southern Cross University

Options

The options for Council are as follows;

1. Confirm our commitment and work with RRCC and the constituent councils to reduce Ballina's funding contribution to the project
2. Advise SCU and RRCC that Council is not able to meet the commitment at this point in time.

If option one is selected, it is recommended that Council seek funding support from RRCC and that Council invite Professor Sullivan to provide a further presentation to Council.

If option two is preferred it is suggested that Council's resolution seek to have some discussions with SCU to examine what are the full implications to the grant if Council's funds were not included.

Even though the source of Council's funding has not yet been confirmed the Richmond River is of such importance to Ballina that we should confirm our commitment to the project and then work with RRCC and the constituent councils to ensure the project is funded. The recommendation that follows supports this approach.

RECOMMENDATIONS

1. That in respect to the Australian Research Council grant for the Richmond River Council confirms its support for the project and that representations be made to Richmond River County Council requesting that the financial contribution be managed by the County Council in consultation with the constituent councils.
2. That Council invite representatives from Southern Cross University to provide an update to Councillors regarding this project.

Attachment(s)

Nil

12. Public Question Time

12. Public Question Time

13.1 Notice of Motion - Harvesting of Pipsis

13. Notices of Motion

13.1 Notice of Motion - Harvesting of Pipsis

Councillor Cr Jeff Johnson

I move

1. That Ballina Shire Council write to the Minister for Primary Industries, Katrina Hodgkinson, Premier Barry O'Farrell and the Member for Ballina and the North Coast, Mr Don Page calling for commercial harvesting of Pipsis on South Ballina Beach to cease until a full and thorough investigation into the sustainability of the Pipi has been completed.
2. That the protection of the Pipi on South Ballina Beach be incorporated into the recovery plan for the Endangered Pied Oyster Catcher.

Councillor Comment

A few months ago the NSW Government lifted the moratorium on the commercial harvesting of Pipsis in NSW. Since the moratorium was lifted commercial operators have been working in the designated area on South Ballina Beach for approximately 10 weeks. Local fisherman have been surveying the beach and monitoring Pipi numbers and it appears that a large section of the beach that had a healthy population of Pipsis has been taken.

The Pipi is an important food source for the Endangered Pied Oyster Catcher that roosts on the beach. There has been a dramatic decline in the numbers of Pipsis over the last decade. The Pipi plays an important role in the food chain. The Pipi is the primary food source for the Pied Oyster Catchers when they are roosting. The Dart and Whiting also coordinate their 'spawn' with that of the Pipi (Jan-April). It's important for the local ecosystem that Pipsis are given time to recover. Queensland and Victoria do not allow commercial harvesting.

Staff Comment

Council had resolved at its April 2012 Ordinary meeting as follows.

That Council write to the NSW Minister for Primary Industries, the Honourable Katrina Hodgkinson MP, the member for Ballina Local Government Minister Don Page, Executive Director, Fisheries NSW, Dr Geoff Allan to ensure that no harvesting of pipsis on any Ballina beaches is recommenced and allowed until each individual beach has undergone a complete review and report, including but not limited to:

A population survey to assess the total population, size and age distribution

A long-term management plan to safeguard:

- i) the long-term biological viability of the pipi populations.*
- ii) the long term commercially viability of the pipi fishery*

13.1 Notice of Motion - Harvesting of Pipsis

The attached response was received from the Minister.

COUNCILLOR RECOMMENDATIONS

1. That Council write to the Minister for Primary Industries, Katrina Hodgkinson, Premier Barry O'Farrell and the Member for Ballina and the North Coast, Mr Don Page calling for commercial harvesting of Pipsis on South Ballina Beach to cease until a full and thorough investigation into the sustainability of the Pipi has been completed.
2. That the protection of the Pipi on South Ballina Beach be incorporated into the recovery plan for the Endangered Pied Oyster Catcher.

Attachment(s)

1. Response from Minister for Primary Industries

14. Advisory Committee Minutes

14. Advisory Committee Minutes

Nil Items

15. Reports from Councillors on Attendance

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

Nil Items

16. Questions Without Notice

16. Questions Without Notice

17. Confidential Session

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

17.1 Lease - 64 Crane Street, Ballina

This report contains information relating to lease negotiations for 64 Crane Street, Ballina.

17.2 Tender – Construction of Apron Extension and Taxiway

This report contains information relating to tender negotiations for the Airport apron extension and taxiway. Negotiations are still to be finalised.

RECOMMENDATION

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

17.1 Lease - 64 Crane Street, Ballina

Reason for Confidentiality

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as it may impact on the commercial negotiations currently underway.

17.2 Tender – Construction of Apron Extension and Taxiway

Reason for Confidentiality

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

- d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

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 negotiations are still to be finalised with the tenderers.