



Notice of Commercial Services Committee Meeting

Notice is hereby given that a Commercial Services Committee Meeting will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **Tuesday 18 December 2012 commencing at 5.00 pm.**

Business

1. Apologies
2. Declarations of Interest
3. Deputations
4. Committee Reports

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

Paul Hickey
General Manager

Table of Contents

1.	Apologies.....	1
2.	Declarations of Interest.....	1
3.	Deputations	1
4.	Committee Reports.....	2
4.1	Flat Rock Tent Park Fees - 2013/14	2
4.2	Reclassification of Land - Old Bagotville Road, Wardell	8
4.3	Surplus Land - Skennars Head	13
5.	Confidential Session.....	17
5.1	Pelican 181 Cafe - Leasing Update	17
5.2	Wigmore Arcade - Update	18

1. Apologies
 2. Declarations of Interest
 3. Deputations
-

1. Apologies

2. Declarations of Interest

3. Deputations

4.1 Flat Rock Tent Park Fees - 2013/14

4. Committee Reports

4.1 Flat Rock Tent Park Fees - 2013/14

Delivery Program Commercial Services

Objective To obtain approval to exhibit the draft fees and charges for the Council operated Tent Park for 1 April 2013 to 31 January 2014

Background

The NSW Local Government Act requires councils to formally advertise and adopt their fees and charges prior to implementation. The majority of Council's fees are set each June as part of the annual Operational Plan.

With Flat Rock Tent Park it is important that our customers are informed, well in advance, as to the fees for their next holiday during the following year and also meet important industry media advertising publications.

This report has been prepared to obtain Council approval to advertise this year's Tent Park fees. The period the fees are applicable for is 1 April 2013 to 31 January 2014 for tourist sites.

Key Issues

- Variations in fees
- Conditions attached to the fees

Information

A copy of the proposed fees is included as an attachment to this report. The attachment provides a comparison between the existing and the proposed fees.

The proposed fees have been formulated taking into account factors such as park facilities and standards, feedback from park managers and customers, industry comparisons and the latest consumer price index (CPI).

In summary no major changes are recommended, with the unpowered site fee only increasing by the CPI.

Changes to the booking and administration processes now include full payment when online reservations are made online, which is required to comply with the reservation system.

Legal / Resource / Financial Implications

Council is legally required to exhibit and adopt its fees.

4.1 Flat Rock Tent Park Fees - 2013/14

Consultation

The fees are to be exhibited for public comment.

Options

The options are to either adopt the recommendation to advertise the proposed fees as presented or amend the fees.

The preferred approach is as presented, as any changes are consistent with industry trends and competitors.

RECOMMENDATION

That Council authorise the exhibition of the draft Tent Park Fees for 1 April 2013 to 31 January 2014, as attached to this report, for public comment.

Attachment(s)

1. Draft Flat Rock Tent Park Fees 1 April 2013 to 31 January 2014



Draft
Flat Rock Tent Park Fees
1/4/2013 to 31/1/2014

**FLAT ROCK TENT PARK
FEE PERIOD 1/4/2013 to 31/1/2014**

**Accommodation Pricelist
1 April 2013 to 31 January 2014**

Tourist Sites Accommodation

	Current 2012/13	Proposed 2013/14	Current 2012/13	Proposed 2013/14
	Off peak	Off peak	Peak	Peak
Sites/night				
Unpowered Site (based on 2 people)	29.00	30.00	36.00	37.00
Extra Adult	13.00	13.00	13.00	13.00
Extra Child (4-16 years incl)	8.00	8.00	8.00	8.00

Booking Information

Christmas School Holidays Peak Season

- Bookings of a minimum two weeks, up to 30 September.
- Bookings of a minimum one week, from 1 October.
- Shorter bookings taken at park manager's discretion from 1 December if the booking can be added to the beginning or end of an existing booking
- Payment for bookings - \$50 deposit at time of booking. 50% of accommodation charge less deposit to be paid by 31 July and remaining balances to be paid by 30 October.

Easter Period Peak Season

- Bookings of minimum one week taken until one month prior to Easter Holidays for the Easter weekend period only.
- Shorter bookings taken at Park manager's discretion if the booking can be added to the beginning or end of an existing booking.
- Payment for bookings - \$50 deposit at time of booking with balance on arrival.

Other Peak Periods

- Payment for bookings - \$50.00 deposit at time of booking with balance on arrival.

Off Peak and Shoulder Period

- Minimum two night booking (subject to park manager's discretion).
- Payment for bookings – one night's accommodation deposit at time of booking with balance on arrival.

Peak Period

All NSW and Queensland school holidays and public holidays, including long weekends.

Whilst every effort is made to provide specific site bookings, management reserves the right to relocate or change the booked site number prior to or at arrival.

Cancellation Policy

Refunds of deposits and fees paid are available from Flat Rock Tent Park under certain circumstances:

Peak Period Bookings

Where at least 28 days written notice of cancellation has been given before being due to arrive, deposits or prepayments will be refunded with the following options:

Option A: Full credit of deposit or prepayment to a future booking. Future booking date(s) must be provided at the time of request. Future booking date(s) can only happen once with any booking and if the second booking cannot be kept the whole deposit is lost. Any future booking dates must be within 12 months of the original booking date.

Option B: Refund of deposit or prepayment less administration fee.

Where less than 28 days written notice has been given before being due to arrive, deposits or prepayments will be refunded with the following options:

- If management are able to rebook the site for the same period and no losses are incurred to the park, both Options A and B are applicable
- If the site is not able to be rebooked, no refund is applicable.

Off Peak Bookings

Where at least 7 days written notice of cancellation has been given before being due to arrive, deposits or prepayments will be refunded with the following options:

Option A: Full credit of deposit or prepayment to a future booking. Future booking date(s) must be provided at the time of request. Future booking date(s) can only happen once with any booking and if the second booking cannot be kept the whole deposit is lost. Any future booking dates must be within 12 months of the original booking date.

Option B: Refund of deposit or prepayment less administration fee.

Where less than 7 days written notice of cancellation has been given, the full deposit will be forfeited. Balance of amounts above the deposit paid will be refunded either via cash, cheque or credit card upon a written application by the guest.

NOTIFICATION OF CANCELLATION OF BOOKINGS WITHIN 24 HOURS OF BEING DUE TO ARRIVE - NO REFUND OF ANY MONIES SHALL BE PAID.

How refund payments are made

Cash payments in person – refunded by cash (providing sufficient cash reserves are held in the park, if not, then refunded by cheque).

Credit card payments – refunded back to the original credit card.

Cheque payment – refunded by cheque (Note: cheque refunds may take approximately 2-3 weeks for processing and posting)

Administration Fee - Refunds

A \$25.00 administration fee applies to all refunds.

The administration fee may be waived for cancellations in emergency situations. A request in writing must be sent to the Park Management.

General

Late Departure Fee

Late departure fee of \$15.00 when guests staying request a late checkout. Latest check out time of 6.00pm (at manager's discretion).

Rates

All reservations made online must be paid in full at the time of booking.

- Should people vacate a site early, no refund or credit is to be given.
- Tariffs and deposits are not refundable if your stay is cut short.
- Booked sites will only be held for 24 hours from booked time of arrival, unless otherwise arranged.

Severe Weather

In the event of severe weather, if deemed so by Council, no refunds apply. Guests may apply, in writing, for the following option depending on which circumstances applies:

- Full Cancellation Prior to Arrival - a full credit will be held for the period of three (3) months from when the booking was first made with the Park to be used during an Off Peak Period only.
- Remaining stay cancellation - a credit of the remaining amount of the guest's nights left on the reservation will be held for the period of three (3) months from when the booking was first made with the Park to be used during an Off Peak Period only.

4.2 Reclassification of Land - Old Bagotville Road, Wardell

4.2 Reclassification of Land - Old Bagotville Road, Wardell

Delivery Program Commercial Services

Objective To reconsider the proposal to reclassify Lot 5 DP 843369, Old Bagotville Road, Wardell from Community Land to Operational Land for the purpose of the Local Government Act 1993.

Background

A report was submitted to Council at its Ordinary Meeting held on 24 March 2011 in relation to the reclassification of Lot 5 DP 843369, Old Bagotville Road, Wardell from community land to operational land pursuant to the provisions of the Local Government Act 1993 (site plan attached). Council, at that time, did not support the reclassification due to concerns expressed by Wardell residents.

A number of these concerns related to the expansion of private quarries in the Bagotville area and the increased traffic flows that may result.

The purpose of this report is to ask Council to reconsider this matter due to the private quarry expansions not proceeding and the further progression of the Woolgoolga to Ballina highway realignment.

Key Issues

- Whether Lot 5 DP 843369 is best classified as operational or community land

Information

The Local Government Act (LGA) requires that all land in Council ownership be classified as either operational land or community land. Council may deal with operational land without any restrictions under the LGA. Such land is generally held and used in connection with Council's administrative operations, utilities (water, waste, wastewater) and/or commercial activities.

Community land consists typically of open space owned by Council for which there is a range of management requirements under the LGA to ensure that these community assets are retained and managed for the benefit of the community. The LGA prohibits the sale of community land and imposes restrictions on its development and use.

The reclassification of community land to operational land can only be undertaken through an amendment to the Ballina Local Environmental Plan 1987 (BLEP). This will require a planning proposal to be prepared by Council and submitted to the NSW Department of Planning.

4.2 Reclassification of Land - Old Bagotville Road, Wardell

The Department will then issue a gateway determination indicating whether the matter should proceed. Where the Department determines that the matter should proceed, it will indicate whether any further studies or information is required, as well as the requirements for community and agency consultation.

In accordance with the requirements of the LGA, Council is also required to arrange a public hearing in respect of any planning proposal to reclassify community land as operational land.

The Department of Planning's reclassification site assessment sheet has been completed for Lot 5 and is **attached** for Council's information. The assessment outlines the rationale for the proposed reclassification. A locality plan is also **attached**.

Lot 5 was purchased by Council in 1996 to realise a commercial return on its extractive resource or alternatively to use the land as a possible landfill site. The land had several developed quarry pits at the time of purchase. Council was actively involved in quarrying at the time, but has since changed its corporate focus with the lease of its approved quarries to contractors in exchange for royalty payments.

In respect to landfill options the preferred regional approach is for sites near Coraki and / or Kyogle. If these did not proceed the reclassification to operational land would be more suitable for use of this land as a landfill site.

The reason the land was initially classified as community land was that at the time of purchase Council did not provide the required notice to classify the land as operational land. This was because the land was being sold at auction and there was a commercial imperative for Council to be an anonymous bidder. Legislation has since been amended to allow post-purchase notification (within three months) to recognise such situations.

Legal / Resource / Financial Implications

The reclassification of the land can be undertaken within the available resources of Council. The reclassification of Lot 5 will enable Council to realise the value of the land through its sale or development should it choose to examine these options in the future. Moreover, and in general terms, the operational classification would more aptly reflect the environmental and other characteristics of the land.

The proposed Woodburn-Ballina section of the Pacific Highway upgrade affects part of Lot 5 and the acquisition of all or part of the land by RMS is expected. The reclassification of the land would make it easier to deal with RMS on a compensation basis and possibly provide an opportunity to sell material to RMS.

Consultation

There have previously been objections to this proposal from residents at Wardell as there are concerns that the site could be used as a quarry and result in increased truck movements through Wardell. This was a particularly sensitive matter when Council was considering two applications for extensions to existing private quarries in the Bagotville area. Those two applications did not eventually proceed, however it is fair to say that the Wardell residents do not want to see any increased traffic flows from an expansion of any quarry operations.

Whether or not Council will use the site as a quarry is uncertain, particularly with the future bypass likely to traverse this area. Importantly, having the land classified as operational allows Council to then assess the best option for the land.

The reclassification process is subject to public consultation with the outcomes reported to Council.

Options

The options are to commence the process for reclassification to operational land or not.

Due to the nature of the land, the future possible uses, plus the likelihood of part or all of the land being acquired by the RMS, the most appropriate classification for this land is operational and the recommendation is to commence the reclassification process.

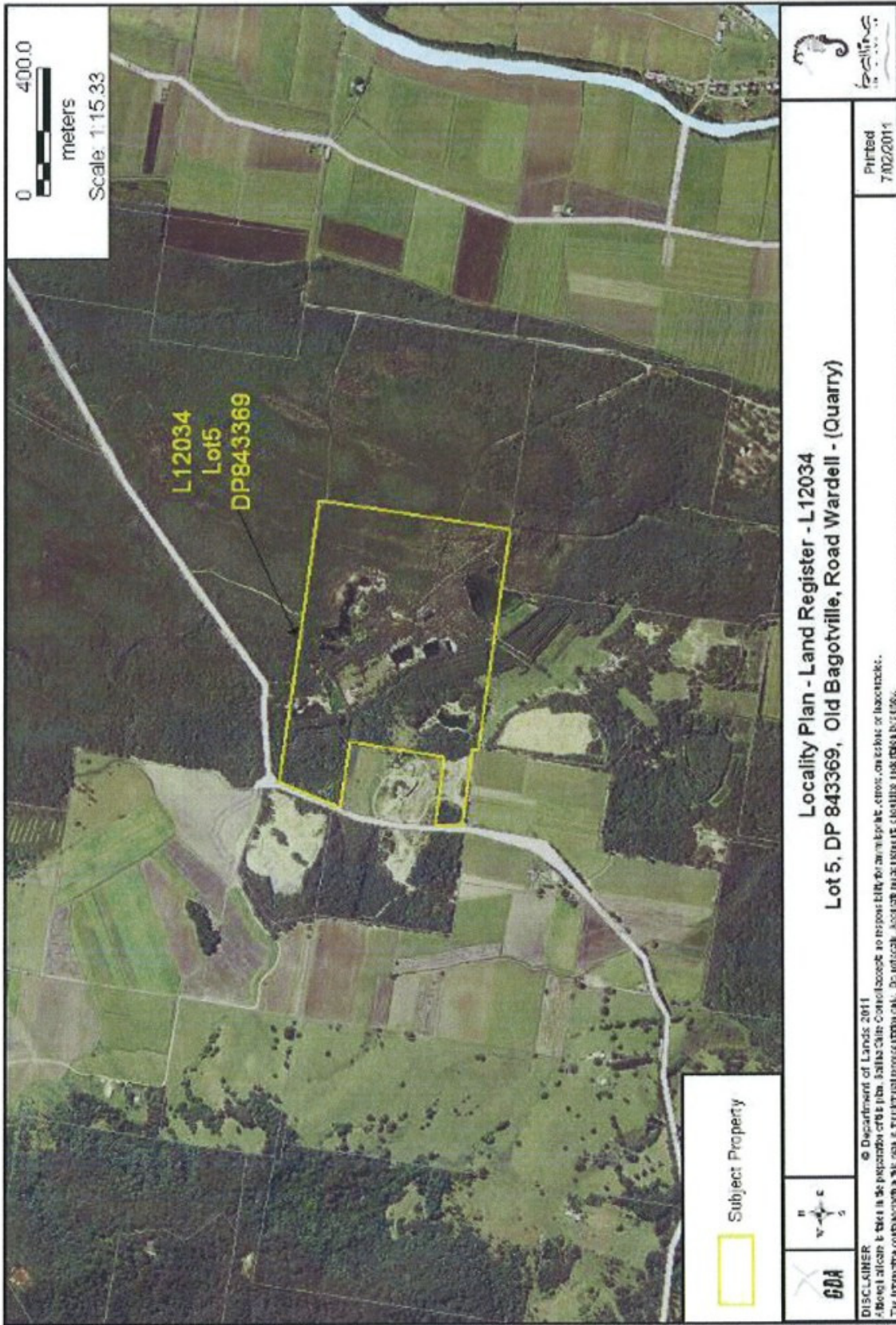
RECOMMENDATIONS

1. That Council prepare a planning proposal for the reclassification of Lot 5 DP 843369, Old Bagotville Road, Wardell from community land to operational land in accordance with the requirements of the Local Government Act 1993.
2. That the matter be reported to Council for determination at the conclusion of the community consultation phases.

Attachment(s)

1. Locality Plan
2. Site Assessment Sheet

4.2 Reclassification of Land - Old Bagotville Road, Wardell



Proposed Classification or Reclassification of Land - Site Assessment February 2011

Site	Lot 5 DP 843369, Old Bagotville Road, Wardell
Land Register ID	L12034_01
Current Classification	Community Land
Proposed Classification	Operational Land
Reason for classification/ reclassification	<p>To recognise that Council purchased this land to realise a commercial return on its extractive resource. The land had several developed quarry pits at the time of purchase.</p> <p>Note: Council was unable to give the required pre-purchase notice of its intention to classify this land as Operational because of the commercial imperative of remaining an anonymous bidder at the auction for the land. Legislation has since been amended to allow post-purchase notification to recognise such situations.</p>
Reason for the Draft LEP	The classification/ reclassification forms part of the Shire Wide LEP renewal process. This process is a requirement of the NSW Department of Planning.
Ownership of the land	Ballina Shire Council
Nature of Council's Interest	The property was purchased at auction on 17 April 1996 with funds generated by Council's land development activities.
Other parties with interests	There are no other parties with an interest in the land.
Change of interests resulting from classification/ reclassification	Not applicable because there are no other parties with interests in the land.
Special agreements applicable to the land	There are no special agreements applicable to this land.
Financial issues	The reclassification of the land has significant financial implications because Council is presently constrained by the <i>Local Government Act 1993</i> from developing or realising the market value for the land.

4.3 Surplus Land - Skennars Head

4.3 Surplus Land - Skennars Head

Delivery Program Commercial Services

Objective To seek Council's approval to sell Council operational land being Lot 11 in plan of proposed subdivision of Lot 1 DP 1154810 & Lot 48 DP 833002 at Skennars Head Road, Skennars Head.

Background

On 4 March, 2010 Council acquired Lot 1 DP 1154810 for \$1,400,000 + GST. This parcel of vacant land comprises an area 4.116 hectares and was previously known as part Lot 61 DP 864764 Skennars Head Road, Skennars Head.

This purpose of this acquisition was to provide an additional 2.532 hectares of land for the expansion of the Skennars Head Sports Fields. Any surplus land remaining from the land acquired would be considered for sale. The surplus land forms the subject of this report.

A site map and locality plan for the land is attached.

Key Issues

- Determination as to whether land is surplus or not
- Process for sale

Information

Council at its Ordinary Meeting of 17 December 2009 resolved to purchase 4.116 hectares of land known as part Lot 61 DP 864764, Skennars Head Road, Skennars Head.

The land was identified in the Ballina Shire Contributions Section 94 Plan 2008 adopted by Council for expansion of the Skennars Head Sports Fields. The expansion required 2.532 hectares of land.

It was noted in the Report put to Council on 17 December 2009 that the 1.584 residue left over from the acquisition could be sold to defray the initial acquisition costs.

A boundary adjustment subdivision has now been undertaken to create a fully serviced 1.584 hectare lot with a dwelling entitlement, and is described as Lot 11 in proposed plan of subdivision of Lot 11 DP 1154480 and Lot 48 DP 833002.

It is proposed to call for proposals from three local real estate agents to offer the land for sale by way of public auction.

4.3 Surplus Land - Skennars Head

Legal / Resource / Financial Implications

The land proposed to be offered for sale is classified as operational land under the NSW Local Government Act and Council is able to sell, if it so desires. It is estimated that in the current market the 1.584 hectare lot land may attract offers in the order of \$600,000. Council's forward financial plan has the proceeds from this sale being placed in Council's Commercial Opportunities Reserve, as this Reserve funded the initial land acquisition of \$1,400,000.

Consultation

A public auction process is proposed.

Options

The options are to sell or retain the land. If sale is preferred it is recommended that it be by way of public auction. If the land fails to sell at public auction it would be placed on the market for sale by private treaty at a price to be determined following on from the public auction process. The preferred auctioneer would be selected following an expression of interest process.

In respect to the selling price it is recommended that the Council delegate this responsibility to the Mayor and General Manager. The price can be determined following advice from the preferred marketing agent, and or if required, by way of an independent valuation.

In respect to retaining the land, there is not considered to be any strategic value for the property. The land is residual to the area purchased for sports fields and to assist in offsetting the cost of the acquisition the recommendation is to sell. The funds generated can then assist with future projects.

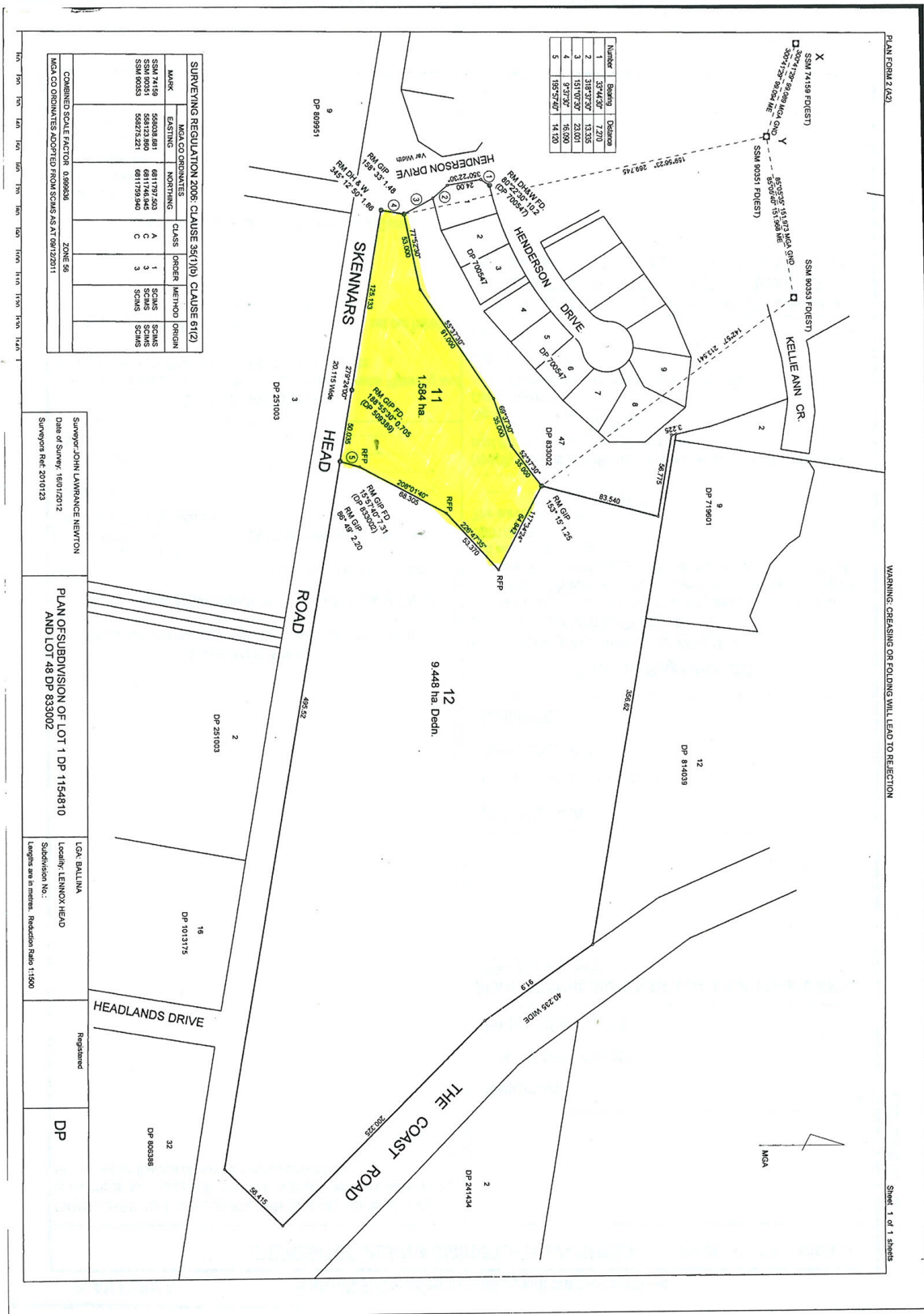
RECOMMENDATIONS

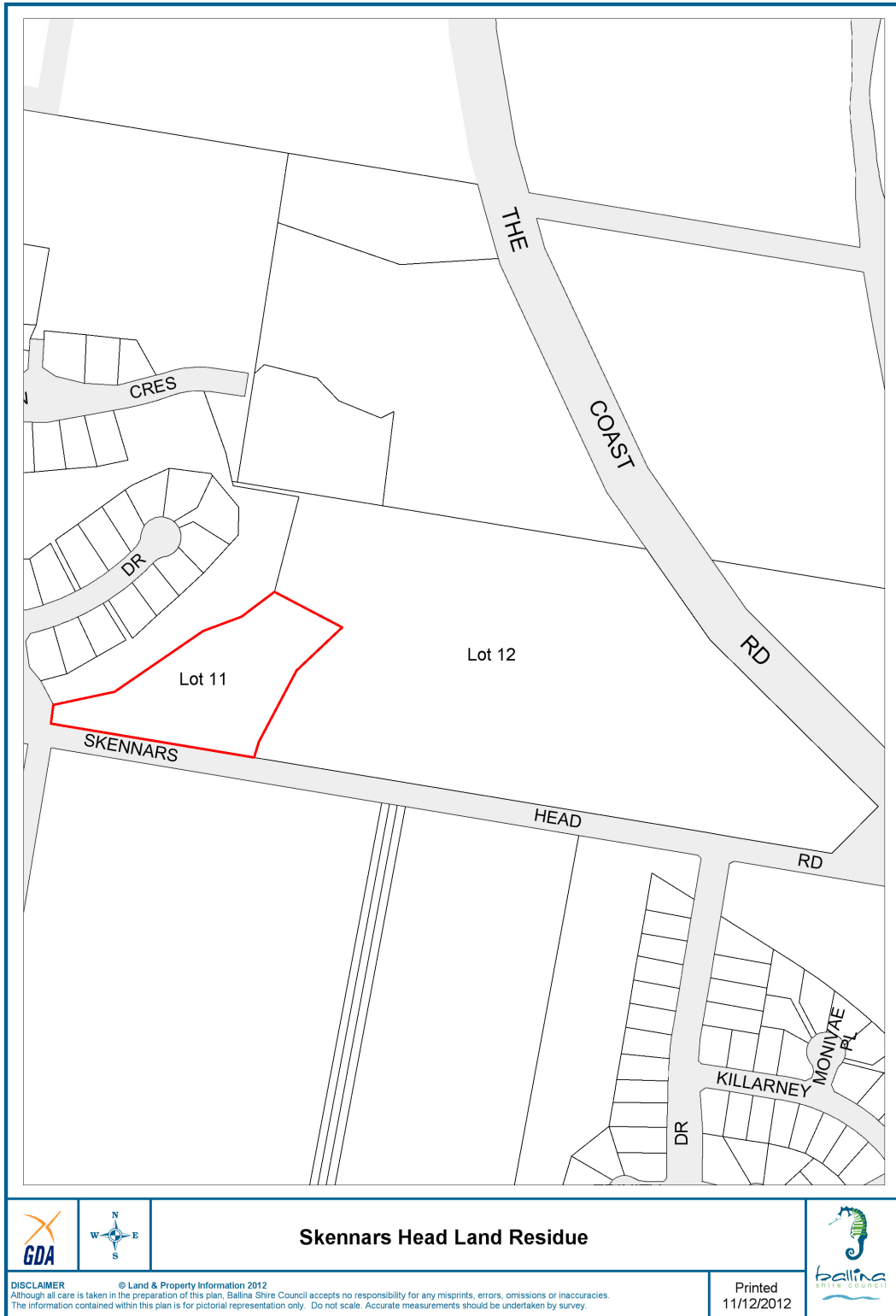
1. That Council authorises the sale of Lot 11 in proposed plan of subdivision of Lot 11 DP 1154480 and Lot 48 DP 833002 by way of public auction. If the land fails to sell at public auction it is to be placed on the market for sale by private treaty at a price to be determined following on from the public auction process.
2. The General Manager and Mayor are delegated the authority to set a reserve for the Property, prior to the auction based upon advice obtained from the marketing agent, and or if required by way of an independent valuation.
3. Council authorises the attaching of the Council seal to the contract for sale with the proceeds from the sale to be placed in Council's Commercial Opportunities Reserve.

Attachment(s)

1. Site Plan
2. Locality Plan

4.3 Surplus Land - Skennars Head





Skennars Head Land Residue

DISCLAIMER © Land & Property Information 2012
 Although all care is taken in the preparation of this plan, Ballina Shire Council accepts no responsibility for any misprints, errors, omissions or inaccuracies.
 The information contained within this plan is for pictorial representation only. Do not scale. Accurate measurements should be undertaken by survey.

Printed
 11/12/2012



5. Confidential Session

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

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

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

5.1 Pelican 181 Cafe - Leasing Update

This report contains information relating to ongoing commercial negotiations with interested parties.

5.2 Wigmore Arcade - Update

This report contains information relating to negotiations with the existing tenants.

RECOMMENDATION

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

5.1 Pelican 181 Cafe - Leasing Update

Reason for Confidentiality

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to ongoing commercial negotiations with interested parties.

5.2 Wigmore Arcade - Update

Reason for Confidentiality

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as this would adversely impact on Council's ability to negotiate with the existing tenants.