



Notice of Ordinary Meeting

Notice is hereby given that an Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, Cnr Cherry & Tamar Streets, Ballina on **Thursday 25 October 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.

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1. Australian National Anthem

The National Anthem will be performed by Xavier Catholic College.

2. Acknowledgement of Country

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

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

3. Apologies

An apology has been received from the Mayor, Cr David Wright.

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 27 September 2012 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 27 September 2012.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2012/69 No. 161 Broken Head Road, Newrybar

8. Regulatory Services Group Report

8.1 DA 2012/69 No. 161 Broken Head Road, Newrybar

Applicant	Douglas Cope
Property	Lot 1 DP 60819 No. 161 Broken Head Road Newrybar
Proposal	Erection of a Rural Workers Dwelling
Effect of Planning Instrument	The land is zoned 1(a1) Rural (Plateau Lands Agriculture) under the provisions of the Ballina LEP and is zoned RU1 Primary Production under the provisions of Draft Ballina LEP 2011.
Locality Plan	The subject land is depicted on the locality plan attached.

Introduction

Council is in receipt of an application for the erection of a rural workers dwelling at the above property. The 16.35ha allotment is located on the northern side of Broken Head Road with approximately 2.95ha of the allotment being in Ballina Shire and the remainder within Byron Shire.

Currently existing onsite is a double storey brick dwelling and swimming pool with an attached child care centre operating under the provisions of exempt development. The allotment also contains a farm shed and banana plantation. The plantation is located towards the rear of the site which is located within Byron Shire.

The allotment has a 34.68m frontage to Broken Head Road which forms an access handle to the banana plantation located in the rear. All the existing structures described above are located within the access handle. It is also intended to site the proposed structures in this handle of land.

The application has attracted two submissions which has resulted in the application being reported to Council for determination. The application was also "called in" by Council at the August Ordinary meeting.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

In accordance with Council policy the application did not require public notification however two submissions by way of objection to the application have been made. These are attached for Council's consideration.

The attached submissions raised the following issues:

Public
Submissions:
Issue 1

It does not comply with the Department of Primary Industries guidelines for rural workers dwellings, quoted below. "In coastal regions and within 200 km of major population centres, additional rural workers dwellings are unlikely to be necessary. Relevant factors include:

- improved communications*
- the accessibility of nearby residential zones and surplus dwellings on other properties*
- smaller scale enterprises that do not need additional full-time or resident farm labour*
- mobile farm workers are able to work on more than one property."*

The neighbouring farm is at an owner-operator scale and of a character that does not necessitate labour inputs on a full time basis. We dispute that the applicant farms intensively as only 1-2 workers regularly assist the owner at any time. There is certainly sufficient alternate accommodation available for workers in the surrounding vicinity through a recent search of realestate.com.au. Furthermore, should the D.A. be successful, it is highly probable that the rural workers' dwelling will become a de facto subdivision. We are concerned that the intention of the neighbours is to house extended family members who will not be associated with the farming enterprise. There is already a childcare facility on the property.

Comment: The proposal is considered to fully comply with the Department of Primary Industries guidelines for rural workers dwellings except with respect to the availability of affordable rental properties within vicinity of the site. This issue is discussed in detail in the following report. Further, if the application was approved, appropriate conditions of consent could be imposed to limit the occupation of the dwelling to rural workers only. Rural workers dwellings are not permitted to be separately subdivided from the farming property.

Issue 2

*The applicant states that the dwelling will be well away from the adjoining property & screened by vegetation along the southern boundary. We are requesting to Council that within the Conditions of Consent (should the DA be successful) that **the screened vegetation must remain**. We are requesting this as our neighbours have mentioned on several occasions and most recently through a letter from their solicitor that it is their intention to remove all trees bounding our properties. If this is their*

	<p><i>intention, it will create a visually detrimental impact, adversely affecting the overall ambience of our rural property.</i></p> <p>Comment: Appropriate measures could be imposed to ensure that adequate privacy measures are maintained for the neighbouring properties. The applicant has stated that it is their intention to retain the screening boundary vegetation. The applicant advises that where vegetation has to be removed for fencing purposes, it will be replaced.</p>
Issue 3	<p><i>The applicant believes that they comply with the LEP 1987 Clause 12 (4) an allotment of land for the rural workers dwelling must be greater than 10 hectares. It has been established that the applicant only holds 2.953 hectares within the Ballina Shire, with the remaining land falling under Byron Shire Council. Does this truly comply? Has Byron Shire Council been notified and if so what is their response?</i></p> <p>Comment: The proposed rural workers dwelling is located within Ballina Shire and there is no requirement for Council to notify Byron Council.</p>
Issue 4	<p><i>The applicant also believes that traffic flow will lessen, however we believe it will increase as there could potentially be 6 additional residents occupying the dwelling. This will mean that there will be more traffic flow just by the nature of having more residents. It is also likely that more guests would visit, hence again increasing noise & traffic flow. The applicants' intention is to house numerous people to increase productivity of the farm; therefore it is foreseeable that there would be an increase in fruit transportation trucks and associated farm deliveries again adding pressure to this small area.</i></p> <p>Comment: It could be argued that the proposed rural workers dwelling could result in a decrease in traffic as the worker/s would not have to travel to the site to work. The owner is well within their right to increase the productivity of the farm and any increase in trucks would be exempt development and not require Council's consent. The land is zoned rural and agricultural activities are listed as development without consent. People moving into a rural location should reasonably expect agricultural operations to be undertaken on adjacent farms.</p>

Applicable Planning Instruments

The subject dwelling site is zoned 1(a1) Rural (Plateau Lands Agriculture) Zone pursuant to the provisions of BLEP 1987. The proposed use being a 'rural workers dwelling' is a permissible use in the 1(a1) Zone as it is not listed as being prohibited by clause 9 of BLEP 1987.

8.1 DA 2012/69 No. 161 Broken Head Road, Newrybar

Pursuant to the provisions of Draft Ballina LEP 2011 the subject site is proposed to be zoned RU1 Primary Production, a 'rural workers dwelling' is permissible with consent in the subject draft zone.

The subject land has a rural zoning and as such Chapter No.18 of Ballina Shire Combined Development Control Plan applies to the proposal. Section 4.1.3 (D) of this chapter has specific controls for 'rural workers dwellings' which are addressed below.

Report

Ballina Local Environmental Plan 1987

In relation to BLEP 1987 the following clauses apply:

12(4) A rural workers' dwelling may, with the consent of the council, be erected on an allotment of land, being an allotment having an area of not less than:

- (a) in the case of land within Zone No 1 (a1) or 7 (i)—10 hectares for the first rural workers' dwelling and 30 hectares for each subsequent rural workers' dwelling, and*

The subject site is 16.35ha with 2.95ha being in Ballina Shire and the remainder in Byron Shire, as such the proposal meets the minimum allotment size of 10ha.

...if the Council is satisfied that:

- (c) the erection of each such additional dwelling will not impair the suitability of the land for agriculture,*

Due to the proposed location of the dwelling on the access handle to the subject allotment, the proposal will not impair the suitability of the land for agriculture.

- (d) the needs of existing agriculture genuinely require that rural workers reside on the land,*

The application has attempted to address this issue. Detailed discussion has been provided under the section of this report that addresses the Combined Ballina Shire Development Control Plan below.

- (e) any other rural workers' dwellings on the holding are being used by persons substantially engaged in agricultural employment on that land*

The subject allotment does not contain any other 'rural workers dwellings'.

Draft Ballina Local Environmental Plan 2011

The application proposes a rural workers dwelling as defined by the Draft Ballina LEP 2011:

***rural workers' dwelling** means a building or place that is additional to a dwelling house on the same lot and that is used predominantly as a place of residence by persons employed, whether on a long-term or short-term basis, for the purpose of agriculture or a rural industry on that land.*

A rural workers dwelling is a type of 'residential accommodation' which is defined as follows:

***residential accommodation** means a building or place used predominantly as a place of residence, and includes any of the following:*
(i) rural workers' dwellings,

The subject site is proposed to be zoned RU1 Primary Production, a 'rural workers dwelling' is permissible with consent in the subject draft zone.

In relation to Draft Ballina LEP 2011 the following clauses apply:

4.1D Rural workers' dwellings

- (1) The objective of this clause is to enable rural living opportunities where they directly support and are compatible with agricultural production values of land.*
- (2) This clause applies to land where a rural workers' dwelling is permitted with development consent.*
- (3) Development consent must not be granted for the erection of a rural workers' dwelling on a lot in a zone to which this clause applies unless:*
 - (a) The area of the lot is greater than the minimum lot size specified for that lot on the Lot Size Map, and*

The Lot Size Map specifies a minimum allotment size of 40ha which the proposal fails to comply with. No justification for the proposal's non compliance with this control has been provided by the applicant.

- (b) There will be not more than 1 rural workers' dwelling on the lot,*

If the application was approved there would be no more than one (1) rural workers dwelling on the lot.

- (c) The consent authority is satisfied that:*
 - (i) the erection of a rural workers' dwelling will not impair the suitability of the lot or surrounding land for agriculture, and*

Due to the proposed location of the dwelling on the access handle to the subject allotment, the proposal will not impair the suitability of the land for agriculture. Further, the directly adjacent land uses are somewhat rural/residential in nature and do not contain what would be considered intensive agriculture. As such it is considered that the proposed rural workers dwelling would not adversely impact on adjoining or adjacent agricultural land.

(ii) the agricultural activity on the lot genuinely requires that rural workers reside on the land.

The application has attempted to address this issue. Detailed discussion has been provided under the section of this report that addresses the Combined Ballina Shire Development Control Plan below.

Ballina Shire Combined Development Control Plan

Chapter No. 18 – Rural Land

The subject Lot has a rural zoning and as such Chapter No.18 of Ballina Shire Combined Development Control Plan applies to the proposal. Section 4.1.3 (D) of this chapter has the following specific controls for ‘rural workers dwellings’:

D. Rural Worker's Dwelling

A rural worker's dwelling is a dwelling on land upon which there is already erected a dwelling and which is occupied by persons engaged in rural occupation on that land.

i. To obtain approval for a rural worker's dwelling, it must be demonstrated that:

The property meets the minimum lot size and other requirements specified in clause 12(4) of the BLEP.

- *The erection of each additional dwelling will not impair the suitability of the land for agriculture;*
- *The needs of existing agriculture genuinely require that rural workers reside on the land;*
- *The farm generates enough income to support the owner and employee/s;*
- *The farm cannot practically operate without the employee's labour;*
- *On-site accommodation for the employee is essential to the enterprise;*
- *The dwelling is on the same legal title as the principal farm dwelling;*
- *The dwelling has the same road access as the principal farm dwelling;*
- *The dwelling is located so that it minimises the likelihood of conflict with adjoining land uses; and*
- *There is no alternative local labour and/or housing available.*

The application is considered to fully comply with the following sub-sections of the above requirements:

- *The erection of each additional dwelling will not impair the suitability of the land for agriculture;*
- *The dwelling is on the same legal title as the principal farm dwelling;*
- *The dwelling has the same road access as the principal farm dwelling;*
- *The dwelling is located so that it minimises the likelihood of conflict with adjoining land uses; and*

Further discussion is provided below on the remainder of the above specified controls:

- *The farm generates enough income to support the owner and employee/s;*

The applicant and owner have provided adequate documentation to demonstrate that the farm generates enough income to support the owner and employee/s.

- *The needs of existing agriculture genuinely require that rural workers reside on the land;*
- *The farm cannot practically operate without the employee's labour;*
- *On-site accommodation for the employee is essential to the enterprise;*

The above three controls are considered to be all inter-related in the fact that they all relate to the need for the rural worker to reside on the land. The applicant has provided the following justification for the need for a rural worker to reside on the land:

- *The subject property is predominantly used for banana production, with some small scale tropical fruit production also occurring on the property. Banana production is a labour intensive farming process, which requires a degree of flexibility in it's workforce. The daily attention required by the banana tree's, harvesting, processing the fruit and preparing them for transport to market, often result's in irregular working hours. Having to rely on employee's who have a daily commute to the subject property, resulting in more rigid work hour's, is a disadvantage to the daily running of the banana farm. (eg. Preparing and loading fruit for market out of normal work hours).*
- *By being housed on site, these flexible work hours can be an advantage to the day to day activities of the farm worker's.*
- *Due to the physical nature of banana farming, work timetables at certain times of the year are scheduled so to avoid the hotter period's of the day, requiring workers to be suitably housed on site during these period's.*
- *Having on-site accommodation available would also be a benefit during periods when a short term workforce is required at certain times of the year. Such would make labouring on the farm, an attractive and suitable employment option for the large transient workforce that travel through the local region (backpackers).*
- *To date retaining a suitable employee capable of managing the property for short periods of time has been difficult for the property owners. This impacts on their ability to plan for time away from the property, whether in the form of a holiday or a break from the daily farming routine.*
- *On-site accommodation would also offer the opportunity for the property owners to employ a suitable person, with the aim of that person undergoing training, to pursue a career in the local*

rural industries and potentially oversee the running of the subject property one day.

The above reasons provided by the applicant are considered adequate justification for the need for the rural worker to reside on the land however what also must be considered is the alternative local labour and housing available in the surrounding vicinity.

- *There is no alternative local labour and/or housing available.*

The applicant has provided the following justification in relation to the above matter:

- *The subject property is located in a predominantly rural area, near the small rural hamlet of Newrybar. Due to the nature of the residential accommodation in this rural area, there is little or no suitable rental accommodation in the immediate area.*
- *As stated above, the nearest towns to the subject property are Ballina, Bangalow, Suffolk Park and Byron Bay. The popularity of these and other Far North Coast towns as tourist destinations, due to their coastal locations, natural attractions and sub tropical climate, combined with the current rental crisis in the local area, results in high rents for residential properties in the above mentioned towns. These factors when combined with the award wage structure for rural workers (farm labourers), makes farm labouring unattractive to prospective employees looking for employment in the local area, making it difficult to attract and retain suitably experienced workers and maintain a stable permanent workforce.*

The current national minimum wage is \$15.96 per hour or \$606.40 per 38 hour week. Casual employees covered by the national minimum wage also get at least a 23 per cent casual loading. It is assumed that the full time rural worker would not be employed on a casual basis and therefore would receive a minimum of \$606.40 minus tax. The current tax system would take approximately \$50 - \$70 a week which would leave a minimum of \$536 a week to live on.

The cheapest property for rent in the surrounding locality is a one bedroom flat in Ballina for \$210, two bedroom flat in Ballina for \$215 a week and the cheapest three bedroom being \$290. The distance between Ballina and the subject property by road is 20km and would take approximately 16 minutes. The applicant claims that there is currently a rental crisis in the local area and the coastal location also creates high rents. It is not agreed that there is a current rental crisis as discussions with local real-estate agents has revealed that there is currently a high number of properties available for rent in Ballina. A search of www.realestate.com.au revealed that there are currently 31 properties in the greater Ballina region available for rent for \$300 or less.

Considering the availability of relatively cheap rental properties in the surrounding area it is difficult to justify the current need for a rural workers dwelling despite the justification provided by the applicant.

Conclusion

The development is permissible with the consent of Council under the current and draft LEP's. Whilst the proposal complies with the majority of provisions contained within Ballina Shire Combined Development Control Plan, the application doesn't demonstrate that there are local labour and/or housing availability problems in the district.

Whether or not the current situation with respect to these two aspects of the application is the norm has not been directly addressed by the applicants. Council therefore will need to form a view about this based on its local experience and knowledge. If it is of the view that the current availability of labour and plentiful and relatively cheap accommodation is transitory, the Council may conclude that there is a genuine need for the local farming community to be able to provide on-farm accommodation to attract and retain workers and approve the application.

The only other area at issue in the assessment is in relation to the minimum allotment size specified by clause 4.1D of draft Ballina LEP 2011.

These above areas of noncompliance do not relate to amenity impacts on neighbouring properties and only relate to compliance with Council policies. If Council resolved to approve the proposal, conditions of consent could be imposed that would reasonably address any potential amenity impacts on surrounding properties.

Options

1. Approve the Development Application subject to conditions of consent requiring the retention of vegetation buffers and requiring compliance with the definition of a Rural Workers dwelling.

It is considered this option would be appropriate if Council accepted that there is a genuine need for on-farm accommodation in the local farming community in the subject circumstances. The proposal does not comply with the draft LEP 2011 but the transitional provisions of the Draft Plan provide for the application to be determined under the current plan. This is the recommended option because the Council has in similar circumstances in the past accepted that there is a genuine need for rural agricultural industries to be able to offer proximate and subsidized housing in order to be able to attract farm workers.

2. Refusal of the application as submitted, on the grounds that the application is inconsistent with Council's Combined Development Control Plan, Chapter 18, Section 4.1.3, and Draft LEP 2011, clause 4.1D.

It is considered this option is open to the Council and that the refusal is arguably defensible based on the non-compliances detailed in the above report.

RECOMMENDATION

That Development Application 2012/69 for the erection of a rural workers dwelling be **APPROVED** subject to the conditions provided in the attachment to this report.

Attachment(s)

1. Locality Plan
2. Submission (Lenn)
3. Submission (Hatherly)
4. Site & Elevation Plans
5. Elevation Plan
6. Roof Plan
7. Draft Consent Conditions

8.2 Development Applications - Works in Progress - October 2012

8.2 Development Applications - Works in Progress - October 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	Being Assessed

8.2 Development Applications - Works in Progress - October 2012

			as part of the 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,	Being Assessed

8.2 Development Applications - Works in Progress - October 2012

			Viewing Deck and Shower, Unisex Toilet, Picnic Facilities, Shared Pedestrian Path and Beach Accesses and Associated Infrastructure and Rehabilitation Works; Lot 2 DP 784864 & Lot 7032 DP 1063896 (Ballina Coast Reserve), The Coast Road, Skennars Head	
2012/256	29/06/2012	Newton Denny Chapelle	Staged Erection and Strata Title Subdivision of a Residential Flat Development Comprising Three Units and associated works - 59 Pacific Parade, Lennox Head	Determination Pending
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	Being Assessed

8.2 Development Applications - Works in Progress - October 2012

			Construction of a New Loading Dock in the South-Western Corner of the site - 84 Kerr Street, Ballina	
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 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	Referred to Government Departments plus Awaiting Additional Information
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 Assessed
2012/315	8/08/2012	SJ Connolly CPP Pty Ltd	To undertake the use of part of an existing building for the purpose of critical worker accommodation - 15-17 Northcott Crescent, Alstonville	Deferred By Council – Amended Application to be Submitted
2012/325	15/08/2012	SJ Connolly CPP Pty Ltd	To Undertake a Two Lot Boundary Adjustment Subdivision to Create 1 x 1ha allotment	Being Assessed

8.2 Development Applications - Works in Progress - October 2012

			(Proposed Lot 1) and 1 x 88.54ha allotment (Proposed Lot 2) - 61 Jorgensens Lane, Brooklet & 145 Brooklet Road, Newrybar	
2012/331	17/08/2012	Newton Denny Chapelle	To Undertake a Two Lot Boundary Adjustment of a Rural Property - 320-322 Sneaths Road, Alstonvale	Being Assessed
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	Being Assessed
2012/337	20/08/2012	Ardill Payne & Partners	The removal of a tree from a property boundary - 13 Clovelly Place, Wollongbar	Awaiting Additional Information
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 Reconsidered
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	Awaiting Additional Information

8.2 Development Applications - Works in Progress - October 2012

			level storage area, the removal of a number of trees and compensatory regeneration and landscaping on adjoining land - 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
2012/357	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	Two Lot Boundary Adjustment Subdivision - 131 Tuckombil Lane, Tuckombil	Referred to Government Departments
2012/369	7/09/2012	MJ Hickey & M Harley	Erection of General Store and associated Residence and special purpose subdivision -13 Fig Tree Hill Drive, Lennox Head	Being Assessed
2012/371	12/09/2012	Michael Hajjar Surveying	Strata Title Subdivision - 81 Tamar Street, Ballina	Being Assessed
2012/388	19/09/2012	D & K Hawkins Family Investments Pty Ltd	Resurfacing & expansion of existing carpark, including replacement of	Being Assessed

8.2 Development Applications - Works in Progress - October 2012

			drainage - 31 Owen Crescent, Alstonville	
2012/389T	21/09/2012	R Joyce	Removal of Native Vegetation (1 x Blackbutt) - 17 Palisade Way, Lennox Head	Being Assessed
2012/392	25/09/2012	Ardill Payne & Partners	Change of Use – Dwelling House to Community Facility - 42 Tamar Street, Ballina	Being Assessed
2012/402	3/10/2012	WM & MM Godfrey	Removal of Camphor Laurel vegetation - 169 Pearces Creek Road, Alstonville	Being Assessed
2012/403T	4/10/2012	SW & JK Roberts	Removal of two (2) Bangalow Palms - 52 Barrett Drive, Lennox Head	Being Assessed
2012/410	5/10/2012	GM Project Development & Management	Extension to existing mini storage shed complex - 33 Smith Drive, West Ballina	Being Assessed

Regional Development (Determined by Joint Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
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

8.2 Development Applications - Works in Progress - October 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

RECOMMENDATIONS

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

Attachment(s)

Nil

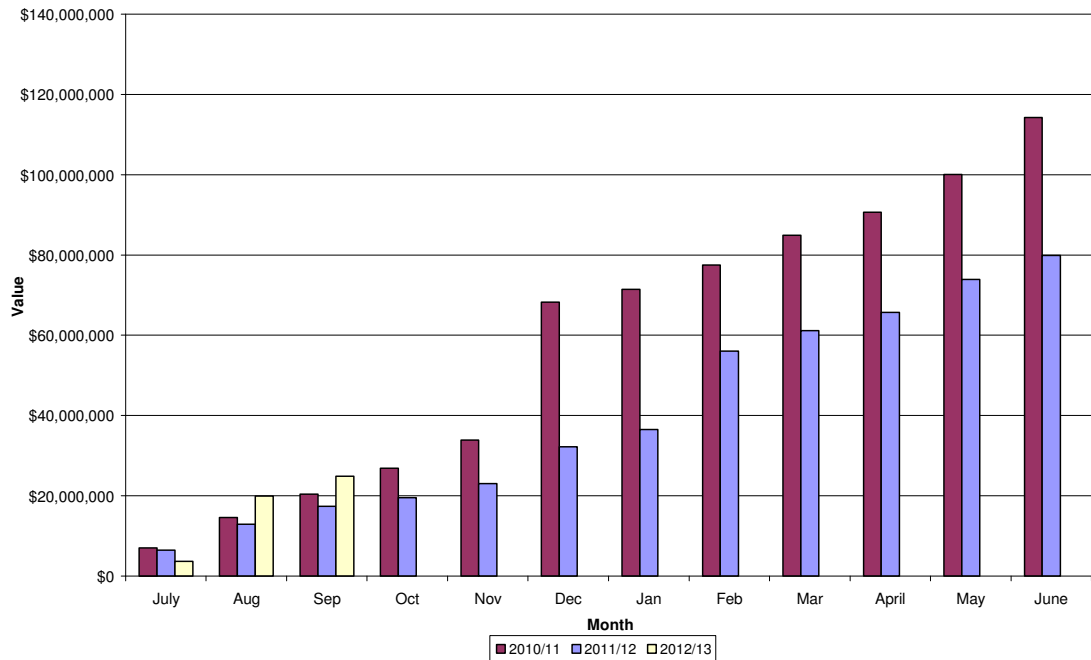
8.3 Development Consent Statistics - September 2012

8.3 Development Consent Statistics - September 2012

During the period of 1 September 2012 to 30 September 2012 the Regulatory Services Group issued Development Consents comprising of:

Number of Applications	Value of Work
26 Other Building Related	\$ 818,300
11 Dwelling/Duplexes/Residential Flat Buildings	\$ 4,176,000
7 General Developments	\$ 7,000
Total Value	\$ 5,001,300

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.



RECOMMENDATIONS

That Council notes the contents of the report on development consent statistics for 1 September 2012 to 30 September 2012.

Attachment(s)

Nil

9.1 LEP Amendment Request and Planning Proposal Status Report

9. Strategic & Community Services Group Reports

9.1 LEP Amendment Request and Planning Proposal Status Report

Delivery Program Strategic Planning

Objective To advise Council of the status of the LEP amendment requests and planning proposals that are currently being processed.

Background

Table 1 provides an overview of the LEP amendment requests and planning proposals currently being considered and processed by Council.

This is the first progress summary report relating to LEP amendment requests and planning proposals that has been presented to the newly formed Council. Given this, a copy of Council's 'Planning Proposals and Local Environmental Plan Amendments: Process Guidelines' has been distributed to Councillors under separate cover as this document outlines the LEP amendment/ planning proposal process as administered by Council.

With respect to terminology, the term 'LEP amendment request' is utilised to refer to a proposal for a change to the local environmental plan that has been put to Council. The term planning proposal refers to the documentation prepared to describe the request. Requests are typically referred to as planning proposals once Council has prepared the required planning proposal documentation and the amendment request has been endorsed as a matter that may progress to public exhibition by the NSW State Government's Gateway LEP panel.

Table 1: Status of LEP amendment requests and planning proposals being processed by Council

Item	Name and Status	Summary and Notes	Completion Due
Amdt 090	Stewart Farm Stage 4	Proposal for the rezoning of land immediately south of the existing Headlands Estate at Skennars Head for urban purposes. Council resolved to maintain a requirement for dedication of land east of The Coast Road into public ownership. Council was advised in early October by the Minister for Planning and Infrastructure that he has appointed the Northern Region Joint Regional Planning Panel to process this amendment. This means that Council is no longer the planning authority for the consideration of this amendment.	25/02/2013

9.1 LEP Amendment Request and Planning Proposal Status Report

Item	Name and Status	Summary and Notes	Completion Due
Amdt 105	Cumalum Precinct A Stage 6	<p>Proposal for the rezoning of Cumalum Precinct A (northward of the existing Ballina Heights Estate) for urban purposes. Also includes open space and environmental protection outcomes.</p> <p>Council is awaiting further information regarding stormwater management and the proponent's consideration of a voluntary planning agreement for the delivery of infrastructure outcomes.</p>	19/11/2012
Amdt 105	Cumalum Precinct B Stage 6	<p>Proposal for the rezoning of Cumalum Precinct B (southward of Ross Lane) for urban purposes. Proposal includes a village centre (commercial area), open space and environmental protection outcomes in addition to a reasonably extensive residential area.</p> <p>Council is awaiting further information regarding stormwater management.</p> <p>Council has received a completed voluntary planning agreement for the delivery of infrastructure outcomes., and this has been publicly exhibited.</p>	22/11/2012
Amdt 108	Water Reservoir Site, Lennox Head Stage 4	<p>Proposal for the rezoning of land in the vicinity of the water reservoir at Lennox Head for residential and open space purposes.</p> <p>The proponents have not submitted adequate site assessment documentation to enable this matter to be considered fully by Council. Given this, and that the timeframe for completion of the amendment provided by the State Government has lapsed, a request has been made to the Minister for Planning and Infrastructure to discontinue this amendment.</p> <p>For the information of Council, a submission from one of the proponents is contained in Attachment 2.</p>	23/08/2012

9.1 LEP Amendment Request and Planning Proposal Status Report

Item	Name and Status	Summary and Notes	Completion Due
12/001	North Creek Road, Lennox Head Stage 6	Proposal for the rezoning of land along North Creek Road (just north of Montwood Drive) at Lennox Head for residential purposes. This item was publicly exhibited in September/October 2012. A review of the outcomes from the public exhibition process for this amendment is currently being undertaken. The matter is likely to be reported to the Council for direction in the near future.	07/01/2013
12/002	Robb Street, Alstonville Stage 4	Proposal for the rezoning of land adjacent to the Russellton Industrial Estate for industrial purposes to enable expansion of the Duraplas manufactured tank business. Preparation for public exhibition is underway. A voluntary planning agreement is to be negotiated as part of this proposal.	24/04/2013
#	Blue Seas Parade, Lennox Head Stage 2	Proposal for the rezoning of a small area of land adjacent to the Coastal Grove Estate at Lennox Head for residential purposes. This item is the subject of a separate report elsewhere in this business agenda.	#
#	Bulky Goods Retailing Precinct, Ballina Stage 4	Proposal for the rezoning of land in the Southern Cross Industrial Estate to facilitate establishment of a bulky goods retailing precinct. Preparation for public exhibition is underway.	#
#	Southern Cross Estate Expansion, Ballina Stage 2	Proposal for the rezoning of land northward of the Southern Cross Industrial Estate to enable a mixture of business and industrial land uses. Additional information requested from the proponent.	#
#	Burns Point Ferry Road, West Ballina (former Ferry Boat Motel site) Stage 3	Proposal for the rezoning of land adjacent to Burns Point Ferry Road for residential purposes. Planning proposal being prepared.	#

9.1 LEP Amendment Request and Planning Proposal Status Report

Item	Name and Status	Summary and Notes	Completion Due
#	Burns Point Ferry Road, West Ballina (Ballina Waterways) Stage 1	Proposal for the rezoning of land adjacent to Burns Point Ferry Road and River Street to enable a mixture of employment and residential land uses. The proposal includes implementation of a biobanking scheme over part of the land. Additional information requested from the proponent.	#
#	Special Events (Exempt Development) Stage 2	Proposal for the inclusion of provisions in the LEP to enable special events to be carried out as exempt development in certain circumstances. Information for submission to the Gateway LEP panel being compiled.	#
<p>LEP Amendment Request/Planning Proposal Processing Stages</p> <ol style="list-style-type: none"> 1. Initial Concept - Proponent submits initial amendment concept for review and reporting to Council 2. Planning Proposal - Preparation of a planning proposal for Council's consideration (if the initial concept is supported by Council) 3. Gateway Determination - DP&I determination as to whether the planning proposal may proceed (if Council resolves to submit the planning proposal for determination). 4. Study Preparation - Relevant technical information to enable complete assessment compiled and assessed. 5. Public Exhibition - Planning proposal and associated technical assessment material exhibited for public comment. 5a. Public Hearing - Public Hearing held where required. 6. Submissions Assessment and Council Decision - Reporting of public exhibition outcomes and Council decision regarding finalisation of the planning proposal. 7. DP&I Review and Finalisation - DP&I finalisation of the LEP amendment based on the planning proposal. Note: the Minister for Planning and Infrastructure may finalise, alter or cease the amendment. <p># Denotes proposal number and due date subject to Gateway Determination.</p> <p>The completion due date is a date for completion determined by the Department of Planning and Infrastructure.</p>			

RECOMMENDATION

That Council notes the contents of the report on the status and approach regarding the current LEP amendment requests and planning proposals that are being processed.

Attachment(s)

1. Planning Proposals and Local Environmental Plan Amendments: Process Guidelines
2. Submission - Kitson - LEP Amendment No.108

9.2 LEP Amendment Request, Blue Seas Parade, Lennox Head.

9.2 LEP Amendment Request, Blue Seas Parade, Lennox Head

Delivery Program Strategic Planning

Objective To present Council with a planning proposal in relation to land located at Lot 1 DP 1173776, Blue Seas Parade, Lennox Head and to seek direction in relation to the further progress of the matter.

Background

Council received a request for the rezoning of part of Lot 1 DP 1173776, Blue Seas Parade, Lennox Head, on 18 April 2012. The location of the subject land is shown in Attachment 1.

The request was submitted by SAKE Development on behalf of the landholders, being DM and RD Dossor. The proposed amendment involves the application of a residential zone to the eastern part of Lot 1 DP 1173776 in order to provide for a consistent zone arrangement over this land parcel.

Council considered the request at its June 2012 Ordinary Meeting and resolved as follows [280612/13]:

"That Council proceed to prepare a planning proposal for the application of an R2 Low Density Residential zone (under the Draft Ballina Local Environmental Plan 2011) over the entire area of Lot 1 DP 1173776 Blue Seas Parade Lennox Head."

In accordance with Council's resolution, a planning proposal has been prepared. This report provides an overview of the planning proposal and seeks Council's authorisation for the submission of the proposal to the NSW Department of Planning and Infrastructure (DP&I) for gateway determination.

Key Issues

- Progress of the proposed LEP amendment request

Information

The subject land (Attachment 1) is the product of a relatively recent consolidation of allotments arising from the purchase of part of a Crown road reserve immediately adjacent to the approved Coastal Grove subdivision at Lennox Head. Mr and Mrs Dossor purchased part of the road reserve from the State Government in 2011 and consolidated it with the original Lot 10 in early 2012. The total area of the consolidated lot that is the subject of the proposed LEP amendment is 1162m².

9.2 LEP Amendment Request, Blue Seas Parade, Lennox Head

Under the Ballina Local Environmental Plan 1987 (Ballina LEP 1987), the subject land is zoned 1(d) Rural (Urban Investigation) Zone. The Council-endorsed Draft Ballina LEP 2011 (draft LEP) applies a part R2 Low Density Residential zone and part RU1 Primary Production zone to the land. The zoning arrangement under the draft LEP reflects the extent of the approved Coastal Grove residential subdivision.

The planning proposal contained in Attachment 2 provides an overview of the subject land and the proposed LEP amendment. In summary, the proposal seeks to provide for the application of an R2 Low Density Residential zone to the entire area of Lot 1 DP 1173776, Blue Seas Parade, Lennox Head.

Initial assessment of the characteristics of the land indicates that the site is suitable for a residential land use. Further, the proposed residential zone is consistent with the current zoning and strategic planning context associated with the land. Given this, and that part of the land immediately to the east of the site is also identified as an area of potential urban development, the subject land appears generally suitable for the application of a residential zone. Therefore, further processing of the LEP amendment request by way of submission of the planning proposal contained in Attachment 2 to the DP&I is considered to be warranted.

Sustainability Considerations

- **Environment**

The subject land is visually prominent from several viewpoints.

- **Social**

The proposed rezoning does not raise any significant social implications as it relates to an existing lot within the approved Coastal Grove residential subdivision.

- **Economic**

There are no significant economic implications currently identified in relation to the proposed rezoning.

Legal / Resource / Financial Implications

There are no significant resourcing or financial implications associated with the further processing of this LEP amendment. Processing of the matter can be accommodated within the existing Strategic and Community Services Group work program.

The processing of the proposal is subject to the application of Council's adopted fees and charges for LEP amendment requests.

Consultation

There has been no consultation undertaken with either the community or government agencies in relation to this LEP amendment request to date. However, should the matter continue to proceed, public exhibition of the proposal will be required prior to completion of any amendment to Council's LEP. Community engagement would occur following the DP&I's consideration of the matter through the gateway determination process.

9.2 LEP Amendment Request, Blue Seas Parade, Lennox Head.

Options

1. Proceed with the planning proposal for the application of an R2 Low Density Residential zone to Lot 1 DP 1173776, Blue Seas Parade, Lennox Head.

This approach would authorise the submission of the planning proposal contained in Attachment 2 to the DP&I for gateway determination. If supported by the DP&I, the proposal will be subject to a public exhibition period prior to further consideration by Council.

This is the recommended approach.

2. Defer or amend the planning proposal.

This approach is not recommended given:

- The initial review of the characteristics of the land has indicated that the site is suitable for a low density residential land use;
- The proposed LEP amendment is consistent with Council's land use planning framework for the locality; and
- The zoning arrangement applied to the adjoining Coastal Grove residential subdivision under Council's endorsed draft LEP,

3. Cease further action in relation to the planning proposal.

For the same reasons outlined in relation to option 2, this approach is not recommended.

RECOMMENDATIONS

1. That Council submit the planning proposal relating to Lot 1 DP 1173776, Blue Seas Parade, Lennox Head to the NSW Department of Planning & Infrastructure for review and gateway determination.
2. That upon an affirmative gateway determination being received from the Department of Planning & Infrastructure, Council staff will carry out the procedural steps associated with the progress of the planning proposal, including public exhibition.
3. That a further report be submitted to Council in relation to this matter following mandatory community consultation.

Attachment(s)

1. Site Locality Plan
2. Planning Proposal Lot 1 DP1173776 Blue Seas Parade Lennox Head

9.3 Energy Efficiency Projects - Five Year Payback

9.3 Energy Efficiency Projects - Five Year Payback

Delivery Program Asset Management

Objective To provide Council with a forward plan for actions that can be taken to save water, energy and other costs with a payback period of five years or less.

Background

This report provides further information regarding the April 2011 Finance Committee report concerning priority actions within the Council-endorsed Environmental Action Plan (EAP). At this meeting the Council requested *that it receive a report listing actions which Council can take to reduce water, energy and other costs with a payback period of five years or less.*

This report provides information on those assessed actions currently in the EAP that are estimated to have a five year or less payback period and provides an approach for determining additional EAP actions that could be prioritised in terms of their contribution to the overall energy and water usage of Council- owned and operated sites and their payback period.

Council has already begun to initiate projects to save energy and water, such as movement, light sensor and time controls at sites such as the Customer Service Centre. These control measures reduce energy wastage by ensuring that energy is only consumed when needed.

Further projects include the photovoltaic panels located at the Ballina Library, Alstonville Leisure and Entertainment Centre, Kentwell Community Centre and Ballina Waste Management Centre. Feed-in tariffs are paid for power generated from these systems which offsets energy usage at these sites. Extra funds generated are deposited to a 'revolving energy fund' for use on new projects.

At this time, all funds returned are being used to reimburse a 'loan' made from Council's reserves that was used to fund an upgrade to street lighting across the Shire. This upgrade is forecast to cut our energy usage for street lighting by up to 44%.

Although the street lighting upgrade was completed during the 2011/12 financial year, funds are still being reimbursed to Council's reserves and this will continue until the reserve is reimbursed. This period could range from two to five years dependent on the actual savings achieved.

Council staff have also pursued opportunities to have such projects at least part-funded through grants or rebates available through various government schemes. An energy audit was conducted at Council's Customer Service Centre (CSC) in early 2012 to review the lighting, air-conditioning and other opportunities for energy and water savings. This audit formed the basis of a grant application to the Federal Government's Community Energy Efficiency Program. Unfortunately, the application was unsuccessful. However, the information has been utilized to support the projects identified later in this report as having benefit.

9.3 Energy Efficiency Projects - Five Year Payback

Key Issues

- Prioritising EAP actions
- Improving energy and water efficiency at Council owned and operated sites

Information

Council is the owner and/or caretaker of a large number of built assets. The majority of these buildings and facilities are consumers of energy in some form and are serviced with electricity, water and some also with Liquid Petroleum Gas (LPG). There are potential opportunities to reduce our consumption of energy and water on these sites. Although many standard energy management methodologies can be utilized, each site often presents unique circumstances and it is important that opportunities are reviewed on a site by site basis.

For the purpose of this report five of Council's buildings have been selected as case studies for energy and water reduction. The main consumption of energy at Council's major administrative, operational and public facility sites is generally air-conditioning and lighting. Air-conditioning consumption can be reduced through time and temperature management. Beyond that, replacement with more energy efficient systems is costly and generally targeted when the existing units have reached the end of their useful life.

Therefore, key focus is the installation of energy efficient lighting at these sites. There is an array of technologies available and those appropriate to each site have been selected.

Additionally, the Works Depot wash-down bay has been selected as a water saving example, using rain water storage tanks. Other Council sites offer the potential for water savings however, as for energy reduction, each site needs to be assessed on a case by case basis.

The five sites listed below have been selected because of their high profile and available consumption data.

1. Customer Service Centre Lighting
2. Works Depot Lighting
3. Ballina Library Lighting
4. Public Amenity Lighting
5. Work Depot Wash-down Bay Rain Water Tanks

9.3 Energy Efficiency Projects - Five Year Payback

Customer Service Centre Lighting Retrofit

Council's Customer Service Centre consumes approximately 332,400 Kilowatt Hours (kWhs) of electricity per annum. The major areas of consumption include the air-conditioning, lighting and computer systems. Various opportunities exist within each of these categories to control or minimise use and therefore reduce consumption.

Fluorescent lighting within the building is directly responsible for approximately 28 percent of the building's energy consumption. The heat from the existing fluorescent lighting's integral ballasts (of which there are approximately 713) is also a direct cause of higher air-conditioning consumption.

Upgrading of the centre's fluorescent lighting from T8 fittings to T5 fittings would achieve an energy reduction of approximately 11%. This is equivalent to 38,011 kWhs or \$11,289 per year at current electricity charge rates for the building. It would also reduce Council's carbon equivalent emissions by 40 tonnes.

These savings do not include the improvement in performance of the air-conditioning system due to reduced heat loads from the light fitting ballast systems.

Comparison data for light fitting replacement is displayed in Table 1 below.

Table 1 – Customer Service Centre T8 v T5 Consumption Data

Current annual energy data T8 fittings	Consumption data
Energy consumption kWh	94,688
Estimated annual energy cost	\$28,122
Estimated emissions tonnes CO ₂	100
Estimated results after T5 retrofit	
Energy consumption kWh	56,677
Estimated annual energy cost	\$16,833
Estimated emissions tonnes CO ₂	60
Projected Savings	
Energy kWh	38,011
Energy costs	\$11,289
Emissions tonnes CO ₂	40

Return on Investment Customer Service Centre retrofit

The capital outlay for a T5 retrofit of the building would be approximately \$48,000. Council would be eligible for energy savings certificates (ESCs) from the government that would equate to approximately \$18,000, reducing the initial outlay to \$30,000. With a projected annual energy cost reduction of \$11,289 the estimated payback period or return on investment would be approximately 2.7 years at current energy prices.

9.3 Energy Efficiency Projects - Five Year Payback

Works Depot Lighting Retrofit

Council's Works Depot at Southern Cross Drive Ballina has a number of separate buildings utilised for various operational and administrative purposes. Electricity usage varies between the buildings, however lighting is a major contributor and is estimated to be 42 percent of the annual power consumption at the site. Lighting in the operational buildings runs all day and exterior lighting runs all night. The average annual electricity consumption for the site is approximately 182,400 kWhs or \$51,500 at current electricity pricing.

By utilising available technologies, there are various ways of reducing or controlling the lighting consumption. The largest opportunity exists with the reduction in the consumption of the interior building lighting. Further opportunity also exists with the reduction and control of the exterior security lighting.

Table 2 illustrates the energy reduction possible through retrofitting the Works Depot's internal lighting.

Table 2 – Works Depot Internal Lighting Retrofit Data

Current annual energy data existing fittings	Consumption data
Energy consumption kWh	77,122
Estimated annual energy cost	\$11,866
Estimated emissions tonnes CO ₂	45
Estimated results after retrofit	
Energy consumption kWh	32,976
Estimated annual energy cost	\$5,016
Estimated emissions tonnes CO ₂	20
Projected Savings	
Energy kWh	44146
Energy costs	\$6,850
Estimated emissions tonnes CO ₂	25

Return on Investment Works Depot Internal Lighting Retrofit

The capital outlay for an internal lighting retrofit of the depot buildings using LED technology would be approximately \$56,700. Council would be eligible for energy savings certificates (ESCs) from the government that would equate to approximately \$13,450, reducing the initial outlay to \$43,250.

With an annual energy cost reduction of \$6,850 the estimated payback period or return on investment would be approximately 6.3 years.

Whilst this is slightly outside the target of five years, it has been included for the information because it represents a 58% saving per annum at current energy prices.

Higher energy prices would improve the payback period. However, a five year payback period could be achieved if only specific lighting within certain buildings was targeted.

9.3 Energy Efficiency Projects - Five Year Payback

Ballina Library LED Lighting Retrofit

Ballina Library's annual electricity consumption is approximately 105,352 kWhs or \$33,923 at current electricity pricing. Air-conditioning and lighting are the major consumers of electricity on the site. There are 258 x 36 watt fluorescent lamps in various fitting types within the building that run all day and are responsible for approximately 34 percent of the building's electricity consumption.

A sustainable approach to energy reduction would be to utilise many of the existing fittings which are in good condition and to re-wire them to suit LED replacement tubes. The replacement tubes will consume approximately 40 percent less power.

The following consumption data in Table 3 illustrates the potential savings.

Table 3 – Ballina Library T8 v LED Consumption Data

Current annual energy data T8 36 watt fittings	Consumption data
Energy consumption kWh	36,316
Estimated annual energy cost	\$11,693
Emissions tonnes CO ₂	38
Estimated results after LED tube retrofit	
Energy consumption kWh	19,951
Estimated annual energy cost	\$5,925
Emissions tonnes CO ₂	21
Projected Savings	
Energy kWh	16,365
Energy costs	\$5,768
Emissions tonnes CO ₂	17

Return on Investment Ballina Library Lighting Retrofit

The capital outlay for a LED retrofit would be approximately \$31,000. Council would be eligible for approximately \$2,500 in ESCs reducing the outlay to \$28,500. With a \$5,768 reduction in energy, the payback period or ROI would be approximately 4.9 years.

Public Amenity Lighting Retrofit

Ballina Shire Council services 30 public amenity buildings excluding licensed sporting amenity buildings. The electrical consumption is primarily from building lighting, area lighting and barbeques. The average yearly electricity consumption of the facilities is 74,000 kWhs or \$23,828 using current electricity pricing. As for previous examples, there is a variety of measures available for controlling or reducing energy consumption. Lighting internal and external to the toilet buildings consume approximately 16,976 kWhs per annum and providing an energy reduction opportunity. The existing vandal proof light fittings are in good condition and would be expensive to replace. Again, a sustainable approach would be to retain the existing fittings and retrofit with LED lamps.

9.3 Energy Efficiency Projects - Five Year Payback

The following data provides comparison consumption figures between the existing T8 fluorescent fittings and replacement LED tubes and indicates savings achieved by LED retrofits only. Further results could also be achieved by time, light and motion sensor control at each of the facilities.

Table 4 – Amenity T8 Fluorescent Lamps v LED Tubes - Consumption Data

Current annual energy data T8 36 watt fittings	Consumption data
Energy consumption kWh	16,976
Estimated annual energy cost	\$5,466
Emissions tonnes CO ₂	18
Estimated results after LED tube retrofit	
Energy consumption kWh	7102
Estimated annual energy cost	\$2,287
Emissions tonnes CO ₂	8
Projected Savings	
Energy kWh	16,365
Energy cost	\$3,179
Emissions tonnes CO ₂	10

Return on Investment Amenity Lighting Retrofit

The capital cost for the LED retrofit of the public amenity buildings would be approximately \$16,165. Council would be eligible for approximately \$1,800 in ESCs which reduce the initial outlay to \$14,365. With a \$3,179 reduction in yearly energy costs, the return on investment or payback period is expected to be approximately 4.5 years.

Works Depot Wash-down Bay Rain Water Tank Installation

Water use in the Ballina Shire Council Works Depot yard is restricted to staff amenities buildings and general low level usage apart from the wash-down bay. The wash-down shed is used for the pressure cleaning and washing of Council's operational fleet, plant and equipment. Although the water use at the wash-down bay is not individually metered, the assumption can be easily made that a high proportion of the average usage of 2.74 Kilolitres per day of water usage is in that area.

The large surface area of roof on the wash-down shed provides Council with obvious opportunity to capture rainwater to be used for wash-down purposes. The installation of rain water tanks at the rear of the wash-down bay would be unobtrusive and close to the equipment servicing the area. The following costings have been carried out for the installation of two x 5,000 litre slimline rainwater tanks. Additional tanks could easily be added, once usage data is established, and the return on investment quantified. Water usage from the wash-down bay would be separately metered so that usage can be quantified and information used to determine future investment.

9.3 Energy Efficiency Projects - Five Year Payback

Table 5 – Depot Rain Water Tank Pricing Information

Item Description	Cost
2 x 5000 Litre Water Tanks	\$4,400
1 x Water Pump	\$650
Labour & Install	\$500
Total	\$5,550

Sustainability Considerations

- **Environment**
These actions reduce Council's impact on the environment in terms of water and energy used, as well as its greenhouse gas emissions. Re-use of existing fittings reduces waste and demand for new materials.
- **Social**
If implemented, these actions provide leadership for industry and business in the Ballina Shire. They also reduce Council's ongoing energy commitments, providing funds to meet other community priorities.
- **Economic**
The suggested actions reduce Council's future financial commitment for energy usage.

Legal / Resource / Financial Implications

Capital investment is required to implement the identified projects. The payback period is, with the exception of the Works Depot lighting, within a five-year period. The minimum annual estimated savings on energy for the identified projects is 40%, with an average of 50% per annum.

As noted earlier, capital investment for these projects is currently not available from the revolving energy fund. Investment from other sources will therefore be required.

Consultation

Audits have been undertaken to support the information provided in this report. Quotes are current and have been obtained from local suppliers.

Both Council's adopted Community Strategic Plan and Environmental Action Plan provide for actions to reduce energy and water use at Council sites.

9.3 Energy Efficiency Projects - Five Year Payback

Options

The projects identified in this report, along with their gross and net (after rebates) costs, and estimated return timeframes, are as follows:

- a) Customer Service Centre Lighting - \$48,000 (\$30,000) – 2.7 years
- b) Works Depot Lighting - \$56,700 (\$43,250) – 6.3 years
- c) Ballina Library Lighting - \$31,000 (\$28,500) – 4.9 years
- d) Public Amenity Lighting - \$16,165 (\$14,365) – 4.5 years
- e) Works Depot Wash-down Bay Rain Water Tanks - \$5,000 – Payback period uncertain.

As these projects are not funded in the 2012/13 budget the standard recommendation would be to have the projects considered as part of the 2013/14 budget deliberations.

However, there is an opportunity to save operating costs, and with electricity prices continuing to rise, it is worthwhile considering options for funding the projects immediately, particularly the Customer Service Centre Lighting, which has a payback period of 2.7 years. There is also the risk that the current rebates on offer could be removed if Council delays any of the projects.

In respect to the Customer Service Centre as this building is used by staff from all sections of Council there are opportunities for the water, sewer and waste operations to make contributions to the project. Typically these programs can generate up to 50% of Council's operations, which means the General Fund will only need to finance \$15,000 (after rebates).

As the water, sewer and waste operations have reasonable reserves, those reserves could be used to finance 50% and it would then be recommended that staff review the General Fund operations to identify savings to finance the remaining \$15,000. This is considered achievable and the recommendations that follow support this approach.

In respect to the remaining projects the net total cost is approximately \$90,000. Normally it would be possible to fund these works from Council's property reserves and then have the reserves reimbursed from the on-going savings.

This is still a viable option however there are concerns that the property reserves are already committed to a wide range of community infrastructure projects and even though there are funds available, the current Council is still to review the preferred use of those reserves.

This being the case the preferred approach is to consider the balance of these projects as part of the 2013/14 budget deliberations. This then provides a more holistic approach to resource allocation. However in saying this, if Councillors wish to see the projects commence immediately, the use of reserves could be considered and that information could be reported back as part of the September Quarter Budget Review, which will be submitted to the November meeting of Council.

RECOMMENDATIONS

1. That Council approves the allocation of \$48,000 (\$30,000 net) for the installation of energy efficient lighting at the Council Customer Service Centre, with this expenditure to be funded 50% from waste, sewer and water reserves, and the balance from savings in General Fund operations, as determined by the General Manager.
2. That Council consider the allocation of funding for the remaining resource saving initiatives identified in this report (i.e. Works Depot Lighting - \$56,700 (net \$43,250), Ballina Library Lighting - \$31,000 (net \$28,500), Public Amenity Lighting - \$16,165 (net \$14,365) and Works Depot Wash-down Bay Rain Water Tanks - \$5,000) as part of the 2013/14 budget deliberations.

Attachment(s)

Nil

9.4 Domestic Electricity Bills - Community Education Campaign

9.4 Domestic Electricity Bills - Community Education Campaign

Delivery Program Strategic Planning

Objective To provide Council with an overview of Council's community education campaign regarding domestic electricity bills.

Background

At its October 2011 Ordinary Meeting, Council considered a Notice of Motion relating to household energy cost saving initiatives. In considering the matter, Council resolved [Minute No. 271011/36]:

"The General Manager be authorised to establish a small working party to:

- A. Investigate and document methods of reducing domestic electrical power bills, and*
- B. Develop a program outline on how to educate the Ballina Community on the ways to reduce their bills, and*
- C. Report to Council on the results of A and B with recommendations on how to implement the findings."*

Following this resolution, a workshop was held on 16 February 2012 to provide Councillors with an understanding of the energy efficiency programs Council has coordinated previously and the programs that are currently available to assist households learn more about their electricity usage and ways to reduce their electricity bills. This workshop sought to gain feedback from Councillors as to the specific focus of an additional community education campaign regarding household electricity use to determine the potential extent of the response to part B of the resolution above.

Feedback from the workshop, together with information gathered by staff on the various initiatives currently available formed the basis of a report to address part C of the above resolution. The report to the May 2012 Ordinary Meeting outlined the measures available to Council to provide an education program on reducing household electricity bills and built on the initiatives currently provided by the State Government and the electricity industry.

In response to this report Council resolved as follows [Minute No. 240512/1]:

Write to Essential Energy asking whether they will consider establishing an interactive energy efficiency display office in Council's current vacant office space at the Wigmore Arcade to assist in promoting more sustainable energy use to the community, with the aim of the display being suitable for educating both children and adults, with technical advice for consumers on cost saving measures.

In accordance with the above, Council staff met with staff from Essential Energy to discuss the concept of a display and subsequently sought a formal response. Although the response from Essential Energy indicated they were unable to resource an interactive display in the Wigmore Arcade, the organisation expressed an interest in a targeted community energy efficiency campaign in the Ballina Shire.

9.4 Domestic Electricity Bills - Community Education Campaign

This information, together with a copy of Essential Energy's response letter, was provided to Councillors via the Councillor Update on 29 June 2012. Having regard for the response from Essential Energy, and in the absence of any further direction from Council following the update, staff proceeded to liaise directly with Essential Energy to develop and implement a suitable public education campaign. The campaign was conducted between July and September 2012.

A brief outline of the activities that were being conducted for this education campaign was provided in an update to Councillors on 17 August 2012. Now that this campaign has concluded, this report provides more detail on the activities undertaken to address the original Council resolution regarding a community education campaign on reducing domestic electricity bills.

Key Issues

- Resource efficiency
- Community education
- Economic savings

Information

The community education campaign concentrated on providing information on the current State Government programs aimed at assisting households reduce their energy bills. Information on these programs was provided through radio, print and electronic media as well as face-to-face events such as community workshops and shopping centre information stalls. An overview of these programs is provided below.

Essential Energy - *energyanswers*

Essential Energy, the NSW Government-owned corporation with responsibility for building, operating and maintaining electricity network services to homes and businesses across 95 per cent of NSW, has developed a number of resources to assist households reduce their energy usage.

Resources include brochures on energy and cost saving tips as well as an *energyanswers* telephone service that can assist households or businesses with energy advice. The service is available to provide an over-the-phone energy audit, and offers information about Time-Of-Use (TOU) billing, switching to solar generated power, government rebates and Federal and State Government energy efficiency programs and incentives.

Initial discussions with an Essential Energy Community Relations Adviser indicated that Council would be able to further promote these resources locally and that members from the *energyanswers* team would also be available to present at local community workshops.

Home Power Savings Program

The NSW Government's *Home Power Savings Program* assists low income households to save power and money. The program aims to save eligible households up to 20% a year on power use through the provision of a free home assessment by an energy expert, a personal Power Savings Action Plan and a Power Savings Kit.

9.4 Domestic Electricity Bills - Community Education Campaign

Information from the Office of Environment and Heritage (OEH), which administers this program, indicates that so far, uptake has been relatively low for the number of eligible families in the shire. Although Council has promoted this program through its own media periodically over the last couple of years, discussions with the Stakeholder Liaison Officer of the program confirmed that OEH would provide additional promotional resources to help advance the program locally and that the northern based field supervisor of this program may be available to present at local events.

Save Power Kits

The State Government, through its *Save Power* program, also provides resources to promote household energy efficiency. These resources include fact sheets, guides and *Save Power Kits*, available for loan through local libraries. Each of these kits provides tools (such as energy monitors, thermometers, stopwatch and compass) and user guides with worksheets to assist householders make their homes more energy efficient. Six of these kits are available for loan across the Ballina, Alstonville and Lennox Head libraries. Information regarding these kits was contained in the promotional material and the kits were on display at the community workshops and shopping centre display.

Additional information

The Energy & Water Ombudsman NSW (EWON) is the government-approved dispute resolution scheme for New South Wales electricity and gas customers, and some water customers. EWON aims to provide high quality, independent dispute resolution and to help raise customer service standards in the energy and water industries.

“Myenergyoffers” is a free electricity and gas on-line price comparison website that allows consumers to compare offers from gas and electricity retailers that is operated by IPART (the Independent Pricing and Regulatory Tribunal) for the NSW Government. An Energy Information Line is also available to assist consumers with enquires.

Campaign activities

Listed below are the various promotional activities that were coordinated by staff as part of this community education campaign.

Face to Face	Date	Description
NAIDOC Stalls Day	July	Information on the <i>Home Power Savings Program</i> and Essential Energy's <i>energyanswers</i> team.
Community Workshops	12 -13 September	Representatives from Essential Energy's <i>energyanswers</i> team and the <i>Home Power Savings Program</i> provided 30 min presentations as well as a question & answer session. One evening and one morning workshop were held.
Shopping Centre Information Stall	12-13 September	Ballina Fair Shopping Centre display attended by representatives from Council, the <i>Home Power Savings Program</i> and Essential Energy's <i>energyanswers</i> team.
North Coast Community Housing Company	August	<i>Home Power Savings Program</i> flyers provided to NCCHC staff to provide to clients during house visits.
Electronic	Date	Description
Council website	July August September	Information on Essential Energy's <i>energyanswers</i> , and <i>Home Power Savings Program</i> (the programs).

9.4 Domestic Electricity Bills - Community Education Campaign

Community group electronic newsletters and email lists	August	Information on the programs and notification of the community workshops provided electronically to relevant community groups.
Electronic advertisement for schools newsletter	August	Information on the programs and notification of the community workshops provided electronically to primary and secondary schools in the shire.
Council staff email	September	Information on the programs and notification of the community workshops provided electronically to all Council staff accessing email.
Radio	Date	Description
Radio community service announcements	September	Community announcements on the programs available and notification of the community workshops.
Radio interview	September	Information on the programs and notification of the community workshops provided in an interview on community radio.
Print	Date	Description
Council Advertorial	August	Information on the programs and notification of the community workshops listed in Council's advertorial.
Brochures/ Posters/ factsheets	August September	Promotional material provided by Essential Energy, Save Power and the Home Power Saving Programs for static displays.
Static Displays	Date	Description
Council Foyer	August September	Notification of community workshops and poster display of the programs.
Community Centres	August September	Notification of community workshops and poster display of the programs.
Libraries	August September	Notification of community workshops and poster display of the programs.
Community Notice Boards	August September	Notification of community workshops and poster/flyer display of the programs included on local notice boards in West Ballina, East Ballina and Alstonville.
Jali Aboriginal Land Council Office	August September	Notification of community workshops and <i>Home Power Savings Program</i> flyers.
Centrelink/ Medicare building	August September	Notification of community workshops and poster/ brochure display of the programs.
Bullinah Medical Service	August September	Notification of community workshops and <i>Home Power Savings Program</i> flyers
Aged Care Facilities - Independent Living Units	August	Notification of community workshops and information via static display or emailed for distribution to residents.
Senior Citizens Hall	August	Notification of community workshops and poster/ brochure display of the programs.
North Coast Community Housing Company Foyer	August	Notification of community workshops and poster/ brochure display of the programs.

Evaluation

This section of the report considers the success of the program which may be used in determining the most suitable options for undertaking future community education campaigns.

External assistance was required to meet this resolution, due to limited internal resources being available to provide the technical expertise necessary to assist households reduce their electrical power bills either through billing tariffs or energy usage.

9.4 Domestic Electricity Bills - Community Education Campaign

Fortunately, a number of State Government programs (listed earlier) are currently providing this expertise, enabling Council to cross promote these programs locally. The cross promotion of these existing programs saved financial costs associated with Council sourcing independent expert advice required to provide this information to the community if these State Government programs had not been available.

Negotiations with program representatives allowed Council to extend this promotion to include face-to-face presentations and advice via community workshops and shopping centre information stalls.

It was disappointing to note that despite the promotional effort, attendance at the two community workshops was limited, with one person attending the evening session and four attending the morning session. Inquiries of representatives attending the shopping centre displays from members of the public were also limited.

Although attendance at the face-to-face events was low, data from the OEH suggests that the uptake of the Home Power Savings Program home assessments did increase substantially through the month of September (see Figure 1 below). Previous spikes in uptake are also noted following Council's promotion of this program in the past.

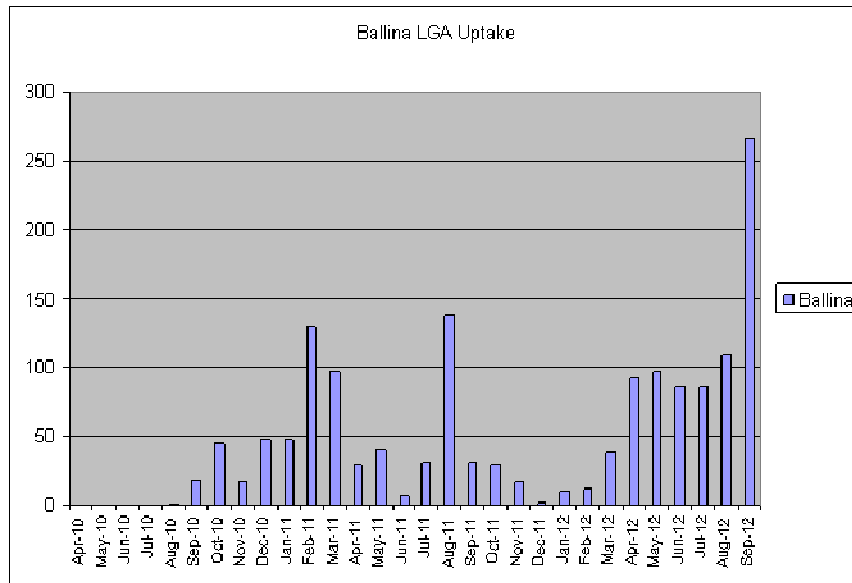


Figure 1: Uptake rate of the Home Power Savings Program in Ballina Shire

Essential Energy was unable to provide a break down of the calls to the *energysavers* telephone service from Ballina Shire residents, making it difficult to evaluate the success of the campaign in promoting this program.

Based on staff experience of this campaign, it is suggested that when seeking to educate the community on topics requiring expert advice, Council endeavour to cross promote existing State or Federal Government programs wherever possible. This experience would also suggest, where limited resources are available, that face-to-face events such as shopping centre displays and workshops are not particularly effective.

9.4 Domestic Electricity Bills - Community Education Campaign

This suggests that efforts in providing community education should be directed principally into other forms of promotion, such as static displays and electronic media. Although this campaign has now concluded, Council staff will continue to promote energy efficiency programs where opportunities occur and where resources allow.

Sustainability Considerations

- **Environment**
Improving household energy efficiency reduces the use of non-renewable resources and generation of greenhouse gas emissions associated with fossil fuel based energy generation.
- **Social**
Not Applicable.
- **Economic**
Reducing household energy use and improving understanding of electricity billing can reduce the costs of domestic electricity bills.

Legal / Resource / Financial Implications

As no allocation of additional funds was made to met this resolution, resource and financial commitments associated with this community education campaign to reduce the costs of domestic electricity bills were met within current operating budgets. Although the estimated cost of the campaign was \$1,000, the campaign has taken a substantial amount of staff time to coordinate, especially in relation to the community workshops.

There are no known legal implications associated with the options canvassed in this report.

Consultation

In preparing this community education campaign, extensive consultation occurred between Council staff and representatives of the *Home Power Savings Program* and *Essential Energy Energyanswers*.

Options

This report is provided for the information of Council. No options are canvassed in this section of the report as this campaign has now concluded.

RECOMMENDATION

That Council notes the contents of this report concerning the community education campaign recently conducted to reduce domestic electricity bills.

Attachment(s)

Nil

9.5 NSW Planning Reform - Green Paper Submission

9.5 NSW Planning Reform - Green Paper Submission

Delivery Program Strategic Planning

Objective To advise Council of the submission forwarded to the NSW Government publication 'A New Planning System for NSW' Green Paper and to seek Council's endorsement of the submission.

Background

As reported to the Council's Ordinary Meeting held on 23 August 2012, the NSW Government is currently undertaking a review of the NSW planning system. The review was commenced in response to concerns that the *Environmental Planning Assessment and Assessment Act 1979* and the NSW planning system in general have become overly complex and legalistic.

The NSW Government recently released a document titled *Green Paper – A New Planning System for New South Wales* (the Green Paper). Council resolved at its Ordinary Meeting held on 23 August 2012 to authorise its Strategic and Community Services Group to prepare a submission to the Green Paper in liaison with Council's Regulatory Services Group.

Key Issues

- Submission contents

Information

The Council, at its Ordinary Meeting held on 23 August 2012 resolved as follows [Minute 230812/8]:

1. *That Council notes this report relating to the comprehensive reforms to the NSW planning system.*
2. *That the Strategic and Community Services Group is authorised to prepare a submission to the Green Paper in liaison with Council's Regulatory Services Group.*

The Strategic and Community Services Group has prepared a submission to the Green Paper in liaison with Council's Regulatory Services Group and this has been forwarded to the Department of Planning & Infrastructure (submissions closed on 5 October 2012).

A copy of the submission is provided at Attachment 1.

As indicated in the submission, should Councillors identify issues in addition to those detailed in the submission, it is intended to provide further correspondence to the Department of Planning & Infrastructure.

Sustainability Considerations

- **Environment**
The introduction of a new planning system will have potential environmental implications. However, at this stage it is difficult to determine their scope or precise nature.
- **Social**
The Department's commitment to a simplification of the planning system has the potential to result in positive social outcomes.
- **Economic**
Economic outcomes, including employment generation and the facilitation of development, have been a significant driver underlying the proposed new planning system.

Legal / Resource / Financial Implications

The new planning system has significant resource implications for Council both in the review of the proposed reforms and legislation and in the implementation phases. The full extent of the resource implications is yet to be determined.

Consultation

The Council's submission to the Department of Planning & Infrastructure includes a request that substantial and genuine consultation is undertaken with local councils, the development sector and the broader community prior to the introduction of the new legislation.

Options

Council can endorse the submission to the Department of Planning & Infrastructure in relation to the Green Paper or Council could submit a further submission to the Department of Planning & Infrastructure. If Councillors believe there are matters of concern raised within or by the Green Paper which have been omitted within the staff submission to the Department, or which have been inadequately addressed, these can be captured in the Council's resolution to enable a supplementary submission to be lodged.

It is reiterated that until such time as the proposed White Paper and subsequent Bill are available, it will remain difficult to obtain a solid understanding of the consequences and scope of the new legislation. It is envisaged that further representations to the Department will be recommended by staff at that time.

RECOMMENDATION

That Council endorse the submission to the Department of Planning & Infrastructure in relation to the NSW planning reform Green Paper, as attached to this report.

Attachment(s)

1. Submission to 'A New Planning System for NSW - Green Paper'

9.6 Koala Plan of Management - Project Reference Group

9.6 Koala Plan of Management - Project Reference Group

Delivery Program Strategic Planning

Objective To determine the extent of Councillor representation on the project reference group for the preparation of a Koala Plan of Management for Ballina Shire.

Background

Council considered the preparation of a comprehensive koala plan of management for Ballina Shire at its July 2012 Ordinary Meeting and resolved as follows [260712/1]:

"That Council endorse the preparation of a Comprehensive Koala Plan of Management for Ballina Shire based on the provision of funding support from the NSW Office of Environment and Heritage."

Since Council's decision, funding in the amount of \$55,000 (inclusive of GST) has been committed to Council by the NSW Office of Environment and Heritage and consultants have been invited to provide fee proposals for the first phase of the project. Phase 1 of the project involves a koala habitat study, with Phase 2 comprising the preparation of the plan of management documentation.

It is envisaged that a Project Reference Group (PRG) will be formed to generally oversee the preparation of both phases of the project. The purpose of this report is to determine the extent of representation on the PRG by elected Councillors.

Key Issues

- Councillor representation on the project reference group

Information

The formation of a Project Reference Group (PRG) to provide a review and feedback forum is a key element of the koala plan of management project. PRGs or similar entities have been utilised by other councils in the region in the delivery of koala plans of management and the Office of Environment and Heritage has requested that Council continue this approach in Ballina Shire.

The formation of a PRG is important as it provides a structured forum for the sharing of information between the project team and key stakeholder representatives. The PRG will be formed with a view to participation in both the koala habitat study and plan of management phases. The project is currently scheduled to occur between November 2012 and June 2014. Formation of the PRG is currently being planned and it is envisaged that the group will be comprised of various stakeholders including State Government agency, environmental, rural and general community interests. The PRG will meet periodically throughout the delivery of the project.

9.6 Koala Plan of Management - Project Reference Group

With respect to the koala habitat study (being phase 1 of the plan of management project), it is intended that the PRG will provide a forum for the exchange of information and discussion between stakeholders, Council and the project consultant. It is planned that the PRG will meet on three occasions during this project phase (between November 2012 and June 2013), with the first meeting planned for late November 2012. The meetings will be centred on project establishment and information associated with the preparation of the koala habitat study.

It is proposed that the PRG will be chaired by a nominated representative of the elected Council. This report seeks Council's direction in relation to this, and, if this approach is endorsed by Council, it is requested that Council nominate its representative/s.

Sustainability Considerations

- **Environment**
Not applicable
- **Social**
The formation of a PRG provides a structured framework for information sharing and discussion associated with the koala plan of management project.
- **Economic**
Not applicable

Legal / Resource / Financial Implications

The formation and management of the PRG can be undertaken within the planned work program for delivery of the comprehensive koala plan of management for Ballina Shire.

Consultation

The PRG is a central aspect of the community engagement associated with the comprehensive koala plan of management for Ballina Shire. The PRG is a platform for information sharing, feedback and discussion in relation to the project.

Options

This report seeks confirmation from Council as to whether a member/s of the elected Council is/are to participate in the Project Reference Group for the comprehensive koala plan of management for Ballina Shire. If Council endorses elected Councillor representation on the PRG, the number and role of Councillors needs to be determined.

9.6 Koala Plan of Management - Project Reference Group

It is recommended that one elected Councillor be appointed to chair the PRG. This is considered advantageous as it provides for a direct link between the Council and the project. It is also recommended that Council nominate a single representative to maintain a balance to Council's representation in the group (given staff will also be participating) in relation to other stakeholder groups.

In summary, it is recommended that Council nominate one elected representative to act as chairperson of the Project Reference Group for the comprehensive koala plan of management project.

RECOMMENDATION

That Council nominate one elected representative to act as chairperson of the Project Reference Group to oversee the Ballina Shire comprehensive koala plan of management project.

Attachment(s)

Nil

10.1 Investment Summary - September 2012

10. General Manager's Group Reports

10.1 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 September 2012.

Council's investments are all in accordance with the Act, the Regulations and Council's Investments Policy. The balance of investments as at 30 September was \$86,288,000. This represents a decrease from August of \$968,000.

The balance of the cheque account at the Commonwealth Bank, Ballina as at 30 September 2012, was \$1,594,786.

Council's investments as at 30 September are at an average (weighted) rate of 4.97% which is 1.49% above the 90 Day Bank Bill Index of 3.48%.

The majority of the approximately \$86 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 \$18 million are unexpended funds borrowed by Sewer Fund.

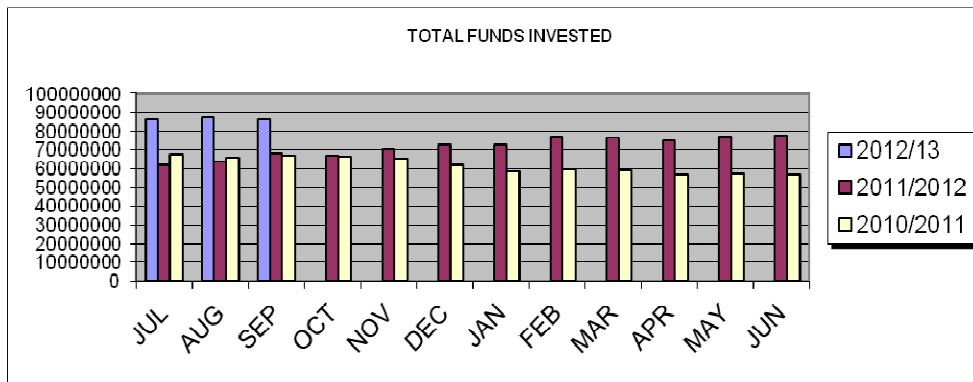
10.1 Investment Summary - September 2012

A. Summary of investments by institution

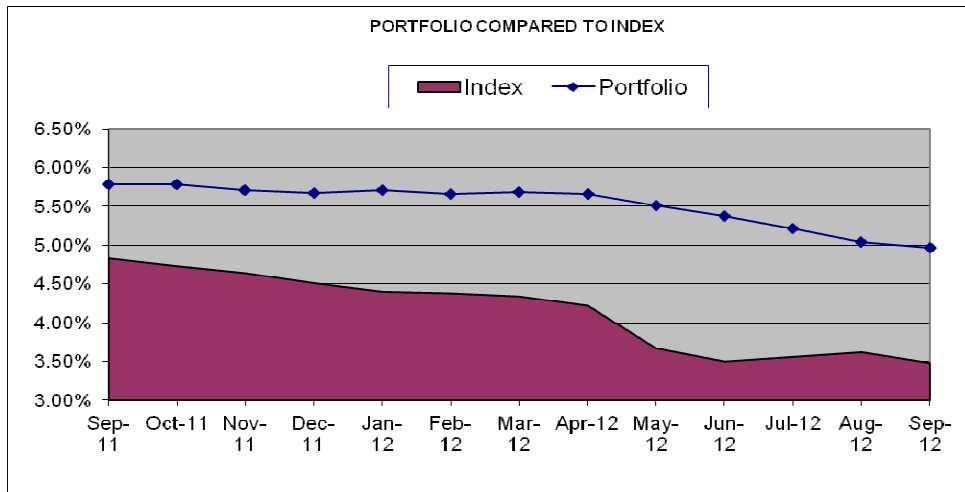
Funds Invested With	ADI Rating	Previous Month (\$'000)	Current Month (\$'000)	Quota %	% of Total	Total
Grandfathered Investments						
ANZ Bank	AA-	2,000	2,000	0	2.3	
Bendigo Bank Ltd	BBB	1,000	0	0	0	
Deutsche Bank	A+	4,000	4,000	0	4.6	
Goldman Sachs	AA-	1,000	1,000	0	1.2	
Heritage Building Society	BBB-	1,000	1,000	0	1.2	
HSBC Australia	AA-	1,000	1,000	0	1.2	
Longreach Capital Markets 28*	AA+	1,000	1,000	0	1.2	
National Australia Bank	AA-	1,788	1,788	0	2.1	
National Wealth M'ment Holding	A	2,000	2,000	0	2.3	16%
Rated Institutions						
ANZ Bank	AA-	15	47	20	0	
Bank of Queensland	BBB+	8,000	8,000	10	9.3	
Bank of Western Australia	AA-	12,000	12,000	20	13.9	
Commonwealth Bank of Aust	AA-	6,453	5,453	20	6.3	
Illawarra Mutual Bld Soc	BBB	2,000	4,000	10	4.6	
ING Bank Ltd	A	7,000	7,000	20	8.1	
Members Equity Bank	BBB	8,000	8,000	10	9.3	
National Australia Bank	AA-	11,000	12,000	20	13.9	
Newcastle Permanent Bld Soc	BBB+	1,000	1,000	10	1.2	
Suncorp Metway Bank	A+	16,000	14,000	20	16.2	
Westpac Banking Corporation	AA-	1,000	1,000	20	1.2	84%
Total		87,256	86,288			100%

* Rating is on Capital only by Citigroup Pty Ltd

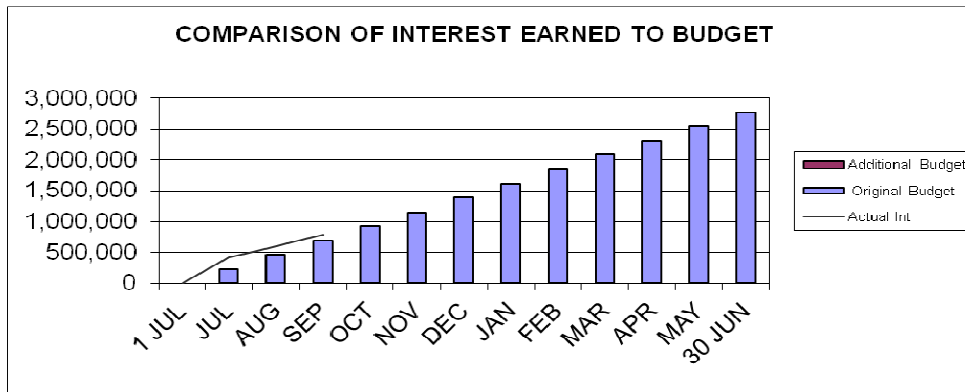
B. Monthly Comparison of Total Funds Invested



C. Comparison of Portfolio Investment Rate to 90 Day BBSW



D. Progressive Total of Interest Earned to Budget



Comment

The Reserve Bank Board cut the cash rate by 25 basis points to 3.25 at its meeting on 2 October 2010.

There were two factors behind the decision to cut the cash rate – a softer world economy and a disappointing response to earlier rate cuts.

As noted in the accompanying statement of the Board, one of the reasons for the cut was the global economy “The outlook for growth in the world economy has softened over recent months, with estimates for global GDP being edged down, and risks to the outlook still seem to be on the downside.” The effect of this slower growth is to lower future expectations for the peak in the resources boom and “As this peak approaches it will be important that the forecast strengthening in some other components of demand starts to occur.” So cutting rates now is aimed at stimulating the economy into next year.

10.1 Investment Summary - September 2012

On the local scene, lower interest rates are expected to stimulate borrowing and employment and drag down the high Australian exchange rate. But, as noted in the statement, the labour market has softened in recent months and, despite the rate cuts in late 2011 and May and June this year, credit growth has softened. With banks not passing on the full rate cuts to borrowers and the exchange rate not retreating as much as expected, one commentator noted "the RBA has been like a boxer with one hand tied behind his back, having to punch even harder with the cash rate in order to have the desired impact."

E. Investments held as at 30 September 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	4.16	16/06/16	2,000
28/06/07	Longreach Series 28	FND	0.00	27/06/14	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	5.78	14/03/13	1,000
17/12/08	Commonwealth Bank of Australia	FRTD	4.73	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	3,455
20/07/11	ANZ Bank	FND	2.50	At call	47
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
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
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
04/09/12	Bank of Queensland	TD	5.10	02/01/13	1,000
04/09/12	Illawarra Mutual Bld Society	TD	4.80	05/11/12	2,000
11/09/12	National Australia Bank	TD	4.96	11/03/13	2,000
Totals:					86,288
TD=Term Deposit		FRN=Floating Rate Note		FND=Managed	
ELN= Equity Linked Note		FRTD= Floating Rate Term Deposit		Fund	

RECOMMENDATIONS

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

Attachment(s)

Nil

10.2 Disclosure of Interest Returns

10.2 Disclosure of Interest Returns

Delivery Program Administration

Objective To comply with the provisions of the Local Government Act relating to the tabling of disclosure of interest returns.

Background

Section 449 (3) of the Local Government Act requires Councillors and designated persons to complete a pecuniary interests return within three months of the end of the financial year.

Section 450A (2) (b) then requires the General Manager to table those returns at the first available Council meeting following the completion of the three month period.

This report complies with the above sections of the Local Government Act for the period 1 July 2011 to 30 June 2012.

Key Issues

- Ensuring compliance with the Local Government Act.

Information

Returns are to be tabled by Councillors and designated persons. Section 441 of the Local Government Act defines designated persons as the General Manager, Senior Staff and other positions or members of committees that exercise functions that could give rise to a conflict of interest.

To manage the determination of designated positions an internal procedure has been adopted by staff that ensures that:

- all senior staff
- all staff involved in the determination of development applications
- all staff exercising delegations in respect to rezoning requests
- all staff with a purchasing authority above \$55,000
- all staff who have secondary employment approvals excluding those that relate to one off events that are for a relatively short term. Examples include elections, festivals etc.

complete the returns.

No committee members, other than Councillors, are required to complete returns, as all Council's committees, other than those consisting entirely of Councillors, have no delegated authority.

The completed returns and the register will be tabled at the meeting for the information of the public.

10.2 Disclosure of Interest Returns

Sustainability Considerations

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

Legal / Resource / Financial Implications

Council must comply with the Local Government Act.

Consultation

Provided for the information of the public.

Options

The purpose of this report is for noting the information presented.

RECOMMENDATION

That Council notes the contents of the report on the disclosure of interest returns for the period 1 July 2011 to 30 June 2012.

Attachment(s)

Nil

10.3 Councillor - Leave of Absence

10.3 Councillor - Leave of Absence

Delivery Program Governance

Objective To provide a Councillor with leave of absence

Background

Cr Keith Johnson has requested leave of absence from Council duties from 5 November to 2 December 2012.

RECOMMENDATIONS

That Cr Keith Johnson be granted leave of absence from 5 November to 2 December 2012.

Attachment(s)

Nil

10.4 Write Offs - Concealed Water Leaks

10.4 Write Offs - Concealed Water Leaks

Delivery Program Financial Management

Objective To obtain Council approval to write off three accounts determined to be eligible for financial relief under our Concealed Water Leaks Policy where the amount to be written off exceeds the General Manager's delegated authority

Background

Council adopted a Concealed Water Leaks Policy in February 2011 to provide residential customers with some financial relief for higher than normal water consumption accounts arising as a result of a concealed water leak.

Providing the applicant complies with the eligibility criteria contained within the policy, Council will credit the customer's account once only. The policy provides for a two part reduction to the account whereby the water consumption attributed to the leak is charged for at the lower of the two step tariff and secondly by crediting 50% of additional consumption up to a maximum of 250 kilolitres(kl).

The process is shown below including a worked example whereby average consumption is 300kl and actual consumption was 1,000kl.

1. Calculate historical average consumption for the metre (example is 300kl). Compare the assessed average to the higher consumption (example is 1,000kl) and determine an amount deemed to be caused by the leak (example is 700kl).
2. Water charges are \$1.77 per kl for the first 350kl and \$2.66 per kl thereafter. In the example the first credit would be 350kl (amount above 350kl) x \$0.89c (difference between step 1 and 2) = \$311.50
3. The second credit is 50% of the additional consumption (example is 700kl) up to a maximum of 250kl. Given that in the example 50% of the additional consumption (example is 50% of 700kl) exceeds the 250kl maximum the second credit is 250kl x \$1.77= \$442.50
4. In this example the total write off amounts to \$754.

The Concealed Water Leaks Policy provides the General Manager with delegation to authorise applications received under this policy and the General Manager has provided the Rating and Customer Service Coordinator delegated authority to determine applications under this policy.

In regard to rates and charges write offs, Council has provided delegated authority for the General Manager to write off debts to a maximum of \$1,000 per debt. Write offs not covered by specific Local Government legislation must be carried out by Council resolution, unless the General Manager has been provided with delegated authority.

10.4 Write Offs - Concealed Water Leaks

The following accounts approved under the Concealed Water Leaks Policy require write off adjustments greater than the General Manager's delegated authority and as a result, must be approved by Council.

This report details the specific accounts and amounts proposed to be written off that require Council approval in accordance with Clause 131 of the Local Government (General) Regulation 2005 (LGGR) and section 607 of the Local Government Act 1993 (LGA).

Key Issues

- Amount of write off and background

Information

Council's water meter reading contractor reads all water meters quarterly in a two week period during the months of September, December, March and June each year. Readings are provided to Council by the contractor when completed and Council performs a range of auditing functions prior to accounts being issued around four weeks after the reading data is received.

One of the audits concentrates on accounts where the water consumption for the current billing quarter is significantly higher than the usual consumption for that property. Council staff make contact with the customer immediately if no reason is found to justify the higher than usual consumption.

In some cases the customer is unaware of this high consumption as the water leak is concealed, and in these cases they may then apply for one-off financial relief in accordance with our Concealed Water Leaks Policy.

The following table provides details of the three accounts that have been determined to be eligible to receive financial relief under our Concealed Water Leaks Policy however, require write off approval by Council.

Council Assessment Number	Write Off Amount (\$)	Property Details and Eligibility Summary
121212	1,406.18	Mr DW & Mrs JC Sproule 72 Marom Creek Road MEERSCHAUM VALE Burst poly water pipe joiner on rural land in low lying paddock. Undetected due to a consistent wet period (rain) and leak being in a location with poor drainage and covered with long grass.
174809	1,190.30	Owners Corporation SP22947 105 River Street BALLINA Burst water pipe under bitumen paved car park at rear of property adjoining Winton Lane.
239714	1,272.62	Mr CF Curran 165 Pimlico Road PIMLICO Burst poly water pipe on rural land – caused as a result of vehicle movements in a horse paddock quarantined due to Hendra virus. Wet weather, long grass and quarantine period resulted in leak being undetected.
Total	3,869.10	

10.4 Write Offs - Concealed Water Leaks

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The policy is designed to provide some equity in respect to the management of concealed water leaks.
- **Economic**
There is a loss of revenue if the charges are written off.

Legal / Resource / Financial Implications

Revenue to the value of \$3,869.10 will be foregone, plus this consumption will impact on Council's contribution to the bulk water supply authority in the following year. In a total income budget of approximately \$5 million the amount to be written off is considered immaterial from an accounting and budgeting perspective.

Consultation

Significant consultation with the applicants has been undertaken. All applicants are educated about the importance of checking their water supply to prevent future wastage. This information is provided verbally and in writing.

Options

Council may decide whether to approve the write offs or not. The recommendation is to approve the write offs as they are in accordance with Council's adopted policy.

RECOMMENDATION

That Council approves the total write off of \$3,869.10 in water consumption charges in accordance with Council's Concealed Water Leaks Policy and pursuant to clause 131 of the Local Government (General) Regulation 2005, as outlined in the following table:

Council Assessment Number	Write Off Amount (\$)	Property Details and Eligibility Summary
121212	1,406.18	Mr DW & Mrs JC Sproule 72 Marom Creek Road MEERSCHAUM VALE
174809	1,190.30	Owners Corporation SP22947 105 River Street BALLINA
239714	1,272.62	Mr CF Curran 165 Pimlico Road PIMLICO
Total	3,869.10	

Attachment(s)

Nil

10.5 Community Donations

10.5 Community Donations

Delivery Program Governance

Objective To invite Council to consider a request for financial assistance under the Australian Representation Policy

Background

Council approved a number of general and capital assistance donations at the July 2012 meeting for the 2012/13 financial year. Since that time additional requests have been received. Generally Council staff advise the applicants to reapply next financial year. However there are certain requests that are considered meritorious for the current year and on that basis, as allowed by the Council policies, they are submitted to Council for consideration.

One such request is considered in this report and a copy of the request is attached.

Key Issues

- Nature of request
- Community benefit
- Funding available

Information

Details of the request are as follows:

Georgia Keen

Georgia Keen of Trinity Catholic College has been selected by School Sport Australia Football as part of the 2012 team that will tour Brazil and Argentina in early 2013. Participants are required to fully fund themselves.

Under the 'Donations - Australian Representation' Policy, Council provides \$400 (indexed by CPI each year – approximately \$420 in current dollars) for applicants representing Australia overseas.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Donations can provide significant community benefits to the Ballina Shire
- **Economic**
Not Applicable

10.5 Community Donations

Legal / Resource / Financial Implications

The current status of the donations budgets for 2012/13 is as follows:

Items	Budget	Allocated	Balance
Donations (General)	76,500	76,592	(92)
Donations (Halls)	28,500	28,500	0
Donations (DA Fees)	3,000	0	3,000
Net Amount Available			2,908

Even though the donations (general) budget has been expended there are funds remaining in the overall donations budget.

Consultation

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

Options

The options are to approve or decline the request. This application is consistent with the Australian representation donations policy and as such the recommendation is to approve the donation.

RECOMMENDATION

That Council approve the request for financial assistance (approximately \$420) from Georgia Keen, as detailed within this report, being for Australian representation in school sport.

Attachment(s)

1. Letter of Support from School Sport Australia Football - Georgia Keen

10.6 **Committees - Facilities and Airport**

10.6 **Committees - Facilities and Airport**

Delivery Program Governance

Objective To respond to a Council resolution for further consideration of the future of the Facilities and Airport Committees

Background

At the September 2012 Ordinary meeting Council considered a report on all of the internally established committees. The resolution arising from that report included a recommendation to defer any action on the Facilities and Airport Committees subject to further consideration by Council. The purpose of this report is to respond to that resolution.

Key Issues

- Structure of the Facilities and Airport committees
- Need for the committees

Information

At the September 2012 meeting Council endorsed the following Standing Committees, which are committees that consist solely of Councillors to consider items of business before the Council.

- 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.
- 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 and the Committee has delegations to make decisions for crown land matters.

In respect to the Airport and Facilities Committees further comments, as largely reported to the September meeting, are as follows:

10.6 Committees - Facilities and Airport

- Airport Committee – This Committee traditionally dealt with matters relating to the Ballina/Byron Gateway Airport, with membership consisting of all Councillors and no delegated authority. As previously reported, with the appointment of the dedicated Airport Manager, this Committee has not met for the past two years. As the Airport function reports directly to the Commercial Services Unit, and as it is a commercial operation, it is recommended that the Committee be disbanded and that the Commercial Services Committee consider airport matters into the future.

It is understood that Councillors wish to ensure that a commercial focus is the prime objective of the Commercial Services Committee and as the Airport is in effect a major business operation of Council, it is considered that it is a reasonable fit to include the airport in the Commercial Services Committee agendas. Therefore no change is recommended to the previous recommendation to disband this Committee.

- Facilities Committee – This Committee has provided input into the facilitation, construction and prioritisation of major community facilities, such as the Lennox Head Community Centre, Kentwell Community Services Centre and the Ballina Surf Club. Membership consists of all Councillors with no delegated authority. Based on feedback from the last Council meeting, and recognising that Council has a number of major community infrastructure projects under consideration (i.e. Lennox Head Surf Club, Ballina Coastguard Tower, Ballina and Alstonville Swimming Pool upgrades, Ballina Sports / Events Centre) it is reasonable for this Committee to be retained.

The existing terms of reference for the Committee are as follows:

Provides strategic input into the facilitation and construction of major community facilities

and a more contemporary role could be phrased as follows:

To identify construction priorities for community infrastructure projects (i.e. community centres, surf clubs, sporting facilities etc) and to provide oversight and on-going review of approved projects from initial feasibility through to final completion and commissioning.

It is also recommended that the Committee has no delegated authority and consist of all Councillors, which is consistent with the other Standing Committees.

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

The Standing Committees provide an opportunity for Councillors to consider matters prior to reporting to the monthly Ordinary meeting, along with providing a further opportunity for community input.

Options

The options are to retain or disband one or both of the Airport and Facilities Committees.

In respect to the Airport Committee no change is recommended to the September report, in that it is considered that the nature of the airport operations do not justify the creation of a separate committee and matters can be handled within the terms of reference for the Commercial Services Committee. Therefore the recommendation remains to disband the Airport Committee.

In respect to the Facilities Committee, in hindsight it is considered that the level of community infrastructure planned, or perhaps a better word is desired, justifies the continuation of the Facilities Committee. Therefore the recommendation is retain that Committee with updated terms of reference.

RECOMMENDATIONS

1. That Council confirms it will disband the Airport Committee as matters relating to the airport operations can be dealt with by the Commercial Services Committee.
2. That Council confirms it will retain the Facilities Committee with the terms of reference for that Committee to be as follows:

To identify construction priorities for community infrastructure projects (i.e. community centres, surf clubs, sporting facilities etc) and to provide oversight and on-going review of approved projects from initial feasibility through to final completion and commissioning.

3. Membership of the Facilities Committee is to consist of all Councillors with the Committee having no delegated authority.

Attachment(s)

Nil

10.7 Policy (Review) - Councillor Expenses and Facilities

10.7 Policy (Review) - Councillor Expenses and Facilities

Delivery Program Governance

Objective To comply with the Local Government Act by undertaking an annual review of the Councillor Expenses and Facilities Policy.

Background

Section 252(1) of the Local Government Act requires that within five months after the end of each year, a council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.

This review was undertaken at the July 2012 meeting with no amendments identified, with the policy then placed on exhibition for public comment. The purpose of this report is to adopt the policy following the formal exhibition period.

A copy of the current document is attached.

Key Issues

- Whether the policy meets the requirements of the elected Council

Information

The policy was placed on exhibition for public comment for a period of 28 days with no submissions received. It is now being presented to Council for formal adoption.

Despite the document having already been exhibited, with a newly elected Council there may be changes Council wishes to consider in respect to the expenses currently provided. Therefore this report provides an opportunity for the current Council to review the expenses and facilities available.

The concept of the expenses policy is to ensure that elected Councillors are adequately supported in their role and if there are any deficiencies in the current level of support those deficiencies should be identified and remedied, where possible.

From a staff perspective the current policy works effectively and the only real operational issue that sometimes occurs is through Councillors submitting expenses claims more than three months after those expenses were incurred. Clause 2.1.1 of the policy states, in part, as follows:

To ensure claims are submitted promptly and accurately any claims submitted in excess of three months of the time of expenditure will not be approved.

10.7 Policy (Review) - Councillor Expenses and Facilities

Unfortunately there have been times when claims have been submitted after the three month timeframe, and typically those claims have still been approved by the General Manager as they do relate to legitimate expenses incurred. However there is typically a significant amount of work required to check old claims with there being instances of claims being submitted that are more than six months old.

This type of delay in submitting claims can result in misleading budget information, based on expenditure incurred, and expenses being incurred in the wrong financial year, for accounting purposes. Also the annual report requires councillor expenses to be separately itemised in the report therefore it is essential that information is accurate and up to date.

The purpose of this commentary is to highlight that as the current expenses policy includes the three month limitation on claims, it is now the intention of staff to enforce that condition. If Councillors are not satisfied with this clause, and approach, then the three month limit should be removed.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The purpose of the policy is to provide adequate support to Councillors.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

Nil.

Consultation

The Policy was placed on exhibition for public comment.

Options

The options are to approve, amend, or not approve the policy.

RECOMMENDATIONS

1. That Council adopts the existing Councillor Expenses and Facilities Policy, as exhibited and as attached to this report.
2. That Council notes the three month time limit for expense claims to be submitted, as per clause 2.1.1 of the policy, and supports the General Manager in ensuring that any claims submitted beyond this time frame will not be approved.

Attachment(s)

1. Policy - Councillor Expenses and Facilities

10.8 Policy (Review) - Code of Meeting Practice

10.8 Policy (Review) - Code of Meeting Practice

Delivery Program Administration

Objective To review the current Code of Meeting Practice.

Background

Council has an adopted practice of reviewing all policies during the term of the elected Council to ensure those policies remain contemporary. One of the more important policies following an election is the Code of Meeting Practice as it guides the conduct and management of Council meetings. With a newly elected Council it is timely to review this Code to ensure that the existing document suits the needs of the new Council. A copy of the Code is attached to this report.

Key Issues

- Whether the policy meets the requirements of Councillors

Information

The majority of the Code of Meeting Practice is a repeat of various sections of the Local Government Act and Local Government (General) Regulations. However there are some discretionary items and the more relevant items are:

- Clause 2.1 (2) – Meeting time - Ballina Council has met for many years on the fourth Thursday of the month, with meetings starting at 9am. This date and time could be varied if Council feels there is a more suitable time for Councillors and / or the public.
- Clause 3.1 (1) and (2) – Order of business – These clauses include the Australian National Anthem, along with the Acknowledgement of Country. These are discretionary items.
- Clause 3.1 (3) 3 (Reference to Schedule 1) – Schedule 1 outlines the Order of Business. The one concern with the Order of Business is that Council still includes a section titled “Questions Without Notice”. The Division of Local Government has consistently advised councils that the inclusion of this item in agendas is a breach of the Local Government Act as adequate notice must be provided for all items on the agenda, excluding Mayoral Minutes and unless an urgency motion is passed. The asking of questions to staff, or to other Councillors, in this item is inconsistent with these notice requirements. Therefore this report includes a recommendation to remove this item from the meeting agenda.

10.8 Policy (Review) - Code of Meeting Practice

- Clause 8.4 (6) – Current practice is to record meetings. The merit of this practice has been debated many times, with arguments for relating to higher accountability and arguments against relating to the fact that small sections of the recordings can be used to undermine staff or councillors, remembering that there is no “parliamentary privilege” in Council meetings and staff have to often answer questions without the benefit of any notice, besides the contents of the report. To date recorded copies of Council meetings have only been sold to specific interest groups or to Councillors wishing to follow up comments made by other Councillors.
- Clause 8.5 – Deputations – It has been suggested that people making deputations should be limited to a maximum of two items on the agenda, as there is a possibility that one person could reserve the right to speak on numerous items, therefore restricting the right of any other individual to speak. Based on this it is recommended that this clause be amended to limit deputations to a maximum of two items on the agenda.
- Clause 8.6 – Public Question Time – The merits of this item have been debated often as it was originally intended for this item to provide an opportunity for various members of the public to ask questions of the Council. In reality it is only used by a very few people and typically the same people every meeting. Therefore it is arguable as to whether or not the item provides any broader community benefit.
- Clause 8.8 – Food & Beverage – There has been debate over the merits of this item, particularly as there are times when members of the gallery and / or Councillors wish to have a cup of coffee / tea etc. Currently that is not allowed under the existing Code.

The only other matter that staff wish to canvass is the actual format of the reports submitted in the agenda. Council has a standard template for reports based on having itemised sections such as Background, Key Issues, Information etc. This excludes development assessment reports which are based more on the technical assessment process.

There are many formats for council reports and Councillors may wish to recommend changes based on their experience and / or observations of other councils. From a staff perspective the current format works well and the only change that would be recommended relates to the Sustainability Considerations. Often reports include the comment “Not applicable” or “As above” for elements of the Sustainability Considerations and rather than having Environment, Social and Economic listed separately under this heading, it is recommended that the heading be retained without the sub headings. That way the report comments can focus on relevant components of the Sustainability Considerations.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The Code of Meeting Practice helps to provide consistency and equity in the management of meetings.

10.8 Policy (Review) - Code of Meeting Practice

- **Economic**
Not Applicable

Legal / Resource / Financial Implications

To comply with the Local Government Act (the Act) Council must have a Code of Meeting Practice and the Code cannot override any elements of the Act. However councils can add extra requirements, so long as they are not inconsistent with the Act.

Consultation

Sections 361 to 363 of the Local Government Act require changes to the Code of Meeting Practice to be exhibited for at least 28 days, with 42 days to be allowed for submissions. The changes can then only be adopted following a report being submitted to Council on the submissions received. This means if changes are recommended they will need to be exhibited for public comment.

Options

There are many options to amend the Code of Meeting Practice and are based on any areas Councillors would like to see improved. The recommendations that follow reflect the changes proposed as per the contents of this report.

In respect to the report template, that change can be implemented without formal exhibition as it relates to an internal process.

RECOMMENDATIONS

1. That Council approves the public exhibition of the following proposed amendments to the Code of Meeting Practice:
 - a) Deletion of Questions Without Notice
 - b) Limitation on deputations to a maximum of two items on the agenda
2. That Council approves a change in the standard report template to remove the sub-headings from the Sustainability Considerations.

Attachment(s)

1. Existing Code of Meeting Practice

10.9 Policy (Review) - Interaction Between Councillors and Staff

10.9 Policy (Review) - Interaction Between Councillors and Staff

Delivery Program Governance

Objective To review the Interaction Between Councillors and Staff Policy

Background

Council has an adopted practice of reviewing all policies during the term of the elected Council to ensure those policies remain contemporary. One of the more important policies following an election is the interaction between Councillors and staff policy to ensure that all parties have a clear understanding of their rights and responsibilities.

This report provides a review of that policy and at the same time the report ensures that all parties are familiar with the policy's contents.

Key Issues

- Whether the policy meets the requirements of the new Council

Information

It is essential that councils have a staff and councillors interaction policy to ensure that all parties are clear as to what are the boundaries for appropriate interaction. The current Council policy is based on model documents provided by the Division of Local Government (DLG) and the last update occurred in 2009 following a review of Council undertaken by the DLG as part of their "Promoting Better Practice Program".

The policy is still considered to be contemporary and reflects current legislation and no changes are recommended. It is submitted to Council as a matter of housekeeping and to provide a guide to Councillors on how councillors and staff should interact. A copy of the policy is attached to the report.

Some of the key points in the policy include:

- Councillors cannot direct staff (clause 1.1)
- Staff must carry out lawful directions (clause 1.2)
- Councillors should only contact the General Manager, Group Managers, or with the Group Manager's approval, Section Managers (clause 1.4)
- A summary of inappropriate interactions (clause 1.5)
- Councillors do not have a right to matters they are only curious about (other than the same rights as a member of the public (clause 2.2)

10.9 Policy (Review) - Interaction Between Councillors and Staff

Sustainability Considerations

- **Environment**
Not Applicable

- **Social**
The Interaction between Councillors and Staff policy guides councillors, staff and the community on how councillors and staff should interact. This Policy, in combination with the Code of Conduct, regulates the behaviour of councillors and staff.

- **Economic**
Not Applicable

Legal / Resource / Financial Implications

Nil

Consultation

As no changes have been identified it is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment. If any submissions are received they can be reported back to Council however there will not be a need for any further report if there is no public comment.

Options

Council may accept or amend the policy as presented. It is also recommended that if no submissions are received from the exhibition process, the policy be adopted with no further actions required.

RECOMMENDATIONS

1. That Council adopt the Interaction Between Councillors and Staff Policy, as attached to this report.

2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Policy (Review) - Interaction Between Councillors and Staff

10.10 Policy (Review) - Code of Conduct

10.10 Policy (Review) - Code of Conduct

Delivery Program	Governance
Objective	To review the Code of Conduct

Background

Section 440 (7) of the Local Government Act states as follows:

Codes of conduct

A council must, within 12 months after each ordinary election, review its adopted code and make such adjustments as it considers appropriate and as are consistent with this section.

Council last reviewed its Code of Conduct 27 October 2009.

Key Issues

- Whether the policy meets the requirements of Council and current legislation.

Information

Section 440 of the Local Government Act requires councils to adopt a code of conduct. Essentially a council's code must be at least equal to the model code as provided by the Division of Local Government (DLG), however additional provisions may be included. Any additional provisions can only strengthen the code; they cannot result in the code being less stringent than the model code as provided by the DLG.

Ballina Shire Council's Code of Conduct, as adopted, is the Division of Local Government's (DLG) Model Code of Conduct for Local Councils in NSW (June 2008).

The DLG commenced a review of the Model Code in 2011, issuing a discussion paper and seeking feedback from NSW Councils. A position paper was then issued with proposed changes. Workshops were held around the State, including a workshop in Ballina in November 2011, to discuss the position paper and to identify possible improvements to the proposed changes.

The latest document issued by the DLG, proposes amendments to the Model Code, new procedures for administering the Model Code and amendments to the Local Government Act 1993 and Local Government (General) Regulation 2005. Submissions to this latest document closed 26 June 2012.

10.10 Policy (Review) - Code of Conduct

At this time the DLG has not issued a final revised Code of Conduct, however it is considered timely for Council to consider the Code and formally adopt the document as a new Council body.

The code is still considered to be contemporary and reflects current legislation and no changes are recommended.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The Code of Conduct establishes guidelines for a reasonable level of behaviour for Councillors and staff.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The Local Government Act provides legislation that must be followed in respect to the Code of Conduct.

Consultation

It is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment. If any submissions are received they can be reported back to Council however there will not be a need for any further report if there is no public comment.

Options

Council may accept or amend the Code. It is recommended that the Code be adopted as presented.

RECOMMENDATIONS

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

Attachment(s)

1. Policy (Review) - Code of Conduct

10.11 Policy (Review) - Deferral of Developer Contributions Policy

10.11 Policy (Review) - Deferral of Developer Contributions Policy

Delivery Program Commercial Services

Objective To consider amendments to Policy No. D10 - Deferral of Developer Contributions, that may be more relevant to prevailing economic conditions.

Background

The purpose of this report is to review the Deferral of Developer Contributions Policy due to a request from Rayshield Pty. Ltd. who wish to see the current 12 month limit on deferrals extended to 36 months.

Council first adopted this policy on 26 November 2009 in response to an approach to Council by the developers of Ferngrove Estate, Rayshield Pty Ltd. In summary the policy works on the basis that the payment of developer contributions to Council can be deferred, currently for a maximum period of 12 months, subject to Council having an adequate bond in place and Council also must be paid any interest foregone by not having the contributions collected up front. The benefit of this policy is that it allows developers the opportunity to sell land thus enabling them to have the cash flow available before they pay their developer contributions.

When this policy was originally adopted Council staff negotiated a payment program with Rayshield to facilitate the deferral of developer contributions for Stage 1 of Ferngrove Estate comprising 44 lots. In the year ending 30 June, 2010, Rayshield settled sales of 32 lots, and were able to pay the Council Contributions on those lots in addition to the unsold lots. The bank guarantees were released by Council accordingly. It is worth noting that the majority of lots settled were pre-sales made prior to the global financial crisis (GFC).

Unfortunately Rayshield ran into financial difficulties in June 2011 due to the downturn in the local residential property market that started in 2008 as a consequence of the GFC. This downturn in the residential property market has continued as evidenced by the lack of lot sales and financial demise of developers on projects such as Pacific Pines in Lennox Head. Enquiries with local real estate agents indicate that many developers carrying debt are struggling to remain solvent. The lack of residential lot sales is also having an adverse effect across the local economy as the building industry, suppliers, retailers, etc. struggle to deal with the downturn in demand for the goods and services they have to offer.

Given such circumstances and difficult economic times it is considered timely that the Deferral of Developer Contributions Policy be reviewed to be more reflective of prevailing economic conditions and hopefully assist in stimulating the local residential property market.

Key Issues

- Whether the Policy in its current form is reflective of prevailing economic conditions and is of assistance in stimulating the local property market.

10.11 Policy (Review) - Deferral of Developer Contributions Policy

Information

A copy of the current policy, without any amendments, is included as the attachment to this report.

In reviewing the operation of the policy the following amendments are considered to be of merit.

- Under “Policy Considerations” on Page 2, Point 3 notes that:

“...Council may consider deferral of developer contributions where the development is considered to be of a significant size (i.e. greater than 50 lots) to warrant the consumption of resources to consider such a deferral “.

It is recommended that this point be deleted and that there not be any limitation based on size.

The rationale for this amendment is that the policy in its current form is considered to be discriminatory against smaller projects and that any application should be considered based upon its merits. For example, what is the difference between a large development project seeking to release a stage of 15 lots and a small project with a total of 15 lots?

Initially Council was concerned that the policy may result in numerous requests for deferral, resulting in increased risk and possible reduce cash flows for Council. Therefore the preference was only to allow larger projects to be considered.

The question of consumption of resources is not considered a major issue as the legal documentation drafted to date and paid for by the applicants can be used as a precedent for new applications. Furthermore Council is paid interest on deferred contributions until those contributions are paid and as such Council is compensated for time and resources expended. There is also an incentive for developers to pay the contributions as they are required to pay interest on the outstanding contributions.

The only real concern is the risk that there could be a material impact on Council’s overall cash flows in respect to developer contributions. The contributions collected are used by Council to finance major community infrastructure projects and there is some risk, albeit small, that the reduced cash flows could result in delays in projects. Overall this risk is considered to be small, however it is something that will need to be monitored if Council supports a change in the 50 lot threshold.

- Under “Minimum Agreed Conditions” on Page 2, Point 2 notes that:

“The maximum period for deferral is to be 12 months from the execution of any linen plan relevant to the development contributions.”

It is recommended that “12 months” be amended to “36 months”. The rationale for this amendment is that the policy in its current form is not reflective of prevailing economic conditions. Take up rates or sales rates of lots are very low and not comparable to conditions experienced prior to 2009.

10.11 Policy (Review) - Deferral of Developer Contributions Policy

Extending the period to 36 months is considered fair and reasonable. There is sufficient incentive in the policy for developers to sell lots and pay contributions as they have to pay interest on deferred contributions, i.e. the longer the contributions are deferred the more interest is paid. This interest is factored into the value of the bank guarantee and as such there is no risk to Council in not being paid the interest due.

- Under “Minimum Agreed Conditions” on Page 3, Point 4 notes that:

“Interest will be charged on deferred contributions equal to the Local Government 7 year interest rate as published in the Financial Review each week”

The Division of Local Government no longer produces this rate and it recommended that *“the Local Government 7 year interest rate”* be amended to read *“the Reserve Bank Cash Rate plus a margin of 2.00%”*.

The 2% is above the return Council receives on our investments and considered to provide sufficient incentive for a developer to pay the outstanding contributions. The Reserve Bank Cash Rate is also readily obtainable for Council and developers.

Sustainability Considerations

- **Environment**
Not Applicable

- **Social**
Not Applicable

- **Economic**
It is considered timely that the Deferral of Developer Contributions Policy be reviewed to be more reflective of the prevailing difficult economic conditions and hopefully assist in stimulating the local residential property market and economy.

Legal / Resource / Financial Implications

Legal

Where the policy has been implemented to date there has not been any legal issues due to the documentation drafted to enact the policy performing as designed to do so.

Resource

Council is paid interest on deferred contributions until they are paid and as such is compensated for time and resources expended.

Financial

As noted above, Council is paid interest on deferred contributions which in effect is a similar result to collecting and investing contributions until such time they are required for a specific Council project.

10.11 Policy (Review) - Deferral of Developer Contributions Policy

Consultation

The amendments proposed are considered to be more reflective of prevailing economic conditions and as such it is recommended that Council adopt the proposed changes, as the following report relies on the changes for that report to proceed.

Even if these changes are adopted the document will also be exhibited for public comment, which is normal Council practice. If any submissions are received, those submissions can be reported back to Council. There will be no need for any further report if there is no adverse public comment.

Options

Council can adopt or not adopt the changes proposed, or alternatively the changes can be amended.

There are three changes identified being:

- 1) The removal of the 50 lot benchmark – There remain some concerns over this and the frequency of use of this policy would be closely monitored
- 2) The extension of the deferral period to 36 months – This is considered to be realistic based on current sale rates
- 3) The change in the benchmark rate – The Reserve Bank cash rate is a publically available rate and 2% is considered to be a sufficient margin.

Overall the adoption of these changes is recommended, remembering that any application for deferral under this policy must be presented to the elected Council for approval.

RECOMMENDATIONS

1. That Council approves the following amendments to the existing “Deferral of Developer Contribution Policy”:
 - a) The removal of the 50 lot minimum benchmark for eligible deferrals
 - b) The extension of the maximum deferral period from 12 to 36 months
 - c) A change in the benchmark interest rate from the Local Government Seven Year Rate to the Reserve Bank Cash Rate, plus a margin of two percent.
2. That Council place the amended Deferral of Developer Contribution Policy on public exhibition, with any submissions received to be reported back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Existing Deferral of Developer Contribution Policy

10.12 Deferral of Developer Contributions - Ferngrove Estate

10.12 Deferral of Developer Contributions - Ferngrove Estate

Delivery Program Commercial Services

Objective To determine whether Council wishes to approve the deferral of the payment of developer contributions for the Ferngrove Subdivision - North Ballina.

Background

This report has been prepared in response to a request by Rayshield Pty Ltd (developers of Ferngrove Estate, North Ballina) to amend a Deed of Agreement it has with Council for the deferral of developer contributions. Reference should also be made to the preceding report in this agenda recommending various amendments to Policy D10 - Deferral of Developer Contributions.

The current Deed of Agreement Rayshield has with Council provides for deferral of developer contributions for Stages 1 & 2 for a period of up to twelve months per stage, as provided for in Policy D10 - Deferral of Developer Contributions.

As outlined in the previous report, in 2009 Council staff negotiated a payment program with Rayshield to facilitate the deferral of developer contributions for Stage 1 comprising 45 lots, subject to adequate bank guarantees being held by Council. In the year ending 30 June, 2010, Rayshield settled sales of 32 lots, and were able to pay the Council contributions on those lots in addition to the unsold lots. The bank guarantees were released by Council accordingly. It is worth noting that the majority of lots settled were pre-sales made prior to the global financial crisis (GFC).

Unfortunately Rayshield ran into financial difficulties in June 2011 due to the downturn in the local residential property market that started 2008 as a consequence of the GFC.

On 15 June, 2010, Deloitte were appointed as receivers and managers to Rayshield Pty Ltd. Deloitte subsequently made a request to Council for the deferral of developer contributions for Stage 2 of Ferngrove comprising 58 lots. Council resolved to grant this request at its meeting of 25 August 2011. The deed to facilitate this request was negotiated and drafted but never executed as Deloitte were trying to sell the Property (Ferngrove Estate).

On 2 August, 2012, Vincents Chartered Accountants were appointed as administrators to Rayshield Pty Ltd. On 7 September, 2012, a resolution was passed at a creditors' meeting that a Deed of Company Arrangement ("DCA") be entered into in respect of Rayshield's debts. The DCA was executed on 26 September, 2012, Deed Administrators were appointed accordingly, and Rayshield was returned to its directors.

10.12 Deferral of Developer Contributions - Ferngrove Estate

Key Issues

- Does the current Deed of Agreement have the flexibility and capacity to deal with the prevailing economic conditions and state of the local residential property market?

Information

The current Deed of Agreement between Rayshield and Council provides for deferral of developer contributions for Stages 1 and 2 for a period of up to twelve months in accordance with Policy D10 - Deferral of Developer Contributions. Stage 1 has been completed and all development contributions paid. This report relates only to the request to amend the Deed of Agreement in relation to Stage 2.

Stage 2 comprises 58 completed serviced residential lots. The total cost of developer contributions for Stage 2 is currently estimated to be \$1,034,198. Under the provisions of the current Deed and Developer Contribution Policy Rayshield would need to provide a bank guarantee to Council for \$1,034,198 plus twelve months interest at the current rate of 5.25%, i.e. a total of \$1,088,493.

Rayshield argue that in the prevailing difficult economic climate they cannot raise a bank guarantee for \$1,088,493 nor are they confident of selling and settling 58 lots in twelve months. They are therefore seeking:

1. A S.96 Amendment to the current development consent to split Stage 2 into three sub-stages as follows:-
 - Stage 2A 23 lots
 - Stage 2B 14 lots
 - Stage 2C 21 lots

This planning matter is not an issue for consideration in this report.

2. An amendment to the Deed of Agreement that facilitates deferral of developer contributions for Stages 2A, 2B and 2C.
3. Amendments to the Deed of Agreement to extend the deferral period to a maximum of 36 months from the date of registration of the linen plan for each stage.

The rationale in seeking these amendments is that the Policy and Deed in their current form are not reflective of prevailing economic conditions. Take up rates or sale rates for lots are very low and not comparable to conditions experienced prior to 2009. There is a great deal of uncertainty in regards to selling periods.

Sustainability Considerations

- **Environment**
Not Applicable

10.12 Deferral of Developer Contributions - Ferngrove Estate

- **Social**

The proposal is aimed at assisting with the delivery of more residential lots to the market.

- **Economic**

The current economic conditions are a major driver behind this request.

Legal / Resource / Financial Implications

Legal

In a legal context, the current Deed of Agreement performed as required. The proposed amendments can readily be incorporated into the current Deed.

Resource

Council is paid interest on deferred contributions until they are paid and as such Council is compensated for time and resources expended in administering the Policy and Deed.

Financial Implications

Rayshield is responsible for the costs associated with amending the Deed of Agreement. As noted Council is paid interest on deferred contributions which in effect is a similar result to collecting and investing contributions until such time they are required for a specific Council project.

Extending the deferral period to 36 months per stage is considered fair and reasonable. There is sufficient incentive in the Policy for developers to sell lots and pay contributions as they have to pay interest on deferred contributions, i.e. the longer the contributions are deferred the more interest is paid. This interest is factored into the value of the bank guarantee and as such there is no risk to Council in not being paid the interest due.

Consultation

Council staff have met and corresponded with a director of Rayshield Pty Ltd, and also sought advice from Council's solicitor, Clarissa Huegill of CH Law who drafted the Deed of Agreement.

Options

Option 1

Council can resolve to adopt the amendments proposed for the Deed of Agreement with Rayshield Pty Ltd for Ferngrove Estate that facilitates deferral of developer contributions for Stages 2A, 2B and 2C for a maximum period of 36 months from date of registration of linen plan for each stage.

It is recommended Council adopt this option as the amendments proposed are considered to be more consistent with prevailing economic conditions and the depressed state of the local residential property market and economy.

10.12 Deferral of Developer Contributions - Ferngrove Estate

Option 2

Council can resolve not to adopt the amendments proposed for the Deed of Agreement with Rayshield Pty Ltd for Ferngrove Estate that facilitates deferral of developer contributions.

This option is not recommended as inaction will do nothing to assist in stimulating the local residential property market and possibly cause further hardship to developers.

RECOMMENDATIONS

1. That Council authorises the General Manager to finalise negotiations in regards to amending the Deed of Agreement with Rayshield Pty Ltd for the deferral of developer contributions for Stage 2 of Ferngrove Estate for a maximum period of 36 months.
2. That Council authorises the Common Seal to be attached to the appropriate documentation.

Attachment(s)

Nil

10.13 Tender - Preliminary Civil Works - Wollongbar Sports Fields

10.13 Tender - Preliminary Civil Works - Wollongbar Sports Fields

Delivery Program Commercial Services

Objective To obtain Council approval to award the contract for the preliminary civil/ground works - Wollongbar Sporting Fields

Background

In June 2012, the Federal Government, through the Building Better Regional Cities Program, awarded a grant of \$4.5 million to Council for the construction of the Wollongbar Sports Fields. As part of the conditions of the grant funding, Council is required to commence bulk earthworks on the site during November 2012.

To ensure compliance with the funding agreement it was decided to undertake the design and construction in two parts, preliminary civil/ground works, to be followed by the construction of the access road, drainage, tennis and netball courts and buildings during 2013.

Design of the preliminary civil/ground works was completed in September 2012 and tenders were advertised for civil contractors to undertake these works on 25 September 2012, with tenders closing 16 October 2012. During the tender period a compulsory site meeting was held on 4 October 2012 to ensure all tenderers were fully informed on the project.

This report provides an update on the tender evaluation process, with a recommendation on a preferred tenderer still to be determined.

Key Issues

- Award the tender in accordance with the Local Government (General) Regulations 2005.
- Engage a suitably qualified and experienced contractor that having regard to all the circumstances provides the most advantageous tenders.
- Ensure compliance with timelines as detailed in the funding agreement provided by the Department of Regional Australia, Local Government, Arts and Sport.

Information

Tender submissions were received from:

- Peachy Constructions
- Valley Earthworks
- Ditchfield Contracting
- Civil Contractors
- Santin Earthmoving
- Morgans

10.13 Tender - Preliminary Civil Works - Wollongbar Sports Fields

The tender documentation defined five areas, by which each tender would be assessed:

- Total Price 40%
- Capability & Experience 20%
- Management Plans 15%
- Construction Program & Proposed Sub-Contractors 15%
- Management & Financial 10%

As tenders closed 16 October 2012, the tender evaluation panel, consisting of one council officer and two independent consulting engineers are currently completing the evaluation of the tenders and the final tender evaluation report will be completed and provided to the Councillors by the 22 October 2012.

Sustainability Considerations

- **Environment**
Extensive environmental controls will be undertaken by the successful tenderer during the civil/ground works contract
- **Social**
The construction of the Wollongbar Sporting Fields utilising the grant funding from the Department of Regional Australia, Local Government, Arts and Sport will provide the infrastructure to enable Council to provide affordable housing in the Ballina Shire. It was proposed under the grant application that the construction of these sporting fields would allow Council to waive Sections 94 and 64 fees for housing developments.
- **Economic**
The contract works associated with the development of the Wollongbar Sporting Fields will increase the number of employment opportunities with in the Ballina Shire with the total construction costs estimated to be in the order of \$6,182,000. Council's commercial property reserves are providing the balance of the funding, being \$1,682,000 on top of the \$4.5 million grant.

Legal / Resource / Financial Implications

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

Consultation

A public tender process has been undertaken.

Options

Under the Local Government (General) Regulations 2005, Council must either accept the tender that "appears to be the most advantageous" or decline to accept any tenders.

10.13 Tender - Preliminary Civil Works - Wollongbar Sports Fields

1. Council may determine not to accept any of the tenders to be advised in a subsequent report to be provided on 22 October 2012.
2. Council may award the contract to the preferred tenderer as nominated in the subsequent report to be provided on 22 October 2012.

As previously advised, Council has received \$4.5 million through the Building Better Regional Cities Program to undertake the construction of the Wollongbar Sports Fields and as part of the conditions of the grant there is a requirement to commence civil works during November 2012. Failure to commence works in accordance with these conditions could result in Council having to return the grant funding.

It is unfortunate that the tender evaluation has not been completed prior to this report being finalised, however a recommended tenderer, along with the details of the evaluation, will be distributed prior to the October meeting date.

RECOMMENDATION

That Council notes the contents of this report on the current status of the tender evaluation for the Preliminary Civil Works for the Wollongbar Sports Fields.

Attachment(s)

Nil

10.14 Fees and Charges for Events on Public Land - Review

10.14 Fees and Charges for Events on Public Land - Review

Delivery Program Tourism

Objective To consider refinements to improve the operation of the Council fees for Events on Public Land policy.

Background

Council recently completed a review of the Events on Public Land Policy, which was previously titled the Special Events Policy.

With that policy now updated the purpose of this report is to review the relevant fees and charges to ensure they align with the policy.

Key Issues

- Equity and consistency in applying fees for Events on Public Land

Information

Council's fees and charges document lists a range of fees relating to "Special Events". The purpose of this report is to clarify certain fees, re-name the fees to align with the revised Events on Public Land Policy and to clearly distinguish between commercial and not-for-profit event organisers.

The issues in the current fees and charges relate to:

- Bond for Clean Up of Council land – Currently \$1,000 (page 21 of Fees and Charges document) – As Council continues to generate enquiries for larger events of a commercial nature, Council staff are seeking to increase the bond from \$1,000 to a range between \$500 to \$5,000. This will ensure Council assets are adequately protected. For example with the recent Monster Trucks event Council staff charged a bond of \$5,000 due to the high risk nature of the event on Council controlled land (i.e. Seagulls Rugby League ground).
- Terminology – With the change in the name of the policy references to special events in the fees and charges document can now be amended to reflect the new title of "Events on Public Land". This can be implemented at an operational level, along with transferring the fees from the Civil Services Group section of the document, to the Tourism Section, which is the Section now managing this policy.
- Commercial Users (page 21) – The fees and charges state that no fee will be charged for the use of Council owned or controlled land, unless the event is directed towards a commercial gain and is not a fund raising activity by a non-profit community or charitable organisation. If the event organiser does not meet these conditions the applicable fee is \$500 to \$10,000 dependent upon the scale of the event. The General Manager has the authority to determine the fee based on the scale.

10.14 Fees and Charges for Events on Public Land - Review

Firstly there are some concerns that the range of fees (\$500 to \$10,000) is too broad and allows too much discretion for the General Manager. A preferred approach would be to have a tiered structure based on the likely impact of the event on the amenity and / or number of participants; i.e.

- Low Impact Event - \$500 to \$2,000 (minimal impact on amenity and surrounds and less than 2,000 anticipated participants)
- Medium Impact Event - \$2,001 to \$5,000 (moderate impact and / or up to 5,000 participants)
- High Impact Event - \$5,001 to \$10,000 (high impact and / or greater than 5,000 participants)

This allows events to be assessed on either their impact or level of patronage.

Secondly there have been ongoing problems with the application of the commercial applicant fee, as the definition of a commercial person / entity is not clear. Issues have arisen where individuals or groups state that their event is being run for the benefit of the community. Certainly events are often run for the community but in some cases there is also a private gain motive as well. By ensuring that not for profit events are supported by incorporated associations, which is almost always the case, staff are hopeful that this will eliminate the on-going problems (or arguments) that are currently occurring.

Based on this the revised wording would be along the following lines:

Applicants eligible for the ground rental fee exemption must be a not for profit group which is either an incorporated association or similar entity. All other applicants will be treated as commercial users and will pay a ground rental fee as determined by the General Manager, or delegate.

This is considered to be a far more transparent approach and will help to remove the current level of subjectivity that sometimes occurs.

Sustainability Considerations

- **Environment**
It is important that events minimise any impact on the environment.
- **Social**
Events promote social activities and inclusion. The fees and charges structure seeks to support community groups conducting events in the Shire.
- **Economic**
Events have the potential to generate economic benefits for the Shire.

Legal / Resource / Financial Implications

There are no resource implications from this report, albeit that the changes recommended should result in improved efficiencies in event management.

The Council's fees and charges document is available on our website (www.ballina.nsw.gov.au).

Consultation

Section 610F (3) of the Local Government Act requires a council to give public notice of 28 days for an amended or new fee if the fee is implemented following the adoption of the annual operational plan. This public notice is only for information purposes and there is no requirement to call for submissions or consider those submissions after the 28 days exhibition period.

Therefore any changes to the fees will need to be exhibited for 28 days prior to implementation.

Options

The purpose of this report is to tidy up some administrative issues currently occurring with the existing fees for Special Events, which are now known as Events on Public Land. Therefore the options are to endorse those changes, seek further amendments, or not implement any changes. The recommendation is to endorse the changes as they will improve the overall management of Events on Public Land by Council.

RECOMMENDATIONS

1. That Council approves the following changes to the fee structure for Events on Public Land:
 - a) Bond for clean up of Council land – \$500 to \$2,000
 - b) Commercial User Fee Structure:
 - Low Impact Event - \$500 to \$2,000 (minimal impact on amenity and surrounds and less than 2,000 anticipated participants)
 - Medium Impact Event - \$2,001 to \$5,000 (moderate impact and / or up to 5,000 participants)
 - High Impact Event - \$5,001 to \$10,000 (high impact and / or greater than 5,000 participants)
 - c) The wording in respect to the definition of a commercial user is to be amended as follows:

Applicants eligible for the ground rental fee exemption must be a not for profit group which is either an incorporated association or similar entity. All other applicants will be treated as commercial users and will pay a ground rental fee as determined by the General Manager, or

10.14 Fees and Charges for Events on Public Land - Review

delegate.

2. That Council approves the exhibition of these changes in accordance with Section 610(F) of the Local Government Act, for a minimum period of 28 days, prior to implementation.
3. That Council notes that references to Special Events in the existing fees and charges will be amended to reflect the new policy title of “Events on Public Land”, along with the transfer of these fees from the Civil Services Group to the General Manager’s Group.

Attachment(s)

Nil

10.15 Annual Financial Statements - 2011/12

10.15 Annual Financial Statements - 2011/12

Delivery Program Financial Management

Objective To obtain Council approval to exhibit the 2011/12 Financial Reports for public comment and to sign the certified statements for both the General Purpose and Special Purpose Statements.

Background

Council must prepare financial statements for each financial year that are in accordance with:

- The Local Government Act 1993 (as amended) and Regulations
- The Australian Accounting Standards and professional pronouncements
- The Local Government Code of Accounting Practice and Financial Reporting
- The Local Government Asset Accounting Manual.
- NSW Government Policy Statement "*Application of National Competition Policy to Local Government*"
- Division of Local Government guidelines "*Pricing & Costing for Council Businesses: A Guide to Competitive Neutrality*".
- The NSW Department of Environment, Climate Change and Water guidelines.

Once completed and audited Council must resolve to exhibit the statements for public comment. Council must then consider the statements again (typically at the November ordinary meeting of council), together with submissions, and formally resolve to adopt the statements.

This report seeks Council approval to exhibit the annual financial statements.

Key Issues

- Financial results
- Council must be satisfied that the statements present a true and fair picture of the Council's financial position as at 30 June 2012.

Information

The Annual Financial Statements for the year ended 30 June 2012 have been completed and audited. A copy of the statements, together with the Auditor's Reports, are enclosed with this business paper for all Councillors. A copy of the statements is available for the public at the Customer Service Centre and Council's website.

The purpose of this report is to obtain Council's approval for the exhibition of the financial statements and to provide Councillors with an opportunity to discuss the information contained within the documents.

10.15 Annual Financial Statements - 2011/12

Council must also provide approval for the Mayor, one other Councillor, the General Manager and the Responsible Accounting Officer to sign the statements confirming that, in the opinion of Council, the financial statements are fair and accurate. Copies of the two statements to be signed are attached to the end of this report.

Once the financial statements are approved the statements must be advertised for public comment. The statements must then be adopted at a meeting of Council not more than five weeks after the meeting where approval was provided to advertise.

Subject to Council approval to advertise at this meeting, the statements will be advertised and then presented, with any public comments received, to the meeting scheduled for Thursday 22 November 2012.

Council's auditor, Mr Kevin Franey, of Thomas Noble and Russell, will be present at the October meeting to provide an overview of the audit report and to answer questions regarding the Annual Financial Statements. The presentation is scheduled for 11am.

The documents enclosed with the business paper can be broken down into five main sections:

Part A	Auditor's Reports
Part B	General Purpose Financial Statements
Part C	Special Purpose Financial Statements
Part D	Special Schedules
Part E	Financial Analysis

Brief explanations for each of these items are as follows:

Part A – Auditor's Reports

This includes the auditor's report on the general purpose financial reports and the special purpose financial reports. The auditors have listed the reports as drafts as the reports are considered draft until Council confirms its approval of the financial statements.

The Auditor has issued an 'unqualified report', which means that they are of the opinion that the financial reports represent a fair and accurate assessment of Council's financial position.

Part B – General Purpose Financial Statements

These statements provide the consolidated operating result for 2011/12 and the consolidated financial position of Council as at 30 June 2012. The notes included with the statements provide details on income and expenditure, assets and liabilities. The notes also highlight the cash position of Council and identify which funds are externally restricted.

Part C – Special Purpose Financial Statements

These statements are prepared as a result of National Competition Policy and relate to those aspects of Council's operations that are considered to be business activities.

Part D – Special Schedules

These schedules are prepared primarily for the Australian Bureau of Statistics and are used to gather information for comparative purposes.

Part E – Financial Analysis

While this is not required under any regulations and is not subject to audit, it is included as a means of providing Councillors and the community with additional information on the performance of Council for the 2011/12 financial year. This part enables "non-financial" persons to have a better understanding of the financial results.

Sustainability Considerations

- **Environment**
This report encompasses Council's finances in total and as such has implications for environmental, social and economic outcomes.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

Council is legally obliged to adopt the financial statements.

Consultation

No specific community consultation has been taken in respect to this report however the intent is to advertise the Draft Statements for public comment.

Options

Council may approve to exhibit or not exhibit the documents. As Council's auditor has approved the statements it is recommended that Council authorise approval.

RECOMMENDATIONS

1. That Council approves the signing of the statements that confirm the Annual Financial Statements are fair and accurate, by the Mayor, one Councillor, the General Manager and the Responsible Accounting Officer.
2. That Council authorises the exhibition of the Annual Financial Statements and Auditor's Reports for the year ended 30 June 2012, as attached to this report, for public comment.

Attachment(s)

1. General Purpose & Special Purpose Financial Statements - Statement by Councillors and Management
2. Annual Financial Statements (Under separate cover)

11.1 Community Land - Potential Sale

11. Civil Services Group Reports

11.1 Community Land - Potential Sale

Delivery Program Open Spaces & Reserves

Objective To seek direction from Council on a request to purchase an area of Community Land that is currently fenced off for private use.

Background

The purpose of this report is to deal with an encroachment on public land by two properties in Lennox Head.

Encroachment onto public land occurs in many situations around the Shire. Whilst the practice is not encouraged, nor endorsed without formal documentation such as a lease or a licence, given the number of encroachments and the fact that many have been in place for long periods of time, it is not practical to implement an enforcement program to locate and address all of the locations in an equitable, consistent and cost effective manner.

Council's technical officers do respond to complaints about encroachments and complete a merit assessment for each circumstance. If there is an unreasonable obstruction to the use or maintenance of the public land, or an unacceptable public liability risk, appropriate action is taken to remove the encroachment or address those issues.

Typically these can be dealt with at an operational level on the basis that it is clear that the policy of Council is to ensure that the public interests in respect of the land are our primary concern.

This matter is reported to Council as the circumstances of these particular encroachments are not able to be resolved by staff.

Key Issues

- Encroachment on Community Land

Information

Nature of the Encroachment

The encroachments in this matter are adjacent to 8 and 10 Allens Parade, Lennox Head. The attachment to this report illustrates the property boundaries and the encroachment.

The public land is a path connecting Allens Parade to the reserve area in Rutherford Street which adjoins Seven Mile Beach. Therefore there is a relatively high use of the path by the public.

11.1 Community Land - Potential Sale

The width of the public land in total is 5.5 metres however the survey also shows that this comprises two components.

The northern section of the path is three metres wide and dedicated as a public road. The southern section 2.5 metres wide (depicted by green shading) which is public reserve classified as Community Land within the meaning under the *Local Government Act 1993*. The encroachments are located mainly on the public reserve.

It is likely that the two types of classification are the result of dedications from land subdivision that occurred at different times, one to the north of the path and one to the south.

The encroachments are predominately in the community land. As shown on the survey, the encroachments related to 8 Allens Parade are three garden beds and for 10 Allens Parade a fence, effectively extending the private land area, is in place. Also attached are a number of photographs illustrating the fence and the gardens in relation to their position in the path area.

The differences in land arrangements and the encroachments promote differences in the analysis, however the complexity of the situation is increased in relation to seeking a consistent approach to the treatment of the two properties.

Discussions have been held with the owners of both properties. The property owner of 8 Allens Parade, Mr King, advised that they had received consent from the then Tintenbar Shire Council to construct the gardens. There is no documentation to support this claim however equally, it is not unreasonable to accept that informal approvals would have been normal practice for that time. Regardless, it would be open to the Council to withdraw that consent if that is Council's position.

The owner of 10 Allens Parade, Mr Taylor, has purchased the property in the last 12 months or so and advises that they were unaware that the fence had been placed in the public reserve. To resolve the issue, Mr Taylor has requested that Council either lease the land or sell the land which was currently enclosed by the existing fence to him. He advised that he would cover all the costs associated with the sale of the land as well as the market value for the land.

Community Land Issues

The Local Government Act 1993 Part 2, sections 45, 46 and 47D provides that Community Land can only be leased for public purposes and for the purposes set out in the plan of management for the land. Therefore Council cannot consider the leasing or sale of the Community Land without first reclassifying the land as Operational Land.

The reclassification process involves a public hearing and Ministerial approval.

11.1 Community Land - Potential Sale

Submissions

Whilst the Council has not undertaken any public consultation in regards to this matter, there is some awareness of the issue within the community. Council has received five letters expressing opposition to the suggestion to sell the land and have requested the return of the land to public use. These submissions have not been published in the business paper, however they can be made available to Councillors upon request.

Analysis – Number 10 Allens Parade

The property is enjoying the benefit of land that it is not entitled to. However it is also the case that the fence has been in its current location for at least 20 years and during this time the path has been operating satisfactorily on the remaining available public land. The costs and inconvenience to Mr Taylor are significant should the Council require him to remove the encroachment.

In general, the Council would be typically reluctant to contemplate the sale of this type of public land. However in the circumstances it would not be an unreasonable position. Without committing to a position, the Council could approve the commencement of the reclassification process to enable the public hearing to be conducted and the outcomes reported to Council. At that point Council would be in a better position to assess the options.

If the Council is willing to relinquish control of the land, sale, rather than a lease is preferred. The reason for this is the establishment costs are similar, however a lease has ongoing administration requirements and to be effective the lease would need certainty for a long term anyway.

Analysis – Number 8 Allens Parade

The factors for this property are quite different.

Firstly, whilst the garden beds are located on public land, they are not considered as a restriction of the use of the land. In fact it could be argued they provide some amenity to that end of the path. The garden beds are a deterrent for vehicle entry to the path, reducing the need for Council to install constraints. It is likely the Council has provided some sort of approval, albeit a long time ago. Currently there are no maintenance issues for Council in respect of the garden beds.

Secondly, the level of commercial interest is different in respect of selling or leasing the land when compared to the level of private advantage provided by the fenced off portion for number 10.

If Council considered the gardens to be a public benefit, it could permit the gardens to remain in place. This approval would be conditional on Mr King being responsible for maintenance, and the Council maintaining the right to remove the garden in future.

Sustainability Considerations

- **Environment**
Not Applicable

11.1 Community Land - Potential Sale

- **Social**

Community Land is provided for the use of the community at large and is an important public asset.

- **Economic**

Not Applicable

Legal / Resource / Financial Implications

The Council needs to meet statutory land management requirements in respect of this issue.

Consultation

Council has not carried out any public consultation with regard to this matter. However, as noted, Council has discussed this matter with the affected land owners and Council has received some submissions from members of the public. Mr Taylor had also asked for this matter to be delayed due to his absence overseas, however it was thought appropriate not to pick and choose when this report was presented to Council.

Options

Number 10 Allens Parade

1. Require the encroachment to be removed
2. Authorise the commencement of a land reclassification process, including the required public hearing to assess the merits of divesting the public land.

At this point in time a case can be made for either option. It is also recognised that the community has not been able to participate formally in this matter. Therefore, subject to Mr Taylor agreeing to meet Council's costs to conduct the public hearing, option 2 is recommended.

Number 8 Allens Parade

1. Require the encroachment to be removed
2. Permit the encroachment, subject to the conditions mentioned earlier.
3. Should the Council support option two above, the Council could defer a decision until the feedback from the public hearing is reviewed.

If option 2 for number 10 is supported by Council, then it is recommended that option 3 for number 8 also be supported. Otherwise, whilst the concerns of residents in respect of the private use of public land are noted, on the basis that the encroachment does not unreasonably restrain the intended use of the lane and there are many similar examples around the Shire option 2 is recommended.

RECOMMENDATIONS

1. That the Council, in accordance with Section 34 of the *Local Government Act 1993* give public notice and invite submissions in response to the proposal in the above report to reclassify the subject community land to operational land.
2. That the implementation of point one is subject to the owner of 10 Allens Parade meeting the Council's costs to conduct the reclassification process.
3. That the Council confirms that until it receives a report in relation to the outcomes of the public hearing and exhibition, it is neither in support nor against the reclassification proposal.
4. That a decision in relation to 8 Allens Parade be deferred until the reclassification process is determined for 10 Allens Parade.

Attachment(s)

1. Sketch - Encroachment on Public Reserve - Allens Parade
2. Photographs of Encroachments - 8 & 10 Allens Parade, Lennox Head

11.2 Waste Water Treatment Plants Upgrade - Update

11.2 Waste Water Treatment Plants Upgrade - Update

Delivery Program Wastewater

Objective To provide an update on the progress of the upgrade of the Ballina and Lennox Head Waste water Treatment Plants.

Background

At the February 2011 meeting Council considered a report detailing the tender assessment for a contract for the upgrade of the Ballina and Lennox Head Treatment Plants.

At that meeting, Council resolved to accept the tender of Haslin Constructions Pty Ltd for RFT/Contract Number 0902774 being for the Design and construction of an MBR Waste Water Treatment Plant (WWTP) at Ballina, and a Recycled Water Plant at Lennox Head WWTP for an amount of \$45,437,315 including GST.

Given the size of this contract, progress has been reported quarterly to ensure Council is able to monitor the project.

Key Issues

- To inform Council of the progress of the works within the Contract.

Information

Work Completed for Reporting Period

Detailed design of the main structures, mechanical and electrical equipment of the WWTP is complete, with the exception of the sludge management system.

The following site works have been completed:

- The construction of the MBR, Aeration and Anoxic tanks have been completed, the fitout of mechanical equipment completed, with the installation of the membrane plates commenced
- The concrete construction for the inlet works have been completed, the fitout of the mechanical equipment in place, and the electrical works well advanced
- The blower room and switchboard room have been completed, and the installation of the blowers completed, with minor finishing work remaining
- The amenities building structure is complete, the internal fitout including kitchen, wet area, flooring electrical and plumbing well advanced
- The chemical storage areas and UV systems are nearing completion
- One of the existing sludge lagoons has been decommissioned and converted to an aerobic digester for the new plant – it is now in service as a sludge lagoon, with the second sludge lagoon being decommissioned
- The main electrical switchboard construction is completed and installed, a new transformer installed on the site, and is now powered up

11.2 Waste Water Treatment Plants Upgrade - Update

- Electrical conduit installation is complete, and the running of the site cabling well advanced
- The majority of site underground pipes have been installed
- Civil works have commenced on the internal access roads
- The sludge facilities switchroom has been constructed.

The contractor has established on the Lennox Head site, with the following site works completed:

- The existing UV has been installed in a temporary location until the new UV is installed and commissioned
- New foundations and concrete flooring have been constructed in the existing UV building
- The new mechanical and electrical components of the recycled water plant have been installed in the building (with the exception of the membranes), the joining pipework completed, with the electrical works remaining
- The RW reservoir concrete construction has been completed – epoxy coating of the chlorine contact tank completed, and the roof structure installed with the exception of the roof sheeting
- The chemical storage area concrete bunds, roofing structure and tanks have been constructed and installed.

Cost of Work Completed

\$34,063,066 inclusive of GST.

Approved Variations

	Details	Cost (incl. of GST)
1	Modifications to inlet works to divert all flows through the manual bar screen to the storm detention pond.	\$17,532.90
2	Supply and Install an Isolating Valve to the existing bund in the Chemical Delivery area.	\$677.60
3	Supply Biofilter in lieu of Deodorising Bed	- \$51,615.00
4	Deletion of additional Amenities Building at the Lennox Head RWP location	- \$24,603.48
5	Concept Design for revised Effluent Streams due to requirement of NOW	\$33,250.80
6	Currency Fluctuation (as per Contract Conditions)	- \$39,311.00
7	Re-inclusion of Telemetry requirements for the sites	\$51,515.75
8	Back-up Level sensor for the Inlet Works	\$9,168.17
9	Disabled Access due to change in BCA	\$173,212.60
10	10. Install Electrical conduits and Cable pit for PS controls At Lennox	\$8,765.86
11	DA Certificate requirements	\$16,976.30
12	LP Sewer Connection to WWTP	\$10,502.80
13	Effluent Streams Modifications	\$2,275,488.02
14	Supply temporary Ferric tank and Convert existing Ferric tank to Alum	\$50,045.90
15	Additional Ballina Is main diversion and valving	\$21,225.82
16	Future RO return main and electrical conduits	\$28,941.14
17	Relocation of grease waste facility sampler and associated equipment	\$38,081.12
18	Supply and install PRV in existing RW system	\$26,199.71
19	Administration building security upgrade	\$16,988.40
20	Delay costs associated with the Effluent streams Modification variation	\$319,200.00
21	Access ladders for Pump Stations/Tanks	\$30,286.30
	Total	\$3,012,529.71

Progress to Schedule

11.2 Waste Water Treatment Plants Upgrade - Update

The last report to Council noted that a Delay Claim by the Contractor due to the major variation was being dealt with by the processes available within the Contract conditions. Negotiations have been held with the Contractor, and the delay claim has now been resolved with costs shown at item 20 above being awarded to the Contractor and a revised Completion date of 23 August 2013 being granted. The accepted claim is less than half of the claim made by the contractor.

The Council's position was reviewed following receipt of information from the contractor. Following negotiations it was clear that despite the professional approach of both parties, further adjustment would only be achieved by formal mediation. This process can be expensive relative to the claim size, and the outcome was clearly uncertain given the complexity of the issues being dealt with. The assessment by Council's management was that the resolution of the claim reflected an equitable outcome. It is noted that with further extensions due to inclement weather likely over the next 12 months, a completion date for the supply of recycled water is expected to be toward the end of October 2013.

The new Ballina plant needs to be constructed in two stages. Firstly the new WWTP component needs to be constructed and placed in service – then the old plant needs to be decommissioned and demolished so that the remainder of the works can be completed.

The second component includes the sludge handling facilities, along with the recycled water reservoir and pump station.

It is planned that that new MBR WWTP will be in service in December 2012, with demolition of the old plant commencing early in 2013, and recycled water available for distribution toward the end of October 2013. This will coincide with the completion of the construction of the remainder of the distribution network contract currently at tender.

Sustainability Considerations

- **Environment**

Timely construction of the contract works will ensure the WWTP's in Ballina and Lennox Head have adequate capacity and the environment is protected from the risk of overflows. The upgrade of the facilities and reuse of effluent will assist in improving discharge qualities and the water quality in the estuaries.

- **Social**

The upgrade of the WWTP's will accommodate growth and provide an alternative source of high grade recycled water which will limit the need to upgrade alternative means of water supply thus putting back the costly upgrades such as dams and desalination.

- **Economic**

The construction of the WWTPs will allow capacity in the network to further develop the Ballina and Lennox Head areas in a timely manner.

Legal / Resource / Financial Implications

11.2 Waste Water Treatment Plants Upgrade - Update

For the Haslin Constructions contract, there have been twenty one approved variations to date for a sum of \$3,012,529.71. As detailed above there was a significant variation required for the changes to the effluent streams. The details of this variation have previously been reported to Council. At this point in time it is anticipated that further variations will be within the contingency for this contract and no variation is likely to be required to the budget.

Consultation

This report has been provided for the information of the public.

Options

This report is for information only.

RECOMMENDATIONS

That Council notes the contents of the progress report on the upgrade of the Ballina and Lennox Head Waste Water Treatment Plants.

Attachment(s)

Nil

11.3 Local Traffic Committee Report - October 2012

11.3 Local Traffic Committee Report - October 2012

Delivery Program Asset Management

Objective This report is presented to Council for its consideration of items referred to the Local Traffic Committee meeting held in October 2012

Background

The Local Traffic Committee (LTC) met on 10 October 2012. A copy of the agenda was distributed to all Councillors. This report provides the recommendations of the Committee to Council.

Key Issues

- Consideration of recommendations from the LTC

Information

The agenda contained ten business items of which two items require referral to Council for determination. A copy of the Minutes of the meeting will be forwarded to Councillors once finalised.

Items Referred to Council

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

a) Ballina CBD Redevelopment Proposal

The Committee reviewed regulatory signage and associated linemarkings relating to the Ballina CBD Redevelopment from River and Cherry Street though to River and Martin Street. A copy of the Traffic Control Plan is attached for the information of Council

The Committee was unanimous in its position to endorse the application subject to undertaking further community consultation on the extent of the half hour parking zone.

b) Russellton Industrial Estate Criterium

The Committee reviewed an application from Northern Rivers Cycling Club to hold a criterium series of races at the Russellton Industrial Estate from 1 October 2012 to 31 March 2013 (Wednesday evenings only from 5.30pm - 8.00pm).

The Committee was unanimous in its position to endorse the application subject to the traffic control plan being amended to include a note that requires its implementation to be undertaken by persons appropriately accredited.

c) Southern Cross Industrial Estate Criterium

11.3 Local Traffic Committee Report - October 2012

The Committee reviewed an application from Northern Rivers Cycling Club to hold a criterium series of races at the Southern Cross Industrial Estate from 1 October 2012 to 31 March 2013 (Sunday mornings only from 7.00am – 9.00am).

The Committee was unanimous in its position to endorse the application subject to the traffic control plan being amended to include a note that requires its implementation to be undertaken by persons appropriately accredited and the race organiser consults with affected businesses prior to the events proceeding.

Sustainability Considerations

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

Legal / Resource / Financial Implications

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

Consultation

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

Options

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

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

RECOMMENDATIONS

1. That the Council approves the proposed signage and parking plan for the Ballina CBD Redevelopment subject to undertaking further community consultation on the extent of the half hour parking zone.
2. That Council approves the application from Northern Rivers Cycling Club to conduct criterium cycle races at the Russellton Industrial Estate, Wollongbar from 1 October 2012 – 31 March 2013 (Wednesday evenings only from 5.30pm - 8.00pm) subject to the traffic control plan being amended to include a note that requires its implementation to be undertaken by persons appropriately accredited.
3. That Council approves the application from Northern Rivers Cycling Club to conduct criterium cycle races at the Southern Cross Industrial Estate, Ballina from 1 October 2012 – 31 March 2013 (Sunday mornings only from 7.00am – 9.00am) subject to the traffic control plan being amended to include a note that requires its implementation to be undertaken by persons appropriately accredited and the race organiser consulting affected businesses prior to the events.

Attachment(s)

1. Attachment 1 - Ballina CBD Redevelopment Linemarking & Signage Layout Plan
2. Attachment 2 - Russellton Race Criterium Traffic Control Plan
3. Attachment 3 - Southern Cross Race Criterium Traffic Control Plan

12. Public Question Time

12. Public Question Time

13.1 Notice of Motion - Volunteer Gardening Group

13. Notices of Motion

13.1 Notice of Motion - Volunteer Gardening Group

Councillor Cr Meehan

I move

That Ballina Shire Council canvas support for and facilitate a volunteer gardening group with an initial focus on Shire facilities such as the Northern Rivers Community Gallery, Council Chambers, Ballina Library, Lennox Head Community Centre.

Councillor Comment

As we know, recently our Tourism staff advertised for volunteers at the Airport to promote the Ballina Shire. This has proved overwhelmingly successful. This motion seeks to replicate that success.

Ballina has shown over many years the commitment our community has to volunteering. Gardening is a healthy engaging activity for all age groups, men and women. Community members have commented to me about the ability to be part of a 'gardening club' in other areas of Australia and would like to be given the opportunity here at home. This proposal has been discussed with staff and there appears to be no impediment to it proceeding.

COUNCILLOR RECOMMENDATION

That Ballina Shire Council canvas support for and facilitate a volunteer gardening group with an initial focus on Shire facilities such as the Northern Rivers Community Gallery, Council Chambers, Community Centres etc.

Attachment(s)

Nil

13.2 Notice of Motion - Ballina Swimming Pool

13.2 Notice of Motion - Ballina Swimming Pool

Councillor

Cr Meehan

I move

That Council as part of its consideration of the redevelopment of the Ballina Swimming Pool facilities evaluate the viability of providing a 25 metre indoor pool on the existing site.

Councillor Comment

Council has previously resolved to examine funding options for the redevelopment of the Ballina and Alstonville swimming pools and one of the key actions for the newly elected Council over the next few months will be to determine the major community infrastructure projects we wish to see completed during this term of Council. To assist in this evaluation process it would be of great benefit to Councillors to know whether or not a 25 metre indoor pool could be located on the existing Ballina swimming pool site. This is now particularly urgent as there is the possibility that the Ballina Swim and Gym Facility at Ballina Fair may close in the near future.

COUNCILLOR RECOMMENDATION

That Council as part of its consideration of the redevelopment of the Ballina Swimming Pool facilities evaluate the viability of providing a 25 metre indoor pool on the existing site.

Attachment(s)

Nil

13.3 Notice of Motion - Aboriginal Reference Group

13.3 Notice of Motion - Aboriginal Reference Group

Councillor

Councillor Williams

I move

That Council write to the NSW Minister for Aboriginal Affairs requesting assistance to help establish an Aboriginal reference group that is representative of all families in the Ballina Shire.

Councillor Comment

Council staff have advised Councillors that a major problem for strategic planning in the Shire, particularly with respect to Aboriginal consultation, is that it is very difficult to get every one of the representative Aboriginal groups to meet at once. Council staff have been working on this goal for a number of years, without any success to date.

Ideally we would all like to see one truly representative group meeting and working with Council. This group could then be consulted on large capital projects and other services.

It may be necessary to engage an experienced, independent indigenous person to assist in setting up this group. The person would most likely need to be from outside the Ballina area, possibly from the Department of Aboriginal Affairs and they must be highly respected by the local Aboriginal community. By writing to the NSW Minister for Aboriginal Affairs, Council will be seeking assistance from the highest levels of government.

If Council was successful in forming one representative group we would have a greater chance of successfully implementing major projects, such as Porter Park. If formed one of the first priorities for the group could be to review the business plan, the operational plan and the adequacy of the location of the new Child and Family Centre to ensure the facility provides positive outcomes for all the community.

COUNCILLOR RECOMMENDATION

That Council write to the NSW Minister for Aboriginal Affairs requesting assistance to help establish an Aboriginal reference group that is representative of all families in the Ballina Shire.

Attachment(s)

Nil

13.4 Notice of Motion - Coal Seam Gas

13.4 Notice of Motion - Coal Seam Gas

Councillor

Cr Jeff Johnson

I move that

1. Council reaffirms its support for a moratorium on CSG mining in the Northern Rivers due to the unacceptable risk that it poses to agricultural land, local water aquifers and rural communities.
2. Council write to all NSW Government MP's expressing our opposition to CSG exploration and mining in the Northern Rivers and calling on them to revoke all CSG licenses in the region.
3. That Council notes the contents of the recent legal report presented at NOROC concerning CSG activities on public land.
4. That Council declare the Ballina Shire CSG free and prohibits the use of any roads or access to land under its control to CSG related vehicles and associated activities.
5. As part of the forthcoming "White Paper" on the review of the NSW Planning system, Council makes a submission that planning powers be delegated to local government with regard to the consideration of development applications that deal with mining or gas extraction.

Councillor Comment

The entire Ballina Shire Council area is covered by Petroleum Exploration License (PEL 445) – which is an approval for Arrow Energy to explore for coal seam gas across our Shire.

There has been serious concern expressed by farmers, scientists and members of the community across NSW regarding the exploration and production of coal seam gas (CSG). At the recent Local Government elections a poll was held in the Lismore LGA which showed that 87% of the community was against CSG.

The state government recently announced a range of new policies relating to coal and CSG mining in NSW. These policies fail categorically in their stated aim of providing a balance between mining and gas extraction and other land uses, and the protection of farmland and water resources.

Arrow is currently in the exploration stage of PEL 445. As at September 2011, 15 wells have been drilled at: Woodenbong, Bonalbo, Kyogle, Keerrong, Bex Hill, and Coraki. In September 2011 Arrow indicated that it intended to complete drilling of two more new exploration wells by April 2012.

Recently the NSW Government announced its Strategic Regional Land Use Policy effectively signaling the 'green light' for CSG development and coal mining expansion across the state. Despite assurances from Don Page, our local MP and Minister for the North Coast, Andrew Stoner, NSW National

13.4 Notice of Motion - Coal Seam Gas

Party leader and Deputy Premier, and Brad Hazzard, the NSW Planning Minister that the Northern Rivers would be included in this policy and further research and mapping carried out, this has not occurred.

The NSW Farmers Association stated they are “bitterly disappointed” by the policy and the NSW Irrigators Council is “profoundly disappointed”. The Nature Conservation Council stated, “The main concerns about the policy are that: Despite an election promise, no areas are ruled out from coal mining or CSG development meaning all quality agricultural land and sensitive environmental areas are still exposed to possible mining and gas extraction. The proposed Aquifer Interference Regulation has been downgraded to a policy failing to adequately protect groundwater sources. The moratorium on hydraulic fracturing (Fracking) has been lifted but none of the science relied on to justify this change in policy has been made public.

22 exploration licences were offered for renewal with no consultation with local councils. All biodiversity land mapping has been removed from the plans signaling these sensitive environmental areas, mostly on public land will have no additional protections.

The policy also makes clear that many areas of NSW will not get a Strategic Regional Land Use Plan with most areas facing only a review of their Regional Strategies to implement the policy.

Now is the time to re-affirm our commitment to better policy in this area and to protect our communities from exploitation by big mining and gas interests.

COUNCILLOR RECOMMENDATIONS

1. Council reaffirms its support for a moratorium on CSG mining in the Northern Rivers due to the unacceptable risk that it poses to agricultural land, local water aquifers and rural communities.
2. Council write to all NSW Government MP's expressing our opposition to CSG exploration and mining in the Northern Rivers and calling on them to revoke all CSG licenses in the region.
3. That Council notes the contents of the recent legal report presented at NOROC concerning CSG activities on public land.
4. That Council declare the Ballina Shire CSG free and prohibits the use of any roads or access to land under its control to CSG related vehicles and associated activities.
5. As part of the forthcoming "White Paper" on the review of the NSW Planning system, Council makes a submission that planning powers be delegated to local government with regard to the consideration of development applications that deal with mining or gas extraction.

Attachment(s)

1. Legal advice obtained by NOROC

13.5 Notice of Motion - Independent Financial Feasibility Assessment

13.5 Notice of Motion - Independent Financial Feasibility Assessment

Councillor

Cr Jeff Johnson

I move that

1. Council receives an Independent Financial Feasibility Assessment (IFFA) by professionally qualified specialists on all proposed commercial land and investment property developments, projects and acquisitions.
2. The IFFA include the following:
 - Market valuation of the existing property to be developed or acquired by a qualified and independent licensed valuer.
 - Estimated Total Development Cost including acquisition, construction, consultants, financing, fees, contributions, marketing, sales, legal, council staff time and miscellaneous costs.
 - An 'as if complete' market valuation of the proposed development.
 - A spreadsheet covering the whole of the time frame of the project including the projected profit or loss on the project.
3. The IFFA be presented to Council for analysis before any commitment is given to proceed with any project.

Councillor Comment

It is of great concern that Council does not have as part of its standing governances, processes and procedures a requirement to obtain an Independent Financial Feasibility Assessment before significant funding is allocated to land development and property investment projects. This has led to Council approving and allocating substantial amounts capital to commercially non viable and unprofitable projects which have resulted in financial losses and/or inadequate returns on capital.

Councillors have the responsibility to professionally and prudently manage ratepayers' funds which are public monies. This responsibility requires the undertaking of due diligence in respect to the financial viability of projects. In this regard Councillors need to be able to rely on professional assessments by independent parties which are at arms length to the projects.

While Council Staff may have qualifications and experience in some of the relevant disciplines their roles cover a number of areas and consequently their positions are conflicted. They are not in a position to provide independent advice in respect to the financial feasibility of projects on which councillors can rely for capital allocation and investment decisions.

13.5 Notice of Motion - Independent Financial Feasibility Assessment

Examples include the failed Wigmore Arcade Carpark Development that cost the Council/community up to \$1 million (approximately \$770,000 in consultants fees alone), and the proposed Wigmore Arcade Redevelopment. This later proposal is causing great uncertainty for local businesses, has resulted in an increase in vacancies (loss of income for Council), and carries significant costs and risks associated with the proposal. I believe that an IFFA will show that what Council's Commercial Services Unit is proposing is financially unviable.

COUNCILLOR RECOMMENDATIONS

1. Council receives an Independent Financial Feasibility Assessment (IFFA) by professionally qualified specialists on all proposed commercial land and investment property developments, projects and acquisitions.
2. The IFFA include the following:
 - Market valuation of the existing property to be developed or acquired by a qualified and independent licensed valuer.
 - Estimated Total Development Cost including acquisition, construction, consultants, financing, fees, contributions, marketing, sales, legal, council staff time and miscellaneous costs.
 - An 'as if complete' market valuation of the proposed development.
 - A spreadsheet covering the whole of the time frame of the project including the projected profit or loss on the project.
3. The IFFA be presented to Council for analysis before any commitment is given to proceed with any project.

Attachment(s)

Nil

14. Advisory Committee Minutes

14. Advisory Committee Minutes

Nil Items

15.1 Mayoral Meetings

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

15.1 Mayoral Meetings

Councillor David Wright

Activities since the September 2012 Ordinary meeting:

<u>Date</u>	<u>Function</u>
27/9/12	UPA Annual Meeting
28/9/12	Country Music RSL
29/9/12	Country Music River Street – Ballina Fair
2/10/12	Jacqueline Freney – Lennox Head
2/10/12	Meeting Mike Pearce – State Gov
5/10/12	Jali - Lake Ainsworth Restoration
5/10/12	Selection Aboriginal Art
5/10/12	Opening Art Exhibition – Gallery
8/10/12	Induction Strategic & Regulatory Services
9/10/12	Citizenship Ceremony
10/10/12	Workshop Draft LEP
15/10/12	Induction Water/Sewer/Waste
15/10/12	In Transition Movie – Alstonville
16/10/12	Internal Audit Committee
16/10/12	Dredging Taskforce
17/10/12	Opening Ballina Medicare Local
17/10/12	Induction Commercial Services
18/10/12	Scope – Ballina
18/10/12	Wardell Progress Association
19/10/12	Meeting with Bunnings Management
20/10/12	Ballina Business Excellence Awards

RECOMMENDATIONS

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

Attachment(s)

Nil

16. Questions Without Notice

16. Questions Without Notice

17. Confidential Session

17. Confidential Session

Nil Items