



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 28 February 2013 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
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1. Australian National Anthem

The National Anthem will be performed by Ballina High School.

2. Acknowledgement of Country

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

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

3. Apologies

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 24 January 2013 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 24 January 2013.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2010/962 - Section 96 - Highway Service Centre

8. Regulatory Services Group Report

8.1 DA 2010/962 - Section 96 - Highway Service Centre

Applicant	sj Connelly CCP Pty Limited
Property	Lot 11 DP 1011575, Pacific Highway, West Ballina.
Proposal	Application under Section 96(1A) of the EP&A Act to Modify Development Consent DA 2010/962.
Effect of Planning Instrument	The land is zoned part RU2 Rural Landscape under the provisions of the Ballina LEP 2012 and part 2(a) Living Area Zone under the provisions of the Ballina LEP 1987
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

Council, at its Ordinary Meeting of 23 June 2011, (refer to report attached, excluding attachments) resolved to grant deferred commencement conditional consent to the Construction of a Highway Service Centre comprising Service Station, associated Fast Food Restaurants, Auto Repair Centre, associated Vehicular Accesses (including a round-about intersection on the existing Pacific Highway alignment), Car and Truck Parking, Infrastructure Works, Filling, Landscaping, Earthworks and Advertising Structures upon Lot 11 DP 1011575, Pacific Highway (now known as No. 565-589 River Street, West Ballina) and a Two (2) Lot Subdivision (Lot 1 – Highway Service Centre & Lot 2 – Agricultural Residue).

This report relates to an application under Section 96 (1A) of the Environmental Planning & Assessment Act 1979 (Amendment Application No 6) to delete the requirement for construction of a shared footpath/cycleway along the northern side of River Street from the internal road network of the proposed Highway Service Centre to connect with the existing footpath at Emanuel College and to reduce the standard of construction of the footpath on the southern side of River Street from concrete to bitumen.

Council has approved, and is currently assessing a number of other applications under Section 96 (1A) of the *Environmental Planning and Assessment Act* 1979 in relation to the subject development consent.

The following applications to modify the consent have been approved:

Amendment No.1 – Consented to 23 February 2012 (Council)

- *To amend the amount of developer contributions payable under Condition Nos. 5.23 & 5.24 and specified in Schedule 1 of the Consent.*

8.1 DA 2010/962 - Section 96 - Highway Service Centre

Amendment No.2 – Consented to 21 February 2012 (Delegated authority)

- *To amend the following conditions 1.10, 3.7, 4.2, 4.11, 4.12, 4.13 & 5.1, to accord with the expert advice from their geotechnical consultants, Coffee Geotechnics in relation to detailed specifications for site settlement.*

Amendment No.3 – Consented to 7 February 2012 (Delegated authority)

- *To amend condition No. 1.14 to extend the period of compliance with the deferred commencement conditions of consent from twelve (12) months from the date of consent to twenty four (24) months of the date of consent.*
- *To amend condition No. 3.3(i) in relation to terms (j) and (k). Both these items are amended to require the construction of an asphaltic concrete road pavement in relation to road works on River Street as opposed to a concrete road pavement.*

Amendment No.5 - Consented to 7 February 2013 (Delegated Authority)

1. *To amend the description of the development by deleting reference to the two lot subdivision.*
2. *Revised conditions of consent relating to;*
 - *Change in reference from RMS to Council, as Council will be the approval authority under Section 138 Roads Act approvals in relation to Off-site construction activities;*
 - *Change reference to Principal Certifying Authority as opposed to Council for certification of works;*
 - *Delete duplicated conditions;*
 - *Delete generic conditions relating to approvals for works that are already stipulated within other Acts & Regulations, Australian Standards . i.e. POEO Act, WorkCover, Roads Act, BCA, EP&AAct, Local Government Act etc.*

The current undetermined applications that are proposed to modify the consent are as follows:

Amendment No.4

- *To amend condition No. 2.9 to enable additional fill to be placed on the land prior to the proposed flood relief culverts under River Street being in place.*

Amendment No. 7

- *To amend conditions 4.28 – 4.30 and to delete conditions 10.10 – 10.12. These conditions relate to the filling of the land to flood proof the development.*

Amendment No. 4 and Amendment No. 7 will be reported to Council for determination following the receipt of expert flooding advice.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Report

In determining this application to modify DA 2010/962 (Amendment No. 6), Council must assess the proposed modifications against the heads of consideration as contained in Section 79C of the *Environmental Planning and Assessment Act 1979* (EP&AAct) as are of relevance to the application.

In addition, Council may grant consent to modify this consent under Section 96 (1A) if;

- (a) *it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).*

The original consent for DA 2010/962 granted approval for the Construction of a Highway Service Centre comprising Service Station, associated Fast Food Restaurants, Auto Repair Centre, associated Vehicular Accesses (including a round-about intersection on the existing Pacific Highway alignment), Car and Truck Parking, Infrastructure Works, Filling, Landscaping, Earthworks and Advertising Structures upon Lot 11 DP 1011575, Pacific Highway (now known as No. 565-589 River Street, West Ballina) and a Two (2) Lot Subdivision (Lot 1 – Highway Service Centre & Lot 2 – Agricultural Residue).

The proponents have been methodically working through the consent requirements in order to determine the viability of the project and a timing sequence for commencement of works on the subject lands.

This amendment application under Section 96 (1A) of the Environmental Planning & Assessment Act 1979 is to amend condition **3.3(ii)** relating to the requirement for the construction of a shared footpath/cycleway along the northern side of River Street from the internal road network of the proposed Highway Service Centre to connect with the existing footpath at Emanuel College, and reword it with a condition requiring the construction of a 2.0 metre bitumen footpath along the southern side of River Street to cross the footpath in the location as specified in condition **3.3(i)(i)** and connect with the footpath east of the Sunmaid Village Caravan Park. (Refer attachment No. 3)

The existing relevant conditions are as follows:

- 3.3** Prior to the issue of the Off-site Construction Certificate, engineering design drawings shall be submitted to and approved by Council and the RTA, under Section 138 of the Roads Act 1993 for the following civil works. Details are to be in accordance with the Northern Rivers Local Government *Development Design and Construction Manuals* (as current at the time of construction works commencing). Where details

are not addressed in these Manuals, the design is to comply with the requirements of Council's *Subdivision Code*.

(i) Upgrade of Existing Pacific Highway – Site entry

At the developer's expense, a two lane, 30m diameter (internal island) dual lane roundabout and associated roadworks is to be situated at the Emigrant Creek boat ramp entrance. The roundabout is to have the following properties:

- (i) The Roundabout and eastern median is to possess a pedestrian crossing point in the form of a pedestrian refuge and associated pram ramps situated in a location that facilitates circulation of the roundabout by vehicles, facilitates pedestrian flow and offers clear pedestrian and vehicular sightlines.

3.3(ii) Shared footpath/cycleway

- (a) *The provision of a concrete footpath a minimum of 2.0 metres wide along the existing Pacific Highway from the internal road network of the Highway Service Centre Site to match with the footpath at Emanuel Anglican College Ballina. The footpath is to be designed and constructed in accordance with Standard Drawing R-07 of Northern Rivers Local Government Development Design and Construction Manuals. The alignment must be approved by Council's Development Engineer and any unnecessary footpath resulting from the development is to be removed and the area restored in accordance with Council's requirements.*
- (b) *The provision of a concrete footpath a minimum of 1.35 metres wide from the Sunmaid Caravan Park north to connect with the site's internal and external footpath network at the new intersection of the site's access with the Pacific Highway. The footpath is to be designed and constructed in accordance with Standard Drawing R-07 of Northern Rivers Local Government Development Design and Construction Manuals As current at time of construction). The alignment must be approved by Council's Traffic Committee and RTA prior to the issue of the Off-site Construction Certificate.*

Details of the above are to be submitted to and approved by Council and the RTA prior to the issue of the Off-site Construction Certificate. Inspection of the road works is required by the relevant Roads Authority at the time of excavation and prior to sealing of the works.

The proponents requested amended condition is:

3.3(ii) Shared footpath/cycleway

The provision of a bitumen footpath a minimum of 2.0 metres wide along the existing Pacific Highway from the internal road network of the Highway Service Centre Site to cross the roundabout in the location specified in Condition 3.3(i)(i) and connect with the footpath east of the Sunmaid Village Caravan Park. The footpath is to be designed and constructed in accordance with Standard Drawing R-07 of Northern Rivers Local Government Development Design and Construction

Manuals. The alignment must be approved by Council's Development Engineer and any unnecessary footpath resulting from the development is to be removed and the area restored in accordance with Council's requirements.

The proponent contends that the current condition of consent requires access by way of a shared path to be provided along the northern side of River Street from the proposed Highway Service Centre east to Emmanuel College, a distance of approximately 600 metres. The proponent states that the implementation of this condition would replicate a perfectly good pedestrian access way located on the southern side of River Street with the exception for the section in front of the Sunmaid Village Caravan Park.

The proponent submitted preliminary plans with the original development application for the vehicular access to the Highway Service Centre providing for a pedestrian access across River Street to the southern side of the road adjacent to Sunmaid Village Caravan Park. From this location, the proponent contends that upgrading the southern shared path will only require a short extension to the pathway (across the frontage of the caravan park) to connect with the existing footpath that Council constructed to the northern side of the Sunmaid Village Caravan Park.

Comments - Civil Services Group

Council's Civil Services Group has provided the following comments in relation to the amendment to condition No. **3.3(ii)**:

"The applicant suggests the new shared path is not required as there is an existing path on the southern side of River Street from Burns Point Ferry Road to the Sunmaid Village Caravan Park. They are proposing a westerly extension of the path across the park frontage to join with the link to be provided across River Street adjacent to the roundabout. This existing bitumen path was provided as a safety initiative between BSC & RMS (then RTA) for caravan park residents when this section of road was the Pacific Highway.

The current path along the northern side of River Street extends from Barlows Road west to Riverbend Drive, with some minor links missing. Development sites along the northern side of River Street have been, or will be conditioned to provide a shared pathway for their property frontage.

This development will attract many pedestrians and cyclists to the site especially for the fast food outlets. With the high traffic volumes along River Street and the safety concerns for pedestrians crossing the road, it is considered appropriate for a shared path to be located on both sides of River Street.

The proposed pedestrian link crossing River Street at the roundabout entry to the highway service centre is to be provided to primarily service the caravan park residents.

The requirement for the pathway to be concrete is consistent with the standard pathway design requirements in the Northern Rivers Local Government Development & Design Manuals."

The proposed amendment to the condition 3.3(ii) by deleting the requirement for the construction of a shared footpath/cycleway along the northern side of River Street from the internal road network of the proposed Highway Service Centre to match with the existing footpath at Emanuel College, and replacing it with a condition requiring the construction of a 2.0 metre bitumen footpath along the southern side of River Street, does not take into account the fact that a significant amount of pedestrian traffic generated to the site will be along the northern side of River Street and hence is considered to be of such an impact in relation to pedestrian safety that it does not warrant support.

Proposed developments should provide the required shared path on the same side of River Street as the development. The continuation of the path to this development is considered appropriate to provide reasonable and safe access for the community of West Ballina.

This site is not identified in Council's PAMP and works program as there was no proposed development in this location when the PAMP was prepared.

Current developments on the northern side of River Street have been or will be conditioned to provide a pathway. This may require a pathway along their frontage and ensure it links with the existing pathway along the northern side of River Street.

Conclusion

The Section 96(1A) application currently before Council to amend condition **3.3(ii)** should **not** be supported as it will have a negative safety and social impact upon pedestrians and cyclists who may frequent the Highway Service Centre. The proposed amendment would be at odds with Council's established practice of requiring the provision of efficient and safe pedestrian and cyclist access as an alternate means of public access to urban development and facilities in the Shire.

RECOMMENDATION

That the application (Amendment No. 6) under S96 (1A) of the Environmental Planning and Assessment Act to amend the provisions of Condition **3.3(ii)** of DA 2010/962 in relation to the construction of a shared footpath/cycleway on the northern side of River Street and the reduced construction standard of the footpath from concrete to bitumen be **REFUSED** for the following reasons:

- a) The proposed amendment does not comply with the Northern Rivers Local Government Development & Design Manuals, as the pathway should be concrete construction.
- b) The proposed amendment is likely to result in a development that will have negative social impact, as it will not safely and adequately cater for pedestrian and bicycle traffic that will frequent the site due to the nature of the development and the take away food services offered.
- c) The circumstances of the case and the public interest.

Attachment(s)

1. Locality Plan
2. 23 June 2011 Ordinary Meeting Report (excluding attachments)
3. Plan showing proposed amendment to required shared pathway.

8.2 DA 2012/501 - Residential Use of Holiday Units, Lennox Head

8.2 DA 2012/501 - Residential Use of Holiday Units, Lennox Head

Applicant	A E Buchan
Property	Lots 5 & 6 SP 82332, No. 9A Rayner Lane, Lennox Head
Proposal	To Enable Permanent Residential Use of Existing Short Term Holiday Accommodation Units.
Effect of Planning Instrument	The land is zoned B2 – Local Centre under the provisions of the Ballina LEP 2012. At the time of lodgement the land was zoned 2(b) – Village Area under the provisions of the Ballina LEP 1987.
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

Council is in receipt of a development application for the change of use of short term holiday accommodation units to enable permanent residential occupation. This report is seeking Council's determination of the application as the proposed use 'dual occupancy (attached)' is a prohibited use under the Ballina Local Environmental Plan 2012 (BLEP 2012). The sole issue for Council's consideration is the weight to be given to the BLEP 2012 having regard to the savings provisions contained within.

The development application does not seek consent to undertake any works and is purely for a change of use. Additionally the new use would not generate the need to undertake any physical works.

The subject site is approximately 850.4m² in area. The total allotment is effectively split into two parts, with the front half being commercial in nature with two shops at ground floor fronting Ballina Street and two offices above. The rear half of the allotment contains two attached dwellings which are formally known as Lots 5 & 6 of SP 82332. Lot 5 is 202m² in area and contains a three bedroom dwelling and double garage. Lot 6 is 231m² in area and also contains a three bedroom dwelling and double garage.

Five parking spaces are provided behind the commercial building and four parking spaces are contained within the two double garages of the subject dwellings. All vehicle access to the site is via Rayner Lane.

As stated above, the application does not seek consent to undertake any works and is purely for a change of use.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The proposed development was placed on exhibition in accordance with Council's policy for the period of 10 December 2012 to 11 January 2013. During this period, one submission in support was received.

Applicable Planning Instruments

The proposed development has been assessed under the heads of consideration in Section 79C of the Environmental Planning and Assessment Act, 1979, with the following being particularly relevant in Council's determination of the application.

The application was lodged 29 November 2012 and Ballina Local Environmental Plan 2012 came into force on 4 February 2013. As the application was lodged prior to this date the following clause of BLEP 2012 is applicable:

1.8A Savings provision relating to development applications

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

Having regard for the above savings provision, the following assessment has been provided for Council's determination of the application.

Ballina Local Environmental Plan 1987

The proposed development is defined as a "residential flat building", in accordance with the Ballina Local Environmental Plan 1987, being:

"residential flat building means a building containing 2 or more dwellings"

The subject property is located within the 2(b) – Village Area Zone.

The objectives of the 2(b) – Village Area Zone are:

- A. *The primary objectives are:*
 - a. *To regulate the subdivision and use of land to permit a wide range of urban purposes, and*
 - b. *To allow detailed provision to be made, by means of a development control plan, to set aside specific areas within the zone for varying housing densities , commercial and special uses and other urban and tourist facility purposes.*
- B. *The secondary objectives are to allow a variety of housing types and designs and to encourage greater visual amenity by requiring site landscaping.*
- C. *The exception to these objectives is to permit development of land within the zone for public works and services, outside the parameters specified in the primary objectives.*

Residential flat buildings are permissible with development consent within the 2(b) – Village Area Zone in accordance with Clause 9 of the BLEP 1987.

The proposed development is to be undertaken within an existing building upon Village Area zoned land. The proposal does not involve any physical works as the application only seeks a change of use. It is therefore considered that the proposed development is consistent with the objectives of the 2(b) – Village Area Zone.

Ballina Local Environmental Plan 2012

Ballina Local Environmental Plan 2012 came into force on 4 February 2013, however as discussed, this application was lodged on 29 November 2012 and therefore clause 1.8A (savings provision) of the BLEP 2012 applies. The effect of this savings provision is that the application must be determined as if the BLEP 2012 is a draft instrument, albeit that at 29 November 2012 the draft plan was imminent and certain.

The subject land is zoned B2 – Local Centre under the BLEP 2012.

The proposed development would be defined as a change of use to a “dual occupancy (attached)”, being:

“dual occupancy (attached) means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.”

Dual occupancies are a type of residential accommodation, being:

“residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following:

- (a) attached dwellings,*
- (b) boarding houses,*
- (c) dual occupancies,*
- (d) dwelling houses,*
- (e) group homes,*
- (f) hostels,*
- (g) multi dwelling housing,*
- (h) residential flat buildings,*
- (i) rural workers' dwellings,*
- (j) secondary dwellings,*
- (k) semi-detached dwellings,*
- (l) seniors housing,*
- (m) shop top housing,*

but does not include tourist and visitor accommodation or caravan parks”

Residential accommodation is prohibited in the B2 – Local Centre Zone apart from; boarding houses, dwelling houses, secondary dwellings and shop top housing. As such, dual occupancies (attached or detached) are prohibited in the B2 – Local Centre Zone.

Ballina Shire Development Control Plan 2012

The proposed development is located within Precinct D of the Lennox Head Village Centre precincts map.

8.2 DA 2012/501 - Residential Use of Holiday Units, Lennox Head

The preferred land use within this precinct is short term **tourist and visitor accommodation** such as serviced apartments, motels and the like. **Shop top housing** is also encouraged.

The application proposes a use (dual occupancy) which is not a preferred land use within the subject precinct.

Apart from the preferred land uses, the proposal is otherwise compliant with the relevant development controls of DCP 2012.

Report

As outlined, the proposed development is consistent with the BLEP 1987 but is inconsistent with the BLEP 2012 and DCP 2012. The application was publically notified with one submission in support being received.

The key issue for Council's consideration is the weight to be given to the BLEP 2012 having regard to the savings provisions contained within.

Conclusion

The proposed development is permissible with the consent of Council under the provisions of the Ballina Local Environmental Plan 1987, however the proposed use 'dual occupancy (attached)' is a prohibited use under the Ballina Local Environmental Plan 2012. Additionally, the proposed use (dual occupancy) is not a preferred land use within the subject precinct as detailed by DCP 2012.

Council is reminded of the decision made at the Ordinary Meeting of 23 August 2012 regarding DA 2012/195 at 45 – 49 Ballina Street, Lennox Head (incorporating Lennox Thai Gardens) for a mixed tourist and commercial development. At that meeting Council approved permanent residential occupation of some of the tourist units by 'owners' only.

Whilst this current application seeks permanent residential occupation in the same zone and locality, it does not seek the 'owners' only restriction. The key distinction between DA 2012/195 and this current application is that the former application sought approval for and was consented to as a mixed tourist and commercial development. The current application seeks to change the use from tourist accommodation to permanent residential accommodation.

This report is seeking the Council's determination of the application.

Council has two options in relation to determining the subject application:

1. To grant conditional consent to Development Application 2012/501 in accordance with the submitted plans and matters raised within this report; or
2. To refuse Development Application 2012/501 as submitted, on the grounds that the proposal is prohibited under the provisions of BLEP 2012 and is not consistent with DCP 2012.

On balance, option one is considered to be the preferred approach for the following reasons:

8.2 DA 2012/501 - Residential Use of Holiday Units, Lennox Head

- The application was submitted prior to the gazettal of BLEP 2012 and therefore BLEP 2012 must be treated as a draft instrument. The proposal is permissible under the provisions of BLEP 1987 and the proposed land use is consistent with other uses that currently exist in the surrounding locality.
- Dwelling houses are a permissible use within the B2 – Local Centre Zone pursuant to the BLEP 2012 which is a similar use to what this application proposes.
- Approval of this application is unlikely to create any conflicts between tourist type uses and permanent residential accommodation as the allotment will not contain any tourist uses if the application is approved.
- Approval of the application would not set a precedent for other development applications submitted prior to the gazettal of BLEP 2012 as approval of this application has planning merit as discussed.

RECOMMENDATION

That Development Application 2012/501 To Enable Permanent Residential Use of Existing Short Term Holiday Accommodation Units on Lots 5 and 6 SP 82332, No. 9A Rayner Lane, Lennox Head be **APPROVED** subject to appropriate planning conditions as determined by the General Manager.

Attachment(s)

1. DA 2012/501 - Locality Plan
2. DA 2012/501 - Submission - Mulcahy Lawyers

8.3 Development Applications - Works in Progress - February 2013

8.3 Development Applications - Works in Progress - February 2013

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
2011/166	15/04/2011 (Application Amended 8/11/2012)	SJ Connelly CPP Pty Ltd	Eight Lot Residential Subdivision and 15 Unit Town House Development and Associated Works - Condon Drive, East Ballina (North Angels Beach)	Awaiting Additional Information
2011/320	22/07/2011	Ballina Shire Council	To change the method of extraction of an existing Extractive Industry "Ballina Airport Sandpit" from dry (excavation) to wet (dredging) and to change the end use of the pit from a landfill for dry/inert waste to the retention as a flooded pit as part of the rehabilitation works - (Ballina Airport Sandpit) Southern Cross Drive, Ballina	Being Assessed
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	Being Assessed

8.3 Development Applications - Works in Progress - February 2013

DA No.	Date Rec'd	Applicant	Proposal	Status
			Beach Road, South Ballina	
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	Being Assessed
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
2012/271	10/07/2012	SJ Connelly CPP Pty Ltd	Two Lot Subdivision to create 1 x 2ha and 1 x 60ha allotments - 142 Martins Lane, Knockrow	Awaiting Additional Information
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	Being Assessed

8.3 Development Applications - Works in Progress - February 2013

DA No.	Date Rec'd	Applicant	Proposal	Status
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 – Subject to Special Event Signage Policy
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	Awaiting Additional Information
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	Awaiting Additional Information
2012/407	5/10/2012	Peter Turner & Associates	Alterations to Existing Hotel – 19 Pacific Parade, Lennox Head	Being Assessed
2012/432	16/10/2012	SJ Connelly CPP Pty Ltd	Two Lot Boundary Adjustment Subdivision to create 1 x 10ha and 1 x 60.4ha allotments – 13 Edward Place & Newrybar Swamp Road, Knockrow	Determination Pending
2012/465	5/11/2012	SJ Connelly CPP Pty Ltd	To establish a tourist facility comprising a two bedroom holiday cabin involving the conversion of an existing building - 841 Fernleigh Road, Brooklet	Awaiting Additional Information
2012/476	14/11/2012	Newton Denny	Two Lot Rural Subdivision to	Awaiting Additional

8.3 Development Applications - Works in Progress - February 2013

DA No.	Date Rec'd	Applicant	Proposal	Status
		Chapelle	create 1 x 13ha and 1 x 26ha allotments - 68 Howards Road, Alstonville	Information
2012/481	15/11/2012	RW Edols	Erection of a tourist facility including 12 villas and associated facilities and infrastructure and a dual occupancy dwelling - 259 Keith Hall Lane, Keith Hall	Awaiting Additional Information
2012/495	26/11/2012	Newrybar Public School P&C Association	To conduct weekly farmers' markets - 10 Broken Head Road, Newrybar	Being Assessed
2012/499	29/11/2012	Paul R Gray Architect Pty Ltd	To erect storage sheds for the purpose of the bulk storage of plant and equipment associated with the existing scaffold - 152 Newrybar Swamp Road, Knockrow	On Exhibition
2012/514	10/12/2012	Tim Fitzroy & Associates	Alterations and Additions to Bus Depot - 28 Russellton Drive, Alstonville	Determination Pending
2012/517	11/12/2012	SJ Connelly CPP Pty Ltd	Alterations & Additions to Caretaker's Residence - 7 Shelly Beach Road, East Ballina	Awaiting Additional Information
2012/522	13/12/2012	Newton Denny Chapelle	Staged consent for a two lot subdivision to create 1 x 0.2 ha allotment (Proposed Lot	Awaiting Additional Information

8.3 Development Applications - Works in Progress - February 2013

DA No.	Date Rec'd	Applicant	Proposal	Status
			A – special purpose lot) and 1x 7.7 ha residue allotment and associated public road reserve and conceptual approval (subject to a future development application) for the development of Proposed Lot A for an emergency services facility (NSW Rural Fire Service) and associated access road - Henderson Drive, Lennox Head	
2012/534	21/12/2012	Ardill Payne	Change of Use involving the establishment of a motor showroom, spray booth, workshop and alterations and additions to the existing building - 2 Owens Crescent, Alstonville	Being Assessed
2012/537	21/12/2012	John Gosper	Change of Use to enable permanent residential use of existing short term tourist accommodation - Unit No. 52/2 Martin Street, Ballina (Ramada)	Awaiting Additional Information
2013/15	24/01/2013	The Owners Corporation SP70272	To undertake the removal of one tree – 4-10	Awaiting Additional Information

8.3 Development Applications - Works in Progress - February 2013

DA No.	Date Rec'd	Applicant	Proposal	Status
			Grandview Street, East Ballina	
2013/39	12/02/2013	M Hoskin	To Undertake the removal of nominated vegetation – 21 Sunrise Crescent, Lennox Head	Being Assessed
2013/43	14/02/2013	K & R Bresnan and M Pollock	To Undertake the removal of nominated vegetation – 2 Greenwood Place, Lennox Head	Being Assessed
2013/48	15/02/2013	Ardill Payne	To construct a motel, caretaker's dwelling, in-ground swimming pool and signage – 276-278 River St and corner of Kerr St & Camoola Ave, 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	On Exhibition

8.3 Development Applications - Works in Progress - February 2013

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	Council issued a written response to Department of Planning 2/11/2012. Awaiting Minister's Determination

RECOMMENDATIONS

That Council notes the contents of the report on the status of outstanding development applications for February 2013.

Attachment(s)

Nil

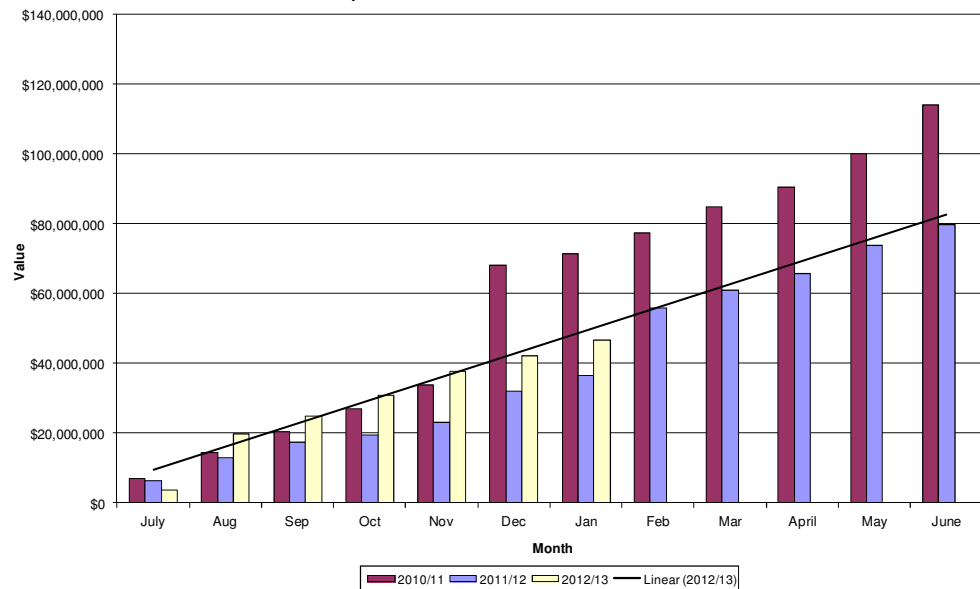
8.4 Development Consent Statistics - January 2013

8.4 Development Consent Statistics - January 2013

During the period of 1 January 2013 to 31 January 2013 the Regulatory Services Group issued Development Consent comprising of:

Number of Applications	Value of Work
19 Other Building Related	\$ 769,000
12 Dwelling/Duplexes/Residential Flat Buildings	\$ 3,521,000
2 General Developments	\$ 0
Total Value	\$ 4,290,000

The following chart details the cumulative consent figures for 2012/13 as compared to 2011/12 and 2010/11. A trend line has also been provided for 2012/13 to assist in the comparison.



RECOMMENDATIONS

That Council notes the contents of the report on development consent statistics for 1 January 2013 to 31 January 2013.

Attachment(s)

Nil

9.1 LEP Amendment Request - Masters Proposal

9. Strategic & Community Services Group Reports

9.1 LEP Amendment Request - Masters Proposal

Delivery Program Strategic Planning

Objective To review the Council's decision not to proceed with the preparation of a planning proposal in relation to a Masters Home Improvement Store on part Lot 11 DP 1011575, River Street, West Ballina

Background

Council received a request for the rezoning of part Lot 11 DP 1011575, River Street (formerly Pacific Highway), West Ballina on 18 April 2011. The request sought to rezone part of the subject land to permit a Masters Home Improvement Store.

The subject site:



The proposal was reported to the Council's Ordinary Meeting held on 23 June 2011 with a recommendation to decline the request to proceed with the planning proposal.

The Council resolved at its Ordinary Meeting held on 23 June 2011 [Minute No. 230611/10] to defer the matter to a workshop. A workshop, including a presentation by the applicant, was held on 3 August 2011.

The matter was reported back to the Council's Ordinary Meeting held on 25 August 2011, at which the Council resolved as follows [Minute No. 250811/5]:

That Council declines to proceed with the preparation of a Planning Proposal in relation to the concept for an Oxygen (Masters) Home Improvement Store

9.1 LEP Amendment Request - Masters Proposal

on part Lot 11 DP 1011575, Pacific Highway, West Ballina due to its inconsistency with planning for the locality, particularly the Far North Coast Regional Strategy and Council's West Ballina Structure Plan.

Council officers were subsequently contacted by officers from the NSW Department of Infrastructure and Planning (DP&I) and advised that a review of Council's decision not to proceed with the preparation of a planning proposal was being undertaken. This review was undertaken by DP&I officers, however, the outcomes of the review were not made available to Council. Following a request by Council officers for a copy of the review, Council was advised that a chronology of events had been prepared by the DP&I, but that a summary report on Council's position and a merit consideration report were not prepared.

Council received a letter from the NSW Director General of DP&I on 25 July 2012, requesting that the Council undertake a review of its decision not to support the proposal proceeding.

The matter was reported back to the Council's Ordinary Meeting held on 23 August 2012 for review of the Council's initial decision not to proceed with the preparation of a planning proposal in relation to a Masters Home Improvement Store. Council resolved [Minute No. 230812/8]:

That Council defer the matter and invite the NSW Director General of the Department of Planning & Infrastructure to address Council.

At its Ordinary Meeting held on 27 September 2012 the Council then resolved as follows [Minute no. 270912/1]:

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 August 2012, with an amendment to Minute 230812/8 – LEP Amendment Request – Masters Proposal – an addition of point two as follows:

That Council also consult with the proponents on this amendment request prior to the matter being reported to Council.

On 1 November 2012 Council received a letter from DP&I requesting that Council review its previous position and reconsider this matter, given the recent local government elections and the election of a new Council.

In response to the Council's invitation to the Director General of NSW DP&I to address the Council, Council received a letter from the NSW Director General of DP&I on 15 January 2013. The letter advised that the Director General had arranged for Mr Neil McGaffin, Executive Director, Planning Operations and Mr Steve Murray, Regional Director, Northern Region to meet with Councillors on his behalf.

Further to the above, the Ballina Local Environmental Plan 2012 (BLEP 2012) commenced on 4 February 2013. That part of the subject site presently zoned for urban purposes in accordance with the provisions of Ballina Local Environmental Plan 1987 (BLEP 1987) is identified in BLEP 2012 as a "deferred matter". The draft LEP had proposed that this land be zoned RU2 Rural Landscape.

9.1 LEP Amendment Request - Masters Proposal

This report provides an overview of the outcomes of the further consultations undertaken to enable the Council to review its previous decision to decline to progress a planning proposal for the Masters Home Improvement Store.

Key Issues

- Request for review of decision from the NSW Director General of DP&I
- Workshops / briefing sessions held with Masters and DP&I
- Revised proposal
- Merits of the proposal

Information

Request for review of decision from the NSW Director General of DP&I

As is evident from the history of this matter, the DP&I has been particularly interested in the Council's consideration of the request for Council to prepare a planning proposal to enable the Masters Home Improvement Store to proceed at West Ballina. DP&I officers have indicated to Councillors that this level of interest has resulted from representations by Masters to the Minister for Planning & Infrastructure in relation to the roll-out program of Masters stores throughout New South Wales.

Workshops / briefing sessions held with Masters and DP&I

Following the Council's resolution at its Ordinary Meeting held on 23 August 2012, to invite the NSW Director General of DP&I to address Council and to further consult with the proponents prior to reporting the matter back to Council, Council officers sought to arrange a workshop / presentation with Masters and DP&I. The availability of DP&I officers resulted in the need for two separate workshops.

A workshop with Masters and their representatives was held with Councillors on Thursday 31 January 2013. The workshop included discussion of a revised proposal incorporating the potential dedication of land to Council, the relationship of the proposal to the Ballina Highway Service Centre and clarification regarding Masters' position in relation to the relevant land use definition applicable to the Masters Home Improvement Store business model. The revised concept is discussed in further detail in the following section of this report.

A workshop with officers from the DP&I was held with Councillors on 14 February 2013. The issues discussed included the DP&I's interest in the proposal, the deferral of the land presently zoned 2(a) Living Area Zone under BLEP 1987 from BLEP 2012, and procedural matters, should the Council decide to proceed with, or decline to proceed with, the requested preparation of a planning proposal for a Masters Home Improvement Store on the land. Discussion also included the relationship between the adjacent approved Highway Service Centre and the Masters proposal in terms of the capital costs of works associated with the Highway Service Centre and its financial viability as an independent development.

9.1 LEP Amendment Request - Masters Proposal

The DP&I confirmed that, given the request for the preparation of a planning proposal had been previously dealt with by the Council, a new planning proposal will be required to be submitted by the proponent should the Council provide an indication that it is willing to commence the planning proposal process. It was also noted that, should the Council indicate that it is not willing to proceed with the planning proposal process, it is open for the proponent to submit a new request for the preparation of a planning proposal and request a review of the Council's decision in accordance with the recently introduced mechanisms for review of planning proposals. The newly introduced pre-gateway reviews enable a proponent to request a review of the Council's decision not to proceed with a planning proposal. These reviews by the DP&I are informed by advice from the Joint Regional Planning Panel (JRPP).

The DP&I officers present at the workshop also advised Councillors that, notwithstanding the Council's decision in relation to the proposed rezoning of the subject land to enable the establishment of a Masters store, the DP&I is seeking further consideration of the zoning of the land identified as a deferred matter in BLEP 2012, and currently zoned 2(a) Living Area Zone under BLEP 1987. The DP&I indicated that any proposed removal of an urban zone over this land would require further justification from the Council.

Revised proposal

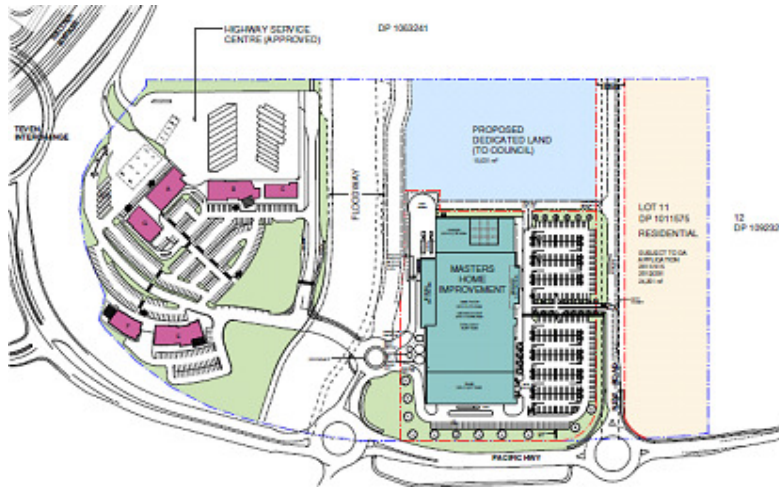
The concept as originally submitted to Council sought to rezone part of the eastern portion of Lot 11 DP 1011575, comprising approximately 3.6 hectares, to enable development for the purpose of bulky goods premises, hardware and building supplies and a garden centre. The plans of the proposal indicated a total gross floor area of 13,897m² and car parking for a total of 377 vehicles.

The concept proposed was described in the initial documentation as a large format home improvement store which "...will include a wide range of offerings such as timber, hardware, building materials, landscaping materials, plants, and products including white goods".

The proposal submitted to Council in April 2011 noted that the Masters store would not utilise the entire area of the site proposed to be rezoned and that the residual land could cater for future bulky goods uses. The proposal also included provision for a constructed floodway between the proposed Masters site and the approved Highway Service Centre to the immediate west (and located on the same parcel of land).

A revised concept was presented to Councillors at the workshop held with Masters on Thursday 31 January 2013. The revised concept maintains the same site layout, floor space, car parking, and floodway arrangements, however it also provides for the potential dedication of the land to the north of the Masters store to Council, as illustrated in the following plan prepared by BN Group Pty Ltd:

9.1 LEP Amendment Request - Masters Proposal



The land identified by the proponents as suitable for dedication to Council is approximately 18,631m² in area. The purpose for which the land would be dedicated to Council, should the rezoning proceed, is a matter for the Council and is yet to be determined.

As detailed in the previous reports to the Council regarding the requested rezoning, it is acknowledged that the Economic Impact Assessment (EIA) submitted with the proposal, and prepared on behalf of the proponents, estimates net positive economic impacts will result from the establishment of a Masters store in Ballina.

The sales potential assessment provided in the EIA projects sales of \$29 million in 2013. The EIA also estimates that 51 direct construction jobs and 136 equivalent full time ongoing retailing jobs would result from the proposed development.

In considering the request to rezone the land the Council acknowledged that the establishment of the new facility would reinforce Ballina as a significant retailing destination within the region and provide significant additional direct and indirect employment opportunities for the shire. However, these social and economic benefits were balanced against the recently established planning policy framework established for West Ballina through the West Ballina Planning Study and Structure Plan adopted by the Council at its Ordinary Meeting held on 17 March 2011 [Minute No. 170311/2].

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

Ballina is recognised as a 'developing major regional centre' in the Far North Coast Regional Strategy (FNCRS). In preparing the draft new shire-wide LEP a number of submissions were made specifically in relation to bulky goods retailing land uses within the shire. The representations made generally objected to either the prohibition of bulky goods premises on industrial zoned land (this was a directive from DP&I), or the prohibition of bulky goods retailing uses on specific land parcels. In response to the submissions, the permissibility of bulky goods retailing in certain zones and on specific land

9.1 LEP Amendment Request - Masters Proposal

parcels was identified by the Council as a matter requiring further and more detailed consideration as part of the LEP renewal program.

In response to the above, and having regard for Council's ownership of substantial affected land holdings, Council engaged consulting firm Hill PDA to carry out investigation and analysis with respect to bulky goods retailing and large format retailing (LFR) land use in Ballina Shire. The primary purpose of the investigation and analysis was to inform the establishment of a land use planning framework for bulky goods retailing and LFR premises in Council's new Standard Instrument local environmental plan (LEP) and Local Growth Management Strategy (LGMS).

The recommendations of the Hill PDA Report (which were adopted by the Council) include the clustering of bulky goods retailing and LFR premises in one location.

While Masters has now very recently expressed the view that the Hill PDA Report no longer relates to their proposal, given the clarification of the appropriate land use definition under which the use should be considered, the Hill PDA report specifically included consideration of the Masters store. That is, both Bunnings and Masters are identified in the Hill PDA Report as large format retail (LFR) premises. The recommendations contained in the Hill PDA Report regarding the clustering of bulky goods and LFR uses therefore remain relevant to this proposal.

From staff's perspective, the requested review of the Council's decision not to proceed with the rezoning of the land at West Ballina for the establishment of a Masters Home Improvement Store has not resulted in a different conclusion to that reached by the Council at its Ordinary Meeting held on 25 August 2011. The proposal is inconsistent with the strategic planning framework for West Ballina as identified in the adopted West Ballina Study and Structure Plan and the FNCRS.

The further detailed assessment of bulky goods land uses within the shire undertaken by Hill PDA reinforces that the distribution of these land uses over several locations is not ideal and these types of uses should be clustered together, where potential for that to occur exists.

Notwithstanding the above conclusions, in balancing the above considerations against potential economic and social benefits for the area and the proposed revisions to the proposal as submitted by the proponents at their workshop with Councillors held on 31 January this year, the Council may conclude that the proposal warrants support. Options are therefore provided for the consideration of the Council.

Sustainability Considerations

- **Environment**

The land to which the proposal relates is subject to significant constraints in the form of geotechnical issues and flooding. Access and traffic management too will require careful assessment.

9.1 LEP Amendment Request - Masters Proposal

- **Social**

Additional retailing opportunities and possible diversification of product choice for residents within the regional catchment would be provided if the development was undertaken. This would need to be balanced against the potential adverse impacts experienced by some competitors.

- **Economic**

The proponents identify substantial positive economic benefits associated with the development including increased short and long term employment opportunities for the local area and reduction of escape expenditure. However, consideration should also be given to the potential adverse impacts of the proposed development on existing small business operations.

Legal / Resource / Financial Implications

In the event that the Council resolves to proceed with the requested amendment to the LEP, appropriate resources will be required to be allocated to the project. This may involve both staff and contracted resources.

Consultation

There has been no consultation undertaken with either the community or Government agencies, other than DP&I, specifically in relation to the LEP amendment request to date. Some Councillors may recall that earlier consideration of the proposal generated a level of community interest, both for and against the rezoning and foreshadowed development.

As outlined, Councillors have met with Masters representatives. Those same representatives have also made deputations at previous meetings of the Council.

Options

Option one - Proceed with a planning proposal

Notwithstanding the Council's previous decision to not proceed with the request to rezone the land, it is open to the Council to resolve to invite Masters to submit a revised planning proposal. A revised planning proposal would be required for two reasons, the first being that the planning proposal submitted in April 2011 has already been declined by Council. Secondly, the subsequent suggested amendments to the proposal have been presented in a workshop by Masters but have not been formally submitted to Council. The amended planning proposal would also need to clearly identify:

- the purpose for which the request is being made (i.e. the specific land use definitions(s) in accordance with the Standard Instrument definitions)
- the proposed land use zone in accordance with BLEP 2012 and / or the Standard Instrument LEP
- the minimum allotment size control proposed; and
- the proposed building height control.

9.1 LEP Amendment Request - Masters Proposal

Following the submission of a fresh planning proposal, the request would be reported to the Council for further consideration as to whether or not to proceed to DP&I Gateway determination. On the basis of concerns expressed by the Council in the consideration of this matter to date, it would be recommended, should Council resolve to proceed with this option, that the applicant and the DP&I should be advised that detailed information will be required to be submitted to Council in relation to at least the following matters, after Gateway determination, but prior to the public exhibition of the planning proposal:

- Assessment of potential impacts in relation to flooding and stormwater
- Assessment of geotechnical constraints of the land
- Assessment of traffic generation and access including detailed consideration of the arterial road alignment
- Assessment of the potential impacts of the proposal on the visual amenity of the locality, having particular regard for the 'entry' to Ballina (including when viewed from the overpass of the Teven Road/Pacific Highway interchange and
- Proposed mechanism for the dedication of land to Council.

In relation to the site constraints, the continuing evolution of flooding issues needs to be acknowledged. Notwithstanding the previous work undertaken in relation to modelling for the potential filling of the site, recent discussions within Council in response to the Queensland experience have included a suggestion that flood planning should relate to the probable maximum flood (PMF) event rather than the 1:100 year event. While this issue is yet to be resolved, further consultation with Council officers should be undertaken by the proponent in relation to this issue.

The issue of the location and design of the arterial road alignment will also be required to be addressed with Council's Civil Services Group and possibly other road authorities, should the planning proposal proceed.

On the basis of the inconsistency of the proposed concept with the provisions of the West Ballina Planning Study and Structure Plan, the FNCRS and Council's planning framework for bulky goods and large format retailing within the shire, this option is not recommended. However, a recommendation based on this option is outlined below in the event that Council determines this is the preferred option.

Option One Recommendation

- 1) *That Council advise the Director General of the NSW Department of Planning and Infrastructure that a review of its previous decision to decline to proceed with a planning proposal to facilitate a Masters Home Improvement Store on part of Lot 11 DP 1011575, River Street, West Ballina, has been undertaken at his request.*
- 2) *That Council advise the Director General of the Department of Planning and Infrastructure and the applicant that the outcome of the review is that the Council is satisfied that the requested amendment to BLEP 2012 can be initiated subject to:*

-the submission of a revised planning proposal

9.1 LEP Amendment Request - Masters Proposal

-the reporting of the revised planning proposal to the Council for further consideration, prior to it being forwarded to DP&I for Gateway determination

-the submission of detailed information addressing flooding, stormwater, geotechnical issues, traffic generation and access, visual impacts, and the proposed dedication of land to Council, following the Gateway determination but prior to the public exhibition of the planning proposal.

- 3) *That Council notes that, in the event that the matters identified as being of importance to the Council are not able to be addressed to its satisfaction (either before or after the Gateway determination), Council may resolve to discontinue the planning proposal.*

Option Two - That Council reaffirm its decision to not proceed with the planning proposal

In the event that Council determines its previous decision to decline to proceed with the planning proposal was appropriate, correspondence will be forwarded to the Director General of DP&I as well as the proponents to advise of the outcomes of the review.

This option is consistent with Council's adopted urban planning policy for the locality, as well as the planning framework for bulky goods retailing and large format retailing within the shire. This is the recommended approach based on the various items of strategic work Council has undertaken over many years.

RECOMMENDATIONS

1. That Council advise the Director General of the NSW Department of Planning and Infrastructure that a review of its previous decision to decline to proceed with a planning proposal to facilitate a Masters Home Improvement Store on part of Lot 11 DP 1011575, River Street, West Ballina, has been undertaken at his request.
2. That Council advise the Director General that the outcome of the review is that it is satisfied with its previous decision to decline to proceed with the preparation of a planning proposal for the reasons cited at that time.

Attachment(s)

Nil

9.2 LEP Amendment Request and Planning Proposal Status Report

9.2 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

It is important that Council remains informed in respect to LEP amendment requests and planning proposals currently under assessment. This report provides an update on those applications for the information of the Councillors and the community.

Key Issues

- Progress of the various applications

Information

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

With respect to terminology used in this report, the term planning proposal refers to the documentation prepared to describe a request to amend the Ballina Local Environmental Plan.

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

Item	Name and Status	Summary and Notes	Completion Due
Amdt 090	Stewart Farm Stage N/A – now with JRPP	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 2012 by the Minister for Planning and Infrastructure that he has appointed the Northern Region Joint Regional Planning Panel (JRPP) to process this amendment. This means that Council is no longer the planning authority for the consideration of this amendment.	25/11/2013 by the JRPP

9.2 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 has resolved to further examine the use of s94 contributions to fund infrastructure delivery. Progress of the amendment is pending advice from the Department of Planning and Infrastructure (DP&I) on the lifting of current limitations on the extent of s94 monies that can be collected in the case of Precinct A.</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 substantial residential area.</p> <p>Council has resolved to proceed to request finalization of this amendment by the DP&I once the voluntary planning agreement applicable to the proposal is registered to the titles of the relevant land parcels.</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>There is a new land owner for the majority of the land the subject of the current proposal. The new owners have indicated an intent to lodge new LEP amendment documentation and a new proposal for the development of the site.</p> <p>Given that the current amendment has not progressed since 2007, that there is a new owner for the majority of the land, there is a new LEP applicable to the land (BLEP 2012) and Council is now expecting a new proposal, it is recommended that the current amendment be discontinued and Council consider a fresh proposal upon its lodgment.</p> <p>In considering the above, it should also be noted that the DP&I timeline for completion (which has been extended twice to date) has lapsed.</p> <p>The benefit of a new process is that Council and the State Government's LEP Panel can consider the new proposal on its particular merits and undertake the necessary analysis and assessments accordingly, without reference to the historic circumstances.</p>	23/02/2013

9.2 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 7	Proposal for the rezoning of land along North Creek Road (just north of Montwood Drive) at Lennox Head for residential purposes. Council has resolved to proceed with the rezoning of the land. The proposal is now being processed by the DP&I for implementation.	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 being negotiated as part of this proposal.	24/04/2013
12/003	Bulky Goods Retailing Precinct, Ballina Stage 6	Proposal for the rezoning of land in the Southern Cross Industrial Estate to facilitate establishment of a bulky goods retailing precinct. Public exhibition has recently been completed. Review of exhibition outcomes underway.	12/10/13
12/004	Blue Seas Parade, Lennox Head Stage 5	Proposal for the rezoning of a small area of land adjacent to the Coastal Grove Estate at Lennox Head for residential purposes. This planning proposal is currently on public exhibition until 13 March 2013.	28/11/13
12/005	Burns Point Ferry Road, West Ballina (former Ferry Boat Motel site) Stage 4	Proposal for the rezoning of land adjacent to Burns Point Ferry Road for residential purposes. Agency consultation, compilation of technical information and preparation for exhibition being undertaken.	22/12/13
12/006	Special Events (Exempt Development) Stage 4	Proposal for the inclusion of provisions in the LEP to enable special events to be carried out as exempt development in certain circumstances. Agency consultation and preparation for public exhibition underway.	22/09/13
13/001	Subdivision Provisions Stage 4	Proposal for the inclusion of provisions in the LEP to facilitate boundary adjustment subdivision, creation of residual lots, split zoned lots and lots for environmental protection purposes in particular circumstances. Preparation for public exhibition underway.	02/02/14

9.2 LEP Amendment Request and Planning Proposal Status Report

Item	Name and Status	Summary and Notes	Completion Due
#	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. Additional information has been submitted and is under review.	#
#	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.	#
#	River Street, West Ballina (Masters) Stage 1	Proposal for the establishment of a Masters store at the entry to West Ballina. This item is subject to a separate report elsewhere in this agenda.	#
<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>			

RECOMMENDATIONS

1. 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.
2. That Council request the Minister for Planning and Infrastructure to discontinue Draft Ballina Local Environmental Plan Amendment No.108 (Water Reservoir site, Lennox Head) on the basis of a likelihood that a fresh rezoning request by new property owners is soon to be lodged.

Attachment(s)

Nil

9.3 Ballina Shire Local Environmental Plan 2012

9.3 Ballina Shire Local Environmental Plan 2012

Delivery Program Strategic Planning

Objective To notify the Council of the introduction of a new principal planning instrument for Ballina Shire.

Background

In April 2005, Council was advised by the (then) NSW Department of Planning that Ballina Shire was a local government area for which a new local environmental plan was a priority. This directive was issued as part of a package of planning reforms that had been committed to by the Government at that time.

In September 2006, the Council formally resolved to commence the plan-making process to deliver a new instrument which would replace the Ballina Local Environmental Plan 1987.

Council is now in receipt of advice from the Department of Planning and Infrastructure that the Minister for Planning has made the new plan. It commenced operation on 4 February 2013.

The purpose of this report is to inform the Council of the extent to which the approved plan differs from the draft version that was submitted for finalisation. The report also provides some commentary on the practical issues of plan interpretation and implementation, given the Minister's decision to omit environmental protection zones from the new instrument.

Key Issues

- Introduction of new planning instrument for the shire
- Associated administrative system adjustments and community notification

Information

Context

The Ballina Local Environmental Plan 1987 (BLEP 1987) has been the principal planning instrument operating in Ballina Shire for twenty six years. Whilst the BLEP 1987 is subordinate to the various State Environmental Planning Policies and the North Coast Regional Environmental Plan 1988, all of which have operated during that same period, it has been central in shaping land use planning outcomes in the shire.

The previous State Government announced that councils in NSW should each prepare a new comprehensive local environmental plan for their respective areas. In doing so, the Government's concern was that current plans (at that time) had become outdated and complex, presenting difficulties for the development industry to efficiently 'do business' in the State.

The new generation local environmental plans were required to be prepared by using a so-called Standard Instrument local environmental plan which provided a template in terms of structure and format. A new suite of standard definitions for land uses and new clauses were introduced, together with a range of new zones. Councils were then given some discretion to adapt the Standard Instrument to suit local circumstances.

Council worked diligently to comply with the Government directives. A dedicated staff team was established to oversee the preparation of the draft plan. A strong platform was established through the preparation of a number of discussion papers which provided a clear direction from the Council in respect to key planning issues. A comprehensive community engagement program was formulated and implemented, including lengthy formal public exhibitions of the draft plan on two occasions.

In December 2011, the Council resolved to endorse a draft local environmental plan for submission to the Department of Planning and Infrastructure for formalisation. This decision followed the Council's careful consideration of matters which had been raised by residents and landowners within the shire, community groups and Government agencies.

As stated earlier, the Minister has now made a new plan for Ballina Shire. This new plan is referred to as the *Ballina Local Environmental Plan 2012* (BLEP 2012). It was intended that the new plan would supersede the BLEP 1987. Regrettably (at least from staff's perspective), this will not be the case at this time, for the reason outlined further in this report.

The introduction of the new instrument creates a need for comprehensive changes to Council's administrative and property information systems. Staff are undertaking the various adjustments and this work will remain ongoing for quite some time.

The Need for Two Plans

Councillors will recall that, on 20 September last year, a very significant press release was issued by the Minister for Planning & Infrastructure, supported by the Minister for Local Government and the North Coast, Mr Page MP and Lismore MP, Mr George. Advice contained in the press release was that the Government would not endorse the use of E2 Environmental Conservation and E3 Environmental Management zones "on land that is clearly rural in council local environmental plans on the Far North Coast". The councils impacted by the Minister's announcement include Ballina Shire, Byron Shire, Lismore City, Kyogle Shire and Tweed Shire.

The effect of this decision is that Council's new local environmental plan has been made without any land zoned for E2 and E3 purposes and the associated provisions in the draft plan that related to 'E' zones. Instead, where land would have been zoned for these purposes (but for the Minister's announcement) the underlying zone applying by virtue of BLEP 1987 will continue to apply. That is, Council will be administering two planning instruments simultaneously.

Toward the end of 2012, the Department of Planning and Infrastructure engaged the services of Parsons Brinckerhoff, an independent consulting firm, to review the manner in which the councils affected by the Minister's announcement have applied the E zones within our respective plans.

It is understood this review will take at least three to four months to complete, at which time the consulting firm will make recommendations to the Department and the Minister as to the extent of further changes deemed appropriate to the council plans, either individually or collectively. Staff will obviously keep the Council apprised of the review as information becomes available.

In terms of the concerns evident on the Minister's press release regarding impacts on rural land, it is important to note that Council's draft LEP specifically acknowledged and enabled certain agricultural activities in areas zoned for environmental protection. In particular, the E3 Environmental Management zone, as drafted, enabled a wide variety of agricultural activities without the need for development consent. Council's approach to agricultural and environmental considerations was based on extensive consideration of key issues founded in the community engagement.

Other Changes to the Final Plan

There is one other mapping change that appears in the final plan which had not been envisaged in the draft version which Council had endorsed. The Minister has decided to defer from the new plan the rezoning of an area of land adjoining the western boundary of the "Riverbend" development in West Ballina. This wedge shaped area of land was zoned for residential purposes in 1988 as part of the Westlands Estate rezoning. The unusual shape of the zoned area was caused by the fact that it was just inside the corridor which had been specially zoned to accommodate the route of the original proposed Pacific Highway Ballina Bypass. This corridor became redundant when the Government decided to adopt the corridor within which the bypass has since been constructed.

In finalising the drafting of the 2012 LEP, the Council made a decision to have "Riverbend" form the western edge of the zoned West Ballina urban area (on the north side of River Street). Hence, it was intended to zone the wedge shaped area for rural purposes. However, the deferral of this area by the Minister means that the 1987 LEP continues to apply (that is, the area continues to be zoned for residential purposes).

In other respects, the draft plan which Council endorsed has largely remained intact. Some clauses have been adjusted and minor drafting changes have occurred although the intent of the plan has remained essentially the same in relation to the changes. Also, some minor mapping anomalies have been identified and these will be addressed in consultation with the Department.

Councillors will recall that during the plan preparation, staff made very strong representations to the Department to address a number of key matters. These included provisions to allow boundary adjustment subdivisions for rural zoned allotments containing areas less than those specified on the minimum lot size map, as well as enabling the creation of residue parcels containing less than the specified area. The creation of rural lots with more than one zoning had also been identified as being problematic, in Council's view.

Although the new plan does not contain provisions to address these concerns, it seems that the Department now acknowledges the matters that Council had raised, with some likelihood that they will be rectified through an amendment to either Council's LEP or the Standard Instrument template. Council is currently progressing an amendment in this regard.

Positive Plan Elements

Notwithstanding the challenges that Council has faced in preparing its new LEP, and the late intervention of the Minister for Planning in relation to the E zones, there are some significant aspects of the plan that are considered to be very positive. These aspects include the following:

- Council has successfully implemented a clause addressing the opportunity for dwelling houses in rural areas that is particular to Ballina Shire's circumstances. That is, Council has obtained a clause that is at variance to the model clause available at the time the LEP was finalised.
- Council has established specific parameters for new development in urban areas in terms of infrastructure requirements and the address of issues in the local development control plan.
- Council's LEP incorporates specific provisions providing direction for the address of proposed development in flood prone areas and in drinking water catchments.
- Council has been successful in the inclusion of a provision that requires the consideration of future urban development where such development is planned to ensure that such areas are not compromised by unsuitable land uses that may conflict with urban uses at a future time. It is understood that this is the only clause of its type in the State at present.
- Council has provided for a wider opportunity for rural and nature based tourism in the shire, with the LEP including a provision specific to these uses to guide outcomes in relation to scale and development type.
- Council has completed an extensive range of mapping associated with local planning requirements that provide a platform for improved use of digital technologies to communicate planning information.

Sustainability Considerations

- **Environment**
Council's draft local environmental plan was prepared on the basis that it would help deliver balanced and improved social, environmental and economic outcomes for Ballina Shire in coming years. The Minister's omission of virtually all environmental protection provisions from within the final instrument (subject to the review referred to earlier in this report) has significantly altered this balance. This decision could be interpreted as the Government caring little for the special environmental attributes of Ballina Shire which are so highly valued by many community members.
- **Social**
As above.

- **Economic**
As above.

Legal / Resource / Financial Implications

All work associated with the preparation of the new local environmental plan has been undertaken within the budgets allocated by the Council.

Consultation

Comprehensive community engagement was undertaken by Council during the preparation of the draft local environmental plan. The extent of that engagement has been previously reported to the Council.

The current review of the application of the environmental zones referred to in this report entails additional community consultation, albeit that it is not being co-ordinated by Council. Once the review is concluded and the outcomes are made known, a further report will be presented for the Council's consideration.

Options

This report is presented for the information of the Council. Accordingly, options have not been provided.

It is noted that Council, at its Ordinary Meeting held on 27 September 2012 resolved "to hold a workshop to consider the impacts of the change along with options to mitigate those changes".

This decision was made in the context of the (then) recent announcement by the Minister that he would not allow the inclusion of environmental zones in new plans being prepared by councils in the Far North Coast, and announcing the independent review of their application.

From staff's perspective, it is suggested that an additional workshop (beyond that held with Department of Planning & Infrastructure representatives in late 2012) is not warranted at this time, but of course one can be arranged if the Council feels that further discussion is desirable or necessary.

When the outcomes of the independent review of the "E Zones" are known, and the Minister has issued a new directive concerning their application, perhaps a workshop might be further considered.

RECOMMENDATION

That Council notes the contents of this report regarding the introduction of the Ballina Local Environmental Plan 2012.

Attachment(s)

Nil

9.4 Historic Timber Vessels and Ballina Naval and Maritime Museum

9.4 Historic Timber Vessels and Ballina Naval and Maritime Museum

Delivery Program Strategic Planning

Objective To seek direction with respect to the future of the Ballina Naval and Maritime Museum and the management of the timber vessels PV Richmond, MV Florrie and the La Balsa raft.

Background

Council considered a report regarding the timber vessels owned by Council and housed in the Ballina Naval and Maritime Museum (the Museum) at its November 2012 Ordinary Meeting. In considering the report, Council resolved to undertake an inspection of the Museum and hold an associated workshop to further discuss the management issues and options canvassed in the report.

On 30 January 2013, Councillors visited the Museum, as well as attended the workshop to consider the heritage management options for the timber vessels. This report outlines the matters discussed at the Museum visit and workshop.

Key Issues

- Location of the Museum
- Management of the *PV Richmond* and *MV Florrie*
- Management of the *La Balsa* raft
- Management of a proposed extension to the Museum
- Strategic management of the Museum's collection.

Information

The following matters are considered to be the key points of discussion.

Reserve Management

The management of the timber vessels housed at the Museum relates to the Museum's tenure on the Crown Reserve within which it is located and management of the Museum building. In the November 2012 report to Council concerning the timber vessels, the following was noted:

As Reserve Trust Manager of the land on which the Museum is located, Council has the discretion to enable the Museum (along with the Richmond Tweed Family History Society) to continue to occupy, and make changes to, the existing building. It is nonetheless important to note that at any time in the future Council may not exercise this same discretion in the case of the land owner (the Crown) making a different decision about how the land is used and/or managed.

9.4 Historic Timber Vessels and Ballina Naval and Maritime Museum

Due to the potential costs involved in the case of the option to maintain and conserve Council's timber vessels, it was considered important to raise this matter to enable the Council to consider these potential costs in light of its responsibility as the Trust Manager of the public reserve.

Discussions held at the workshop concluded, generally, that the Council is supportive of the continued location of the Museum on the reserve, albeit that there was some consensus that in a "perfect world" the Museum should be located to a more highly trafficked location. It was accepted the likelihood of such funding being available in future is very unlikely. Thus the report recommends that Council support the Museum remaining in its present location.

PV Richmond & MV Florrie

The *PV Richmond* is housed along the northern external wall of the Museum. The vessel has recently been assessed as having important local heritage values. Its significance is centred on its history of Pilot services to the 'Port of Ballina' from 1932 to 1981; along with its technical merit/timber construction.

Options for managing the *Richmond's* heritage values canvassed in the report to Council in November 2012, and considered at the workshop, included:

1. Prioritise retention and conservation of the *Richmond* (over the *Florrie*)
2. Retain and conserve the *Richmond* (in addition to the *Florrie*)
3. Make an archival record of the *Richmond* and then dispose of it, removing it from the Museum or
4. Make an archival record of the *Richmond* and retain a section of its fabric for interpretation in the Museum.

Due to the recognised heritage values and importance of the *Richmond* to the history of the Port of Ballina, Councillors expressed a strong preference for the retention, rehousing, conservation and interpretation of the *Richmond*.

Retention of the *Richmond* will incur costs associated with the conservation and care of the retained historic fabric and the provision of interpretive materials. To rehouse the *Richmond*, members of the Museum have advocated for an extension of the existing building to fully enclose the *Richmond* in its present location. Councillors have indicated their support for this option.

Florrie

The *MV Florrie* is housed at the western end of the Museum. *Florrie* has been assessed as having important local heritage values. *Florrie's* significance is centred on its long history/working life on the Richmond River as a cargo and passenger vessel; which extended from the 1880s to the early 1970s. It is also recognised for its technical merit/ timber boat construction technique.

Options for managing the *Florrie's* heritage values canvassed in the report to Council in November 2012, and considered at the workshop, included:

1. Retain and conserve the MV Florrie

9.4 Historic Timber Vessels and Ballina Naval and Maritime Museum

2. Prioritise retention and conservation of the *Florrie* (over the *Richmond*)
3. Make an archival record of the *MV Florrie* and then 'dispose' of it, removing it from the Museum or
4. Make an archival record of the *MV Florrie* and retain a section of its fabric for interpretation in the Museum.

Due to the recognised heritage values and importance of the *Florrie* to the history of Ballina and river transport on the Richmond River; the high relative cost of conserving the vessel; and its compromised physical condition, Councillors have expressed a preference for the part retention of the *Florrie*, using *Florrie's* part fabric to interpret its 'story' as an exhibit in the Museum. Members of the Museum support this option.

Part retention of the *Florrie* will incur costs associated with the conservation and care of the retained historic fabric and the provision of interpretive materials. In addition, to better house the proposed *Florrie* display, the option to 'close in' the western end of the Museum where *Florrie* is presently housed was considered by Councillors to be a good option, and is supported by the Museum members.

The November 2012 report also indicated that the better housing of the *Florrie* was recommended in the case of its retention to ensure conservation measures taken are protected appropriately.

Both the options to enclose the *Richmond* (by way of extension) and the *Florrie* (by closing in the present structure) have been considered by Council staff with the recommendation being to engage architectural services to prepare a concept design, and cost estimate, for enclosing the *Richmond* (northern elevation) and the western end of the museum (where *Florrie* is presently housed).

In developing a concept design for any extension, it is suggested that consideration should be given to improving/enabling access to the vessels/exhibits for viewing and interpretation of their heritage values; as well as the long term conservation needs of the vessels'/exhibits' historic fabric.

In accordance with best practice collection/heritage management, it is further suggested that to manage the fabric and interpretation of the *Richmond* and the *Florrie*, a Conservation Management Plan (CMP) for the vessels be prepared.

This plan would set out how to preserve and restore the historic fabric of the vessels and interpret the *Richmond* and *Florrie's* 'story', to enhance heritage values and their attraction to Museum visitors. The CMP would also provide advice to Council and Museum volunteers regarding the day-to-day care of the item. Furthermore, the CMP would provide a costing of recommended conservation actions and could form a basis for grant applications.

In the case of the *Richmond*, given the potential cost implication of conserving the item's historic fabric, it is also suggested that the CMP consider how the management of the fabric/conservation of the vessel could be staged to assist funding its conservation.

9.4 Historic Timber Vessels and Ballina Naval and Maritime Museum

Funding may be available to prepare strategic documents, such as CMPs, for these historic vessels through the Australian National Maritime Museum's *Maritime Museum of Australia Project Support Scheme* (MMAAPS) grants. This grant will fund projects to the value of up to \$10,000 and operates through a competitive process. The next funding round will open on 1 July 2013, with successful applications notified in October 2013.

Alternatively, funding may be available through the National Library of Australia's *Community Heritage Grants*. Similar to MMAAPS funding, this is a competitive process and will fund projects up to the value of \$15,000. Applications for this funding open on 1 March 2013, closing in May 2013.

Finally, with respect to the *Richmond* and *Florrie*, discussion was also held around the option to laser scan these vessels, with the end result being a digital 3D record created. This record would be retained simply as a record of the vessels' form and construction; but in time could also be used to create a digital interpretive display for either of the vessels. Preparations are currently being made to have both the *Richmond* and *Florrie* scanned. This process will be funded through Council's existing Heritage Programs budget.

La Balsa

The *La Balsa*, currently exhibited prominently within the Museum, is a composite of the two rafts that arrived in Ballina in November 1973, after sailing from Ecuador. The raft has been assessed as having no heritage value (in accordance with the NSW significance criteria).

In light of *La Balsa's* significance assessment, and in consideration of the known estimated costs associated with caring for the *Richmond* and *Florrie*, options canvassed for managing *La Balsa* in the report to the Council in November 2012, and considered at the workshop, included:

1. Retain the *La Balsa* as a curiosity; or
2. De-accession the *La Balsa*.

During the workshop discussion, the majority of Councillors present felt that, despite the item not satisfying heritage significance criteria, the raft provides an important link with Ballina and thus its retention was advocated.

In the case of retaining the *La Balsa* raft, it is suggested that to better demonstrate the raft's link with Ballina, its interpretation could consider what the community's interest in the item says about 'us' as a community/place, now and at the time of its arrival.

Museum Roof

The approach to the replacement of the asbestos roof sheeting on the Museum was canvassed in the November 2012 report to Council, as the future of the *La Balsa* has a significant bearing on the roof shape and hence, cost of replacement.

9.4 Historic Timber Vessels and Ballina Naval and Maritime Museum

Specifically, in the event that the *La Balsa* is de-accessioned from the Museum, savings could be derived in the roof replacement by virtue of standardising the roof structure. However, this report recommends retention of the *La Balsa*, based on the outcomes of the recent Museum site visit by Councillors and the associated workshop. The maintenance of the roof is being managed by Council's Civil Services Group as an asset management matter.

Strategic Management of the Museum's collection

A further matter arising from the earlier report, and discussions, in relation to the broader management of the timber vessels in the Museum was the matter of working with the Museum executive and volunteers to strategically manage its collection. Importantly, this matter was also discussed in the context of making extensions to the museum – namely to enclose the *Richmond* and extend the western end of the Museum where *Florrie* is currently housed (discussed above).

In discussing these proposals, Councillors expressed the view that the further extension of the Museum through the use of public funds, in the absence of a clearly articulated collections policy, is not addressing issues holistically.

As noted in the November 2012 Council report, the Museum members recently commissioned a significance assessment of its collection which recommended the preparation of a collections management policy. The option for Council to work with the Museum to support and assist this process was canvassed and supported by the majority of Councillors as a means of assisting the current, and future, management of space at the Museum.

During further discussions with staff, Museum representatives have advised that they feel comfortable with the current collection policies, which relate broadly to the gathering, recording and retention of items relating to maritime and naval history, as well as similar items of more particular relevance to the history of Ballina.

Whilst the members are appreciative of the Council's gesture of support, they believe the current policies are adequate for the Museum's purpose. The members feel that the engagement of consultancy services in relation to enhancement of current collection policies is unwarranted at this time, but might be a matter for further consideration in the future.

Whilst acknowledging the Museum's views, staff have made enquiries regarding potential grant funding opportunities for this type of initiative, and these are worth recording here for future reference. It appears Museums and Galleries NSW has two separate funding mechanisms which might be accessible by the Museum or Council.

Firstly, the *Volunteer Initiated Museum Development Projects* grant allows community museums and keeping places to carry out strategic and innovative projects. The grants can also provide an opportunity to engage a consultant as a skill development opportunity. Grants are for a minimum amount of \$2,000 and up to \$7,000. The round of funding for this year closes on Friday 18 October, 2013.

9.4 Historic Timber Vessels and Ballina Naval and Maritime Museum

The other grant option is the *Museum Advisors Program* managed by Museums and Galleries NSW with funding from Arts NSW. Local councils participating in the program match the Ministry's funding of \$7,000 per year. A Museum Advisor works with the museums and Council in the area for 20 days of the year, usually making 10 two-day visits.

Councils and museums benefit from the Advisor introducing new skills and knowledge into their area that can contribute to the strategic and sustainable development of their museums.

This program aims to facilitate planning to support vibrant and more effectively operated museums which can enhance community development and lead to greater tourism opportunities.

Advisors assist museums to attract support for developing the value of their collections and growing their audiences. With councils, they work towards establishing appropriately resourced regional museums and opportunities to provide professional support for the region.

Applications to Museums and Galleries NSW under the Museum Advisors program can be made any time during the year.

Sustainability Considerations

- **Environment**
Heritage conservation makes an important aesthetic contribution to the shire's built environment. *Florrie* and *Richmond* are important facets of the environmental history/heritage of the Richmond River.
- **Social**
The conservation of the shire's heritage contributes to the cultural identity of the shire.
- **Economic**
Heritage makes important contributions to the local and regional tourism economy. Heritage promotion broadly assists the shire's local heritage/history organisations to generate income to fund their ongoing activities which conserve and promote the shire's heritage.

Legal / Resource / Financial Implications

Resource implications are potentially significant and depend on the nature of action taken with respect to each item.

Any resource commitment given by the Council may be supplemented by grants for undertaking a Conservation Management Plan for the *Richmond* and *Florrie*.

Grant funding may also be available to assist the Museum with improved collection management and educational support, though the members believe this is currently unwarranted.

Consultation

In addition to earlier consultations in preparing the November 2012 Council report on the management options available to the Council for its timber vessels, preparation of this report has included the engagement of Museum volunteers during the visit to the Museum and the associated Councillor workshop.

Options

Based on the consideration of the Council's discussion regarding options for progressing the matters raised in this report at the workshop, and having regard for the views of the Museum representatives, the following key preferred outcomes have been identified:

Reserve Management

No funding is available for relocation therefore Council has little choice but to endorse the retention of the Museum in its present location. This then confirms Council's commitment to the location of the Museum as a platform for future management and any associated expenditure.

Timber Vessels

PV Richmond and MV Florrie

Council retain, enclose, conserve and interpret the *Richmond*. This is to recognise and preserve the historic value of the *Richmond*.

Council retain and conserve part of the *Florrie*, using *Florrie's* part fabric to interpret its 'story' as an exhibit in the museum. This is to recognise and preserve the historic value of the *Florrie*. This option is the one favoured and promoted by the Museum representatives. This approach involves disposal of part of the vessel, as well as enclosing that part of the building which currently protects it.

In the case of both the *Richmond* and the *Florrie*, Council should manage the fabric and interpretation of the *Richmond* and the *Florrie* via a Conservation Management Plan (CMP) for the vessels. This plan is to set out how to preserve and restore the vessels' historic fabric, interpret the *Richmond* and *Florrie's* 'story', and provide a costing of these actions, including the option to stage conservation measures. It is recommended Council seek grant funding for this work.

La Balsa

Councillors have expressed their desire to retain the *La Balsa* raft on behalf of the citizens of the Ballina Shire, to be housed in and managed by the Ballina Naval and Maritime Museum. Retention should include a strategy for the interpretation of the significance of the raft to the community. It is suggested this will enhance the recognition of the raft and its linkage to Ballina Shire.

Building extension

Council needs to have a full appreciation of the funding required to provide the necessary extensions to the building. This being the case the preference is to allocate funding of up to \$10,000 to engage architectural services to prepare a concept design for extending the northern and western elevations of the Museum. In developing a concept design for this work, consideration should be given to input from the Museum executive, improving/enabling access to the *Richmond* and *Florrie* for viewing and interpretation of their heritage values, as well as the long term conservation needs of their historic fabric.

In respect to identifying the source of funding for this work it is recommended that the General Manager review the entire Council budget to identify savings that will ensure this work does not impact on the overall Council budget.

Strategic Management of the Collection

The Museum representatives consider that their existing collection management policies adequately serve the purpose of the Museum at this time, and hence consultancy services are not warranted. Even though this is the case, all organisations should be subject to external reviews of their processes, at certain points in time. If Council is intending to expend public monies on facilities it is important that the expenditure of those monies can be justified and all other options such as reorganising the existing collection should be considered. Therefore the recommendation is for Council to pursue grant opportunities for this assistance, with this to be done in conjunction with the museum members.

RECOMMENDATIONS

1. That Council endorse retention of the Ballina Naval and Maritime Museum in its present location.
2. That Council confirms its support for the retention, enclosure, conservation and interpretation of the PV Richmond vessel.
3. That Council confirms its support for the retention, conservation and interpretation of part of the MV Florrie vessel.
4. That Council confirms its support for the preparation of a Conservation Management Plan for the PV Richmond and MV Florrie with grant funding to be sought for this work.
5. That Council confirms its support for the retention of the La Balsa raft at the Ballina Naval and Maritime Museum.
6. That Council authorises the General Manager to engage architectural services to prepare a concept design and cost estimates for extensions to the northern side and enclosure of the western side of the Ballina Naval and Maritime Museum as a means of better protecting and interpreting the heritage vessels. The estimated budget for this consultancy is \$10,000 with the General Manager to offset this expenditure by identifying savings elsewhere in the Council budget.

9.4 Historic Timber Vessels and Ballina Naval and Maritime Museum

7. That Council apply for grant funding such as the Museum's Advisory Program to allow independent advice to be provided as to whether or not the collection is being maintained effectively within the available space.

Attachment(s)

Nil

10.1 Use of Council Seal

10. General Manager's Group Reports

10.1 Use of Council Seal

RECOMMENDATIONS

That Council affix the Common Seal to the following documents.

US13/04	<p>Use of Seal: Licence Agreement Ballina Shire Council to H & A Aristou Café Horizon at Ballina Byron Gateway Airport for the five year option period from 1 April 2013 to 31 March 2018.</p> <p>Explanation: The current five year Licence Agreement is due to expire on 31 March 2013. Subject to the satisfactory conduct of the Agreement, the Licencee is entitled to exercise the option to renew the licence by giving notice to the Licensor (Council) not less than one month and not more than three months prior to 31 March 2013. The written notice was submitted 13 February. As the following request will show, the business at Café Horizon is in the process of being sold to the current café manager's J & N Baker, however, the timing of the request to assign the licence agreement from the Aristou's to the Baker's has resulted in the need for the current Licencee (Aristou) providing the required notice to renew the Agreement for a further five year term.</p>
US13/05	<p>Deed of Consent and Assignment of Lease: Arianna Pty Ltd (H & A Aristou) to Elmia Air Pty Ltd (Trustee of the Baker Family Trust, ACN 162 294 395) – Lease of Café premises (currently trading as 'Café Horizon') at Ballina Byron Gateway Airport.</p> <p>Explanation: The current lessee's (Harry & Anna Aristou) are in the process of selling the Airport Cafe business to long time employees, Jake & Nerida Baker. Mr and Mrs Baker have been operating the Café as managers on behalf of the Aristou's for several months, and during that time significant improvements have been made to the business that reflects favourably on Airport Terminal operations.</p>
US13/06	<p>Deed of Acquisition of Easement – Essential Energy – Ballina Waste Management Centre.</p> <p>Explanation: Council has received a request from Essential Energy to allow the installation of underground power linking the 11kva lines on the western and eastern sides of the Ballina Waste Management Centre. Officers from Council and Essential Energy have located a site for the underground section of the proposed extension that is just outside the current fence line between the airport and waste management facility. This location will not impact on either the operations of the landfill or the airport.</p> <p>Essential Energy will need to take out an easement over the land where the infrastructure is to be installed. This easement will have minimal impact on the operation of the facilities and there is no operational objection to the granting of an easement over the area.</p> <p>An external valuation will determine the value of the easement.</p>

10.2 Investment Summary - January 2013

10.2 Investment Summary - January 2013

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 January 2013.

Council's investments are all in accordance with the Act, the Regulations and Council's Investments Policy. The balance of investments as at 31 January was \$85,515,000. This represents an increase from December of \$2,125,000.

The balance of the cheque account at the Commonwealth Bank, Ballina as at 31 January 2013, was \$803,759.

Council's investments as at 31 January are at an average (weighted) rate of 4.54% which is 1.55% above the 90 Day Bank Bill Index of 2.99%.

The majority of the approximately \$85 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

Key Issues

- Investment return
- Compliance with Investment Policy

10.2 Investment Summary - January 2013

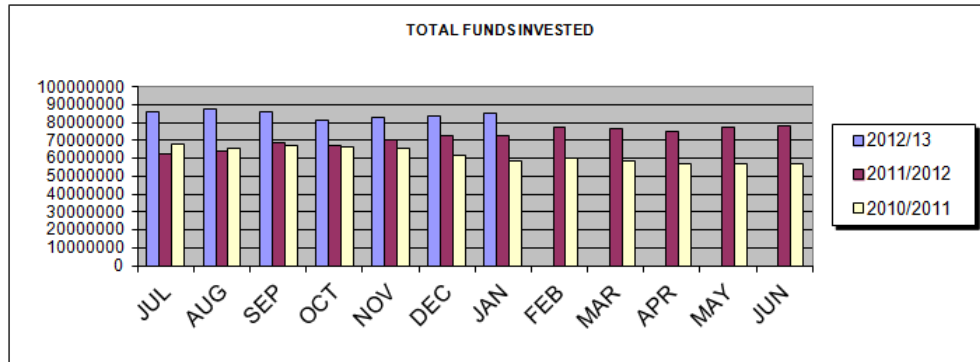
Information

A. Summary of investments by institution

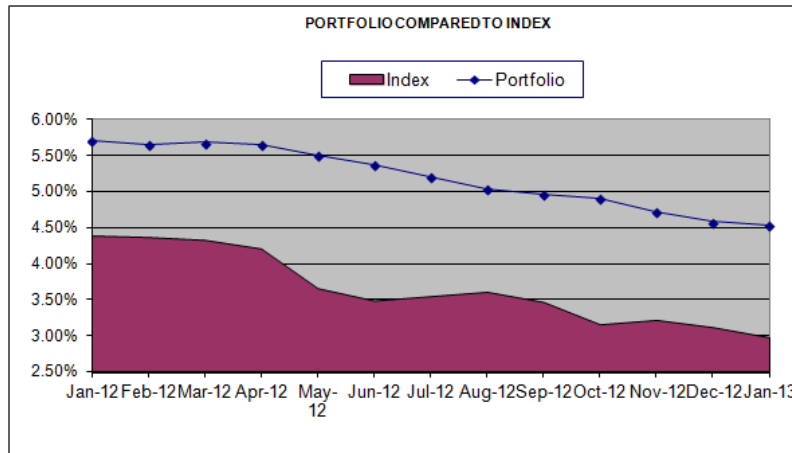
Funds Invested With	ADI Rating	Previous Month (\$'000)	Current Month (\$'000)	Quota %	% of Total	Total
Grandfathered Investments						
Deutsche Bank	A+	4,000	4,000	0	4.7	
Goldman Sachs	AA-	1,000	1,000	0	1.2	
HSBC Australia	AA-	1,000	1,000	0	1.2	
Longreach Capital Markets 28*	AA+	1,000	1,000	0	1.2	
National Australia Bank	AA-	1,788	1,788	0	2.1	
National Wealth M'ment Holding	A	2,000	2,000	0	2.3	13%
Rated Institutions						
ANZ Bank	AA-	26	19	20	0	
Bank of Queensland	BBB+	7,000	7,000	10	8.2	
Bank of Western Australia	AA-	6,000	6,000	20	7.0	
Commonwealth Bank of Aust	AA-	4,576	6,078	20	7.1	
Illawarra Mutual Bld Soc	BBB	8,000	8,000	10	9.4	
ING Bank Ltd	A	12,000	13,000	20	15.2	
Members Equity Bank	BBB	7,000	7,000	10	8.2	
National Australia Bank	AA-	12,000	12,000	20	14.0	
Suncorp Metway Bank	A+	15,000	14,630	20	17.1	
Westpac Banking Corporation	AA-	1,000	1,000	20	1.2	87%
Total		83,390	85,515			100%

* Rating is on capital only by Citigroup Pty Ltd

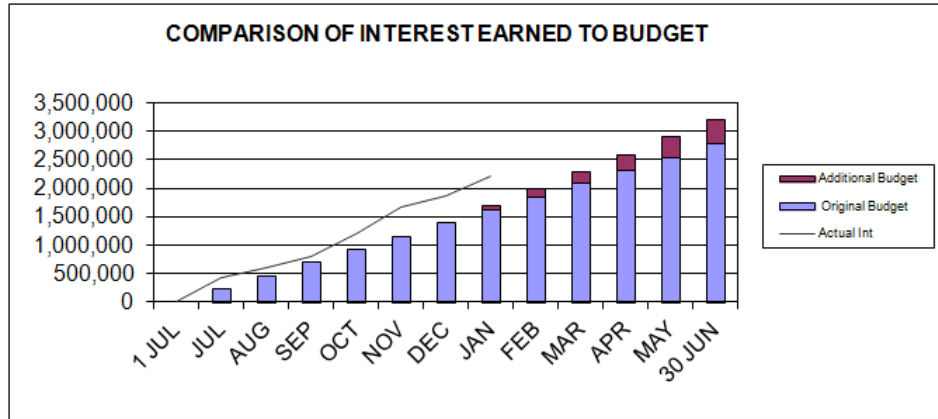
B. Monthly Comparison of Total Funds Invested



C. Comparison of Portfolio Investment Rate to 90 Day BBSW



D. Progressive Total of Interest Earned to Budget



Comment

The Reserve Bank Board left the cash rate unchanged at 3.0 per cent at the 5 February meeting.

Some of the economic conditions noted in the accompanying statement were:

- Global growth is forecast to be a little below average for a time, but the downside risks appear to have abated
- Growth in China has stabilised at a fairly robust pace
- The task of putting private and public finances on sustainable paths in several major countries is far from complete and, accordingly, financial markets remain vulnerable to setbacks in these areas
- For Australia, present indications are that moderate growth in private consumption spending is occurring, though a return to the very strong growth of some years ago is unlikely
- The bank’s assessment remains that inflation will be consistent with the target (2% to 3%) over the next one to two years.

Summing up the statement’s final paragraph read:

“The Board’s view is that with inflation likely to be consistent with the target, and with growth likely to be a little below trend over the coming year, an accommodative stance of monetary policy is appropriate. The inflation outlook, as assessed at present, would afford scope to ease policy further, should that be necessary to support demand.

At today’s meeting, taking into account the flow of recent information and noting that there had been a substantial easing of policy as a result of previous decisions, the Board judged that it was prudent to leave the cash rate unchanged.”

10.2 Investment Summary - January 2013

E. Investments held as at 31 January 2013

Purchase Date	Issuer	Type	Rate%	Call or Maturity Date	Purchase Value \$'000
23/04/04	Deutsche Bank	FRN	3.98	23/04/14	2,000
23/04/04	Deutsche Bank	FRN	3.98	23/04/14	2,000
20/09/04	National Australia Bank	FRN	4.53	Perpetual	1,788
12/04/06	Goldman Sachs	FRN	3.56	12/04/16	1,000
16/06/06	National Wealth M'ment Holdings	FRN	3.73	16/06/16	2,000
28/06/07	Longreach Series 28	FND	0.00	27/06/14	1,000
14/03/08	HSBC Australia Ltd	FRN	5.30	14/03/13	1,000
17/12/08	Commonwealth Bank of Australia	FRTD	4.30	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	2.95	At Call	2,089
20/07/11	ANZ Bank	FND	2.50	At call	19
24/01/12	ING Bank Ltd	FRTD	4.93	24/01/17	1,000
06/02/12	Westpac Bank	FRN	4.81	06/02/17	1,000
09/08/12	Members Equity Bank	TD	5.10	05/02/13	2,000
13/08/12	BankWest	TD	5.10	13/02/13	3,000
28/08/12	Bank of Queensland	TD	5.20	28/02/13	1,000
11/09/12	National Australia Bank	TD	4.96	11/03/13	2,000
03/10/12	Members Equity Bank	TD	4.95	02/04/13	1,000
19/10/12	National Australia Bank	TD	4.55	17/04/13	4,000
19/10/12	National Australia Bank	TD	4.55	17/04/13	1,000
22/10/12	Members Equity Bank	TD	4.85	19/02/13	2,000
23/10/12	ING Bank Ltd	TD	4.62	20/02/13	1,000
29/10/12	National Australia Bank	TD	4.50	29/04/12	3,000
01/11/12	National Australia Bank	TD	4.51	01/05/13	2,000
05/11/12	ING Bank Ltd	TD	4.64	07/05/13	1,000
05/11/12	Illawarra Mutual Bld Society	TD	4.54	01/02/13	2,000
05/11/12	Illawarra Mutual Bld Society	TD	4.54	01/02/13	2,000
06/11/12	Bank of Queensland	TD	4.75	06/02/13	2,000
06/11/12	ING Bank Ltd	TD	4.55	06/03/13	2,000
09/11/12	Suncorp-Metway Bank	TD	4.55	07/02/13	2,000
13/11/12	ING Bank Ltd	TD	4.63	11/02/13	2,000
19/11/12	Members Equity Bank	TD	4.70	18/02/13	2,000
22/11/12	BankWest	TD	5.10	05/02/13	2,000
26/11/12	Bank of Queensland	TD	4.80	26/02/13	3,000
27/11/12	Suncorp-Metway Bank	TD	4.60	27/02/13	2,000
18/12/12	ING Bank Ltd	TD	4.75	18/06/13	3,000
24/12/12	Suncorp-Metway Bank	TD	4.60	23/04/13	3,000
24/12/12	Illawarra Mutual Bld Society	TD	4.50	25/03/13	4,000
02/01/13	Bank of Queensland	TD	4.70	02/05/13	1,000
21/01/13	Suncorp-Metway Bank	TD	4.40	22/07/13	4,000
25/01/13	Commonwealth Bank of Australia	TD	4.36	25/01/18	1,991
25/01/13	ING Bank Ltd	TD	4.44	24/07/13	2,000
29/01/13	Suncorp-Metway Bank	TD	4.40	29/07/13	2,000
29/01/13	Suncorp-Metway Bank	TD	4.40	29/04/13	1,630
30/01/13	ING Bank Ltd	TD	4.34	30/05/13	1,000
31/01/13	BankWest	TD	4.20	03/04/13	1,000
Totals:					85,515
TD=Term Deposit		FRN=Floating Rate Note		FND=Managed Fund	
ELN= Equity Linked Note		FRTD= Floating Rate Term Deposit			

RECOMMENDATION

That Council notes the record of banking and investments for 31 January 2013.

Attachment(s)

Nil

10.3 Ward Committees - Membership

10.3 Ward Committees - Membership

Delivery Program Administration

Objective To obtain approval to amend the membership of the "C" Ward Committee

Background

At the September 2012 Ordinary meeting Council resolved to retain the existing Committee structure and membership of the three Ward committees. Council also resolved to call expressions of interest for additional membership of the Ward committees, particularly from sporting bodies. Expressions of interest were called and closed on 23 November 2012 with a number of nominations received. The nominations received were reported to Council's December 2012 Ordinary meeting. A further nomination has now been received for the "C" Ward Committee from the Plateau Seniors Network.

Key Issues

- Suitability for membership

Information

A nomination has been received from the Plateau Seniors Network to become a member of the "C" Ward Committee. The organisation is a not for profit group with in excess of 100 members.

Legal / Resource / Financial Implications

Nil

Consultation

Expressions of interest were called and closed on 23 November 2012.

Options

The options are to approve or not approve the nomination. The recommendation is to approve the nomination.

RECOMMENDATION

That Council approves an additional membership to the "C" Ward Committee from the Plateau Seniors Network.

Attachment(s)

Nil

10.4 Wardell and District War Memorial Hall

10.4 Wardell and District War Memorial Hall

Delivery Program Commercial Services

Objective For Council to further consider the acquisition of the Wardell and District War Memorial Hall.

Background

Council has considered two reports on the matter of the proposed acquisition of the Wardell and District War Memorial Hall, one at the Ordinary Meeting held on 24 May, 2012, and the other at the Ordinary Meeting held on 20 December, 2012. A copy of the report to the December meeting is included as the first attachment to this report.

The meeting of 20 December 2012 considered the response to the call for expressions of interest from the community and the estimated financial costs to bring the hall up to an acceptable community standard. Resulting from that report Council resolved to defer the matter to a Council workshop.

The Council workshop was held on 11 February, 2013 and it was agreed that a further report be submitted to Council to review the proposal.

This report provides that further review.

Key Issues

- Maintenance costs and administrative responsibilities
- Management arrangements

Information

The workshop discussions centred on the estimated costs to maintain the building (on a prioritised basis) so as to bring the facility up to an acceptable operational standard and the on-going management regime.

An email from building consultants, Tecton, was tabled that referred to their earlier report of 3 October 2012, and noted items requiring immediate attention and estimated for same. The estimated costs are in the order \$80,000, subject to receiving formal quotes, and make no additional allowances for dealing with hazardous materials such as lead paint and asbestos. A copy of that email is included as the second attachment to this report. It is a matter of determining whether or not Council wishes to finalise the works listed, with the advice from Tecton being that all the works should be completed immediately.

10.4 Wardell and District War Memorial Hall

Members of the Wardell community present at the workshop expressed the need to upgrade the hall kitchen and toilets to a more presentable standard and improve its appeal. Also discussed at the workshop was the need for an active committee to manage the day-to-day operation of the hall, and generate a stable income stream to cover maintenance and operational costs including electricity, insurances, Council rates and charges etc.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Community halls can provide a focal point for community interaction.
- **Economic**
While community halls may be considered a social asset, they can be a financial liability to Council, particularly if a hall committee is not active, resourceful and entrepreneurial so as to maximise the hall hire and use to meet maintenance and operational costs.

Legal / Resource / Financial Implications

There is no impediment to Council assuming ownership of the hall/property.

Resources

Should Council resolve to assume ownership of the property, it is important that the management committee appointed be proactive. Should the committee fail in that regard, the responsibilities of management and operation will fall to Council, or result in closure.

Financial

The total estimated cost to bring the hall up to a satisfactory and serviceable standard is in the order of \$400,000 as reported to the December 2012 meeting. However, as discussed at the workshop, the required maintenance work can be staged over a period of time on a prioritised basis. More urgent items, numbered 1 to 5 on the schedule attached to Techton's email of 11 February, 2013, total approximately \$80,000.

Council has no specific budget set aside for these works. This means the options are to not proceed with the works this year and consider them as part of the 2013/14 budget, or source the funding from reserves this year, or alternatively reallocate funding from an existing project.

In looking at the options and assessing the nature of the works, based on the advice from Techton, the preference would be to have the works completed as part of the purchase, if purchase is the preferred option.

Council has numerous projects it wishes to complete this term therefore the preference is not to source funding from property reserves. It is not good financial practice to continue to draw on reserves to fund ad hoc works. Therefore the preferred option is to reallocate funding from existing budgets.

10.4 Wardell and District War Memorial Hall

In looking at existing budgets the one project where funding is available is the Wardell Town Centre upgrade. There is approximately \$37,000 expended out of that budget of \$547,000 leaving \$510,000 available. This funding was to be allocated to the construction of the new boat ramp (estimated cost of approximately \$300,000 with a 50% grant now approved by the State Government) and a new boardwalk (estimated cost of \$400,000 plus).

The boat ramp will now proceed based on the State Government grant, which means there is approximately \$360,000 (\$510,000 less \$150,000) remaining for the boardwalk.

Council needs to balance all its priorities and the recommendation is to source the \$80,000 funding from this budget, leaving the balance of \$280,000 to source further grants for the boardwalk, or to be considered for other projects.

The Wardell Hall does form part of the town centre and thus provides a nexus between this budget and the proposed works.

Consultation

Staff have met with representatives of the current Wardell and District War Memorial Hall Committee. Representatives of the current committee, and a nominee for a proposed new committee, were present at the Council Workshop.

Options

1. Council can resolve to assume ownership of the Wardell and District War Memorial Hall and allocate an initial budget of \$80,000 from the Wardell Town Centre upgrade budget to undertake the works identified in Tecton's email of 11 February, 2013, with future budgets to be set aside for ongoing maintenance works. This \$80,000 may not need to be expended in full immediately and a pro-active hall committee, if formed, is in a position to save dollars where possible. There would be a strong incentive to save monies as this would free up funds for the Wardell Town Centre upgrade.

Should Council resolve to proceed with the proposal and acquire the Wardell and District War Memorial Hall, then the following should accompany any resolution:

- a) The respondent's to the call for expressions of interest be invited to form a hall management committee subject to the standard form of agreement as entered into with other hall management committee's of a community hall located on Council land
- b) That a scope of works for the hall be determined and agreed, and based upon the report prepared for Council by Tecton
- c) That the funding for the identified and agreed maintenance and other works as determined by the committee be allocated from the Wardell Town Centre upgrade budget, up to a limit of \$80,000

10.4 Wardell and District War Memorial Hall

- d) That Council resolve to classify the land as operational land under the Local Government Act 1993, thus affording Council, as owner, with greater flexibility regarding the use of the land in the future and
- e) That consent be granted to affix the Common Seal of Ballina Shire Council upon any legal documentation required to acquire the property, being situated upon Lot 1 DP 312334, be that a Contract for Sale of Land, Deed of Transfer, or, in view of the current status of the land and the Trusteeship, any other legal documentation. Further, that consent to affix the Common Seal also be granted to the Lease Agreement to be drafted between Council and the yet to be appointed hall management committee.

This option was originally not recommended due to the significant financial outlay required to bring the property up to a satisfactory and serviceable standard, and the burden of ongoing financial costs to maintain the ageing facility.

Council has many existing built assets that require maintenance / refurbishment, with limited budgets resulting in the need to delay and prioritise capital works required over a number of financial years. Furthermore, in the event that an appointed management committee fails to competently manage the facility, Council resources will be placed under further pressure as staff are required to assume management functions.

However, based on discussions at the workshop and commitments provided by representatives of the Wardell community, this is now the recommended option.

- 2. Council can resolve not to assume ownership of the Wardell and District War Memorial Hall. This is now not the preferred option as it is accepted that the Wardell community should be provided with the opportunity to manage their own local hall as do many other localities in the Shire.

RECOMMENDATIONS

- 1. That Council approves the purchase (i.e. transfer) of the Wardell and District War Memorial Hall into Council ownership and authorises the General Manager to enact all actions necessary for this purchase.
- 2. That Council authorises the establishment of a standard Council licence agreement for the hall, with a local Hall Management Committee, based on the nominations detailed in the report to the December 2012 Ordinary meeting of Council.
- 3. That Council ask the Hall Management Committee, once established, to confirm a scope of works for immediate and urgent works to the hall, based upon the report prepared by Techton.
- 4. That the funding for the agreed works be allocated from the Wardell Town Centre upgrade budget, up to a limit of \$80,000.

10.4 Wardell and District War Memorial Hall

5. That Council resolve to classify the land as operational land under the Local Government Act 1993, affording Council with greater flexibility for the use of the land in the future.
6. That Council approves the Council seal to be attached to any legal documentation required to acquire the property, being situated upon Lot 1 DP 312334, be that a Contract for Sale of Land, Deed of Transfer, or any other legal documentation. Further, that consent to affix the Common Seal also be granted to the Lease Agreement to be drafted between Council and the yet to be appointed Hall Management Committee.

Attachment(s)

1. Report to Council and adopted resolution of 20 December 2012
2. Maintenance Schedule by priority - Wardell Hall (Report from Tecton dated 11 February 2013)

10.5 Australia Day - Review

10.5 Australia Day - Review

Delivery Program Tourism

Objective To review the 2013 Australia Day function and to provide an opportunity for feedback on options to improve the event.

Background

Council has co-ordinated Australia Day celebrations for a number of years utilising public spaces in the Ballina Shire including Fawcett Park, Hampton Park and Missingham Park Amphitheatre. The celebrations include Australia Day awards, a citizenship ceremony and some form of entertainment.

Council resolved in September 2011 to support an annual rotation of the Australia Day function between Lennox Head, Alstonville and Ballina as it provided an opportunity for the three major towns of the Shire to be directly involved in an annual event.

With Ballina hosting the event in 2011, Lennox Head in 2012 and Alstonville in 2013, the purpose of this report is to determine if Council wishes to continue to rotate the event or to identify a permanent location.

This report also provides an opportunity to assess the merits of the 2013 event, review of the budget and to consider any changes to the existing Australia Day award categories.

Key Issues

- Suitability of location
- Community involvement
- Budgetary considerations
- Award categories

Information

Following Council's decision in September 2011 to rotate the Australia Day celebrations around the Shire the following events have taken place:

2011 Australia Day Celebrations – Missingham Amphitheatre, Ballina

The 2011 program of activities included an afternoon civic ceremony and informal winners' function, community stall holders, BBQ and free Lisa Hunt concert. This event was well attended with 600 people present for the ceremony and close to 1,000 people for the free outdoor concert. Media personality Scott McGregor was the ambassador and master of ceremonies, which provided an additional entertainment element to the ceremony.

Mr McGregor was not part of the Woolworths Ambassador program, so additional funds were required to cover his expense.

10.5 Australia Day - Review

The Ballina Amphitheatre is an ideal venue due to the existing infrastructure; large stage, ramp, back room for storage, car park, toilets and power which assists greatly in reducing costs. The venue also has the capacity to expand the program of activities and host a larger audience.

The Council allocated budget in 2011 was \$15,000, with the actual costs being approximately \$19,700. Major budget items included;

Item	Cost (\$)
Marquee	5,000
Marketing and Promotion	3,500
Lisa Hunt Performance	3,500
Traffic Management	1,600
Hire Equipment	1500
MC and Ambassador Scott McGregor	1,500
Outdoor Staff Assistance	1,000
Sound Technician	1,000

2012 Australia Day Celebrations - Lennox Head Cultural & Community Centre

The 2012 program of activities included a civic ceremony and morning tea held inside the centre. The entertainment program was then extended outside onto Williams Reserve, with a market consisting of over 60 stallholders, live entertainment and children's activities. Unfortunately due to the inclement weather conditions, the outdoor activities were cancelled.

Despite the weather, the ceremony was well attended with approximately 400 attendees. Dr Ross Walker (cardiologist) was the official ambassador, known to many through his regular appearances as a health presenter on the Channel Nine television.

Dr Walker was part of the Woolworths Ambassador program, so no additional funds were required for his appearance.

The centre is a suitable location as it is indoors, has a capacity to hold 500 people, and is equipped with adequate seating, stage and on site catering facilities. There were a number of budget savings from utilising the existing community infrastructure.

The Council allocated budget was \$15,000, with the actual costs being approximately \$18,500 (\$2,000 offset by market holders stall fees). Major budget items included;

Item	Cost (\$)
Entertainment on Williams Reserve	4,000
Marquees	3,000
Marketing and Promotion	2,300
Hire Equipment	2,000
Market Coordinator	1,000
Security	500

The actual costs were reduced due to the outdoor program of activities being cancelled.

2013 Australia Day Celebrations – Elizabeth Ann Brown Park, Alstonville

The 2013 program of activities included a civic ceremony in Elizabeth Ann Brown Park, morning tea at Crawford House Museum and an outdoor pool party with free entry and an inflatable at Alstonville Pool. The pool party was the first event of its kind and was supported well by the community and heavily promoted by local media. Olympic swimmer and ambassador Melanie Schlanger was not part of the Woolworths Ambassador program, so additional funds were required to cover her expenses.

The park is a great location as it is positioned in the heart of the town centre, connecting with the town of Alstonville. The site also has ample nearby parking and toilet facilities. The close proximity to Crawford House Museum was also beneficial in hosting the official morning tea. Potential limitations of this site include capacity and the ability to house community stallholders. However, the community was still involved through the flag raising ceremony, choir performance, welcome to country and hosting the morning tea.

Whilst the Alstonville Leisure and Entertainment Centre (ALEC) is an alternative location in Alstonville, it is not of the same standard as other indoor facilities and Council staff felt it was not suitable for an Australia Day function, although the event could spill out onto the adjoining showground.

The Council allocated budget was \$16,000, with the actual costs being approximately \$22,500. Major budget items included;

Item	Cost (\$)
Marquee	5,000
Ambassador Melanie Schlanger	3,000
Marketing and Promotion	3,800
Pool Party i.e. gate entry etc	3,500
Hire equipment	1,800
Outdoor Staff Assistance	1,000
Catering / Marquees for morning tea	1,000
Sound Technician	800
Overnight Security	500

Community Expressions of Interest

Council currently writes to all community groups, schools and sporting associations inviting them to be apart of Council's Australia Day event. Examples of program elements include community BBQ, educational displays, market stalls or participation in the official ceremony. Community uptake is generally limited, with a minimal number of groups wishing to be involved on the day.

Award Nominations – Categories

The current categories for the Ballina Shire Australia Day awards are:

1. Citizen of the Year
2. Young Citizen of the Year (under 21 years of age)
3. Sports Person of the Year
4. Volunteer of the Year and
5. Community Event of the Year

10.5 Australia Day - Review

Historically, all the categories receive a good number of applications although Sports Person of the Year and Young Citizen of the Year often receive less than the other categories.

When reviewing the national Australian of the Year Awards there are four categories for nomination:

1. Australian of the Year
2. Young Australian of the Year (16 to 30 years)
3. Senior Australian of the Year (over 60 years)
4. Australia's Local Hero.

This highlights an opportunity to raise the age of the Young Citizen of the Year to 30, which may encourage more applicants that were previously deterred by competing with many of the long standing members of service and community groups in the shire.

To compare with a neighbouring Council, Lismore City Council has the following award categories:

1. Citizen of the Year
2. Young Citizen of the Year
3. Services in Community (Group)
4. Sportsperson (Junior)
5. Sportsperson (Senior)
6. Aboriginal Citizen of the Year
7. Art/Cultural, Services in Community (Individual)
8. Sustainable Environment, Sports (Team/Group/Organisation).

The preference is not to expand the categories to any great extent as it may water down the awards, however the Lismore category of Art/Cultural category for a person who has made a significant contribution to the field of singing, dancing, music, art or administration of arts, could well be a category worth considering.

Currently we have a sports person category and if we are going to retain that category there is a reasonable case for having a category that also recognises the arts and culture. There is an option to add this category as a trial in the 2014 award categories.

There is also an opportunity to rename the current Sports Person of the Year award to Sports Award and open it up to an individual or team that has excelled in their chosen sport. This may help to draw more attention to the Sports Category and encourage more nominations from local sporting clubs.

The Volunteer of the Year award could possibly be renamed to Ballina Shire's Local Hero Award to provide greater consistency with the national awards, however such a change would be largely cosmetic.

Sustainability Considerations

- **Environment**

There is limited if any impact to the environment from the Australia Day function.

- **Social**
Rotating the celebrations around the Shire enables greater community access to the event, and also ensures fair and equitable involvement from community groups.
- **Economic**
Utilising existing infrastructure within the community could result in savings to the Australia Day budget.

Legal / Resource / Financial Implications

Council has funds set aside for the Australia Day budget, however given Council's preference to source a high profile ambassador and with ever increasing event costs; the current allocated budget is always insufficient.

This then results in funds having to be sourced from other areas of Council's operations to balance the overall budget.

Consultation

The Australia Day awards are subject to an extensive consultation process.

Options

Location

1. Council continue to support an annual rotation of the Australia Day function between Ballina, Lennox Head and Alstonville as it provides an opportunity for the three major towns to be directly involved in the annual event; or
2. Council select one permanent location for an Australia Day function, with a preference being Lennox Head Community and Cultural Centre (LHCCC) as the most modern and well equipped centre for this event.

In identifying a preferred option the LHCCC has many benefits due to the facilities available within the centre and there are cost savings that can be made due to Council not having to hire a large marquee, which costs approximately \$5,000.

The other big positive is that the LHCCC is weather proof and the event will still proceed in adverse weather conditions. When a marquee is used there is a large risk that the event may be cancelled due to adverse weather conditions.

Both options have merit and on balance, and from an equity perspective, the rotation option seems to be working well and the more we can highlight the event across the Shire the more attendees and nominations we may well receive.

Therefore the recommendation is to support the current rotation policy.

10.5 Australia Day - Review

Budget

1. That Council increase the Australia Day event budget to a more realistic figure of \$20,000 in 2013/14 to ensure all costs are covered or
2. That Council maintain the current allocation of funds for the Australia Day event (being approximately \$16,000 in 2012/2013)

Council's tourism and events staff do a fantastic job to put on an event such as the Elizabeth Anne Brown ceremony with limited funds available. To provide the minimum level of activities that now take place the staff have to reallocate funds from other areas of their own operations or other sections within Council.

The Australia Day events are not considered to be extravagant in any way and if Council wishes to maintain the current level of service the preferred option is to provide a realistic budget of \$20,000.

Award Categories

1. That Council keep the existing award categories for the Ballina Shire Australia Day or
2. That Council trial an additional category Arts/Cultural in 2014 or
3. That Council extends the current Sports Person of the Year award to Sports Award and open it up to an individual or team that has excelled in their chosen sport or
4. That Council raise the age of the Young Citizen of the Year to 30.

In looking at options the Sports Person and Young Person are often the areas that have the least nominations. Expanding the criteria for these categories (i.e. sport person to include teams and young person to 30 years) should encourage increased nominations.

In respect to the Arts / Cultural Category it can be argued that by only having Sports Person there is an inequity in the Awards and the preference is to trial this category for 2014.

Both of these changes are supported in the recommendations that follow.

Finally the recommendations also include a thank you to the Council staff who staged the event for 2013. The event was very well presented and everyone who attended was very congratulatory in their comments to Council for what was an excellent community event.

RECOMMENDATIONS

1. That Council continues to support an annual rotation of the Australia Day function between Ballina, Lennox Head and Alstonville as it provides an opportunity for the three major towns to be directly involved in the annual event.
2. That Council confirms that the 2014 Australia Day function is to be held at the Missingham Park Amphitheatre, Ballina.
3. The Council supports an increase in the Australia Day event budget from \$16,000 to \$20,000 for 2013/14.
4. That Council supports the category of Arts/Cultural be trialled in the 2014 Ballina Shire Australia Day awards.
5. That Council amends the current Sports Person of the Year award to Sports Award, to open it up to an individual or team that has excelled in their chosen sport.
6. That Council supports an increase in the age of the Young Citizen of the Year to 30 years.
7. That Council thanks the staff for the excellent work they did in preparing and managing the 2013 Australia Day function.

Attachment(s)

Nil

10.6 Commercial Use of Footpaths - Community Events

10.6 Commercial Use of Footpaths - Community Events

Delivery Program Tourism

Objective To determine how Council wishes to manage a request(s) for exemptions from Council's commercial use of footpaths policy for community events.

Background

Council has received correspondence from the organisers of the Ballina Coastal Country Music Festival requesting Council give consideration to the possibility of waiving Council requirements relating to use of public footpath space by retailers in River Street, Ballina for the duration of the festival, 5-7 October 2013. A copy of the request is attached.

Essentially the organisers wish to encourage retailers to use the footpaths during this event to increase the atmosphere and amenity associated with the event.

Commercial use of footpaths currently falls under the Council policy - Commercial Use of Footpaths, adopted in August 2010. This Policy applies to *street vending* and *footway restaurants* (also referred to as footpath alfresco dining) undertaken on public roads within the meaning of the *Roads Act 1993* and the *Local Government Act 1993*. This policy requires formal five year approvals to be obtained for use of the footpaths, along with an associated annual fee.

The report that follows canvasses the merits of providing exemptions for this event, and possibly other community based events.

Key Issues

- Equitable application of fees for Commercial Use of Footpaths
- Risk and benefit

Information

Council resolved at its Ordinary Meeting of August 2010 to adopt amendments to the Ballina Development Control Plan – Exempt and Complying Development as well as the Ballina Shire Combined Development Control Plan and a Local Approvals Policy under the Local Government Act to allow the commercial use of the footpaths in the designated town centres of Ballina, Wardell, Alstonville and Lennox Head.

This then allowed interested businesses to apply for approval from Council under the policy for use of the footpath rather than having to apply through a formal development application process, as was previously the case.

10.6 Commercial Use of Footpaths - Community Events

This has made it a far more expedient and less costly process for businesses. Interested businesses now have to apply for approval, ensure they have the appropriate public liability insurance and pay Council the annual fees for use of the footpaths.

Council also now provides markers on the footpath to ensure that the owners and Council's enforcement staff are clear as to what is the licensed area.

The request from the organisers of the Ballina Coastal Country Music Festival is now asking Council to consider two items for the duration of their event:

- a) Waive the application process for *street vending*; and
- b) Waive the associated fees with *street vending*

The issues that need to be considered here are:

- a) Insurance coverage for Council - In order to obtain approval for street vending applicants are required to provide plans of the proposed street vending and approval from adjoining premises. One of the keys issues in providing consent, is the applicant must indemnify Council against public liability claims. This is stated in the application process as follows:

"The applicant, in acting upon this consent/approval, indemnifies Council against all claims of public liability relating to use and activities associated with the approval area."

If Council provides a blanket exemption we would need to ensure that the insurance coverage for the Ballina Coastal Country Music Festival protected Council. It is understood that this could be done.

- b) Safety – The Festival organisers would like to see all parts of the street used, if there is interest from businesses. This may create pedestrian access issues and ideally some form of thoroughfare would need to be maintained. The organisers should be able to manage this as they are required to have a Traffic Management Plan in place, which could address this issue, and importantly River Street is closed between Cherry and Moon Streets for this event. The road closure is critical in that allowing this type of exemption for use of the footpaths should really only be considered when there is a road closure in place, thereby significantly reducing the risk of any pedestrian accident occurring.
- c) Fees and Competition – A number of businesses already have licences in place and it is uncertain as to what their response will be to allowing competitors have an exemption for the few days of this event. There may be support in that it could increase their own commercial activity due to improved ambience and extra traffic in the street or there could be objections due to unfair competition. The annual fees currently payable for sections of River Street are as follows:

Region/Area	Fee Per Square Metre
Area A – River Street (Martin – Cherry Sts)	\$29
Area B – River Street (Cherry – Moon Sts)	\$44
Area C – River Street (Moon – Grant Sts)	\$25

10.6 Commercial Use of Footpaths - Community Events

- d) Precedent – If Council allows this to occur for this event then the issue is how many other events would receive a similar exemption. A key criterion for this could be that it is a Council sponsored event although this could be discriminatory against other event organisers. Another key factor is the road closure will significantly limit traffic and very few other events are in a position to finance road closures.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Community events add significantly to the social fabric of communities.
- **Economic**
Council has recognised the economic benefits generated by the Ballina Coastal Country Music Festival. This request seeks to further the benefits by including retailers intrinsically in the festival.

Legal / Resource / Financial Implications

Risk factors include potential increased public liability exposure to Council. This however could be overcome by applicants/retailers listing Ballina Shire Council in their public liability insurance for the weekend of 5 – 7 October 2013. It would be up to the Festival Organisers to ensure relevant documentation is supplied to Council.

There could be lost revenue by waiving the application and annual approval fee associated with use of the footpath but it is unlikely that any business would apply for a licence just for the one weekend.

Consultation

Festival organisers have canvassed some retailers along the River Street precinct about the possibility of street vending throughout the festival weekend. According to Festival Organisers the vast majority of traders would participate in street vending if it was made available to them over that time period. It is uncertain whether existing approval holders would object.

There are currently the following retailers approved for street vending:

- 9 approvals are in Area A which is River Street (Martin-Cherry)
- 15 approvals are in Area B which is River Street (Cherry – Moon) (this is the event precinct area)
- 2 approvals are in Area C which is River Street (Moon-Grant)

Options

Council has the option of waiving the application process for street vending as detailed in the Commercial Use of Footpaths Policy. This waiver could be limited only to retailers where:

- They are located in the River Street event precinct

10.6 Commercial Use of Footpaths - Community Events

- Where a traffic closure is in the immediate vicinity, which would only include Cherry to Moon Streets
- Where that retailer has Ballina Shire Council listed on the Certificate of Currency for Public Liability insurance

The event organisers have also asked about an extension along River Street, particularly the Martin to Cherry Street section which has recently been upgraded. The real issue with any exemption is where do you start and stop? For example the Cherry or Moon Street traders could ask for a similar exemption. For this reason the preference is to limit it to the Cherry to Moon Street segment of River Street, as that section of road is closed for this event. This improves the safety associated with any exemption and also provides a clear criterion for when exemptions may be allowed.

With this option it is assumed that Council would waive any approval application and licensing fees for street vending as detailed in the Fees and Charges 2012/13 for the period of 5 – 7 October 2013. It would be recommended that where a retailer meets the Council conditions the display of goods will be restricted to within one meter forward of the property boundary to ensure public access.

The other option is not to approve the request for street vending on River Street for the Ballina Coastal Country Music Festival 2013.

On balance, considering that Council is expending \$25,000 on this event and that the precedent issues can be limited due to the road closure conditions, it is recommended that Council support this proposal for the Cherry to Moon Street segment of River Street.

RECOMMENDATIONS

1. That Council approves a waiver of the application and licensing fees associated with the provision of street vending for the section of River Street between Cherry and Moon Streets for the duration of the 2013 Coastal Country Music Festival (i.e. 5 – 7 October 2013).
2. This approval is provided subject to a traffic management plan and road closure being in place for this section of River Street for the event.
3. Any use of the footpaths must still be in accordance with the remaining requirements of Council's Commercial Use of Footpaths policy to ensure adequate public access is retained.

Attachment(s)

1. Use of Public Footpath by Retail Traders in River Street During Ballina Coastal Country Music Festival 2013

10.7 Lease - Telecommunications Facility, Basalt Court Water Reservoir

10.7 Lease - Telecommunications Facility, Basalt Court Water Reservoir

Delivery Program Commercial Services

Objective To seek Council concurrence for the application to the Minister for Local Government for consent to enter into a lease agreement with Optus Mobile Pty Ltd for their telecommunications facility at the Basalt Court water reservoir, Lennox Head, being Council owned land classified as 'community' land under the Local Government Act 1993.

Background

The matter of the then proposed Optus Mobile Pty Ltd telecommunications facility at the Basalt Court water reservoir located on Council 'community' land at 2A Basalt Court, Lennox Head, being Lot 47 DP 240657, has been the subject of three previous reports to Council: 22 March 2011, 24 May 2011 and 25 August 2011. Resulting from the last of the three reports to Council, as considered at the Ordinary Meeting held 25 August 2011, the following resolution was adopted:

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

A copy of the 25 August 2011 report is included as Attachment One. This report deals with Item one of the adopted resolution of Council in that, as a result of Optus accessing the Basalt Court water reservoir site some 19 months ago, and installing and operating their telecommunications apparatus and infrastructure pursuant to a Notice served on Council under the Telecommunications Act 1997, staff instructed Council's solicitor to draft a lease agreement for execution between the parties. While satisfactory commercial negotiations are now finalised, execution of the lease is subject to the concurrence of Council to proceed, and, if Council so determines, an application to the Minister for Local Government for consent.

Key Issues

- The need to formalise the occupation of Council 'community' land by Optus via a lease agreement, and thus protect Council and community interests.
- Submissions received by way of objection

10.7 Lease - Telecommunications Facility, Basalt Court Water Reservoir

Information

The then proposed Optus telecommunications installation was the subject of the previous reports to Council referenced, and has been the cause of much dispute and objection from within the local community, particularly from residents who live in close proximity to the Basalt Court water reservoir. The community objections have received past television, radio and print media coverage.

On 6 May 2011, in order to expedite their then proposed installation of the low-impact telecommunications facility, Optus Mobile Pty Ltd served a Notice on Council under the Telecommunications Act 1997, and as provided within the Act, they occupied the site and installed their telecommunications apparatus and equipment.

It is important to emphasise that access to the Basalt Court water reservoir site by Optus was not obtained with Council concurrence or consent, but, rather, pursuant to a Notice under the Telecommunications Act 1997 as served upon Council. Further, the telecommunications facility is installed and has now been operational for 19 months, since August 2011, without Council or the community having the benefit of a level of protection and control that a lease agreement affords, and without Optus paying rent for their presence on the site.

Accordingly, in order to protect the interest of Ballina Shire Council as land owner, and the community, a five year lease agreement, followed by three further lease periods of five years each, has now been successfully negotiated by staff and is completed and ready for signatures. The negotiated annual rent is \$22,000 + GST, from 1 August 2011, increasing by 4.00% annually.

As advised earlier, there is no lease agreement in place and Council has not been able to raise rent. However, Daly International Pty Ltd, who represent Optus in this matter, have advised staff that rent as negotiated will be paid as soon as the lease is forwarded for execution and a tax invoice issued.

The rental amount due to be paid by Optus Mobile Pty Ltd once a lease is executed currently stands at \$44,880.00 + GST.

While the negotiations for the proposed lease are finalised, as the Basalt Court water reservoir is situated on land classified within the Local Government Act 1993 as 'community' land, there is a required statutory process to follow before a lease can be granted.

A proposed lease of 'community' land requires certain actions to be undertaken in accordance with Section 47 of the Local Government Act 1993, and in particular, Section 47(1), is required for proposed lease terms exceeding five years:

- a) Give public notice of the proposal, and
- b) Exhibit notice of the proposal on the land to which the proposal relates, and
- c) Give notice of the proposal to such persons as appear to it to own or occupy the land adjoining the community land, and

10.7 Lease - Telecommunications Facility, Basalt Court Water Reservoir

- d) Give notice of the proposal to any other person, appearing to the council to be the owner or occupier of land in the vicinity of the community land, if in the opinion of the council the land the subject of the proposal is likely to form the primary focus of the person's enjoyment of community land.

The required public notification process was undertaken, with the closing date for submissions extended from the originally notified closing date of 10 January, to 31 January 2013, due to the Christmas/New Year holiday period. Accordingly, the statutory notification period of 'not less than 28 days' was extended to 49 days.

As at the closing date of 31 January, 2013, 13 written submissions were received, 12 of which objected to the proposed lease and one expressed an understanding of Council's position. Staff also received two separate telephone calls from Lennox Head businessmen in support of the lease due to the 'improved Optus coverage in Lennox Head' and the consequent benefits to their respective businesses.

The content of the 12 submissions by way of objection are summarised as follows:

Objection	References	Comment
Public Health Risks of Mobile Telephone Installations.	6	It is acknowledged that there are diverse community views and opinions in this regard, and while re-emphasising that the installation occurred under the powers granted the mobile phone provider under the Telecommunications Act, the Australian Government's, 'Australian Radiation Protection and Nuclear Agency' conclusion on 'Mobile Telephone Communication Antennas and Health Effects' is that 'No adverse effects are expected from continuous exposure to the RF (radiofrequency) radiation emitted by the antennas on mobile telephone base station towers'.
Visual 'pollution'	2	The Optus installations are affixed to the wall of the water reservoir.
Notification procedure	4	The closing date for submissions was extended from 28 days to 49 days. Written notification was distributed in accordance with Council practice and procedure.
Opposition to extending the 'existing' lease	1	There is no lease currently in place.
Pending review of the Telecommunications Act.	4	Advice from an officer of the Department of Broadband, Communications and the Digital Economy is that, currently, quote, "there is no review of the relevant part of the Telecommunications Act".
Lack of site security & easy access for children	1	The Basalt Court water reservoir site is surrounded by 1.8m high colorbond fencing and the entrance is secured by a padlock. One section of fence was

10.7 Lease - Telecommunications Facility, Basalt Court Water Reservoir

		damaged after a recent storm event, and has been repaired.
Community land intended only for public use, sporting groups, non-profit organisations etc	2	The Local Government Act 1993 provides the mechanism whereby land classified as community land may be leased. The bulk of the subject community land parcel is a secured site occupied by Council operational infrastructure (water reservoir), hence unable to be used for the purposes referenced by the objectors in any event.
Statement that Optus are 'unlawfully trespassing'	2	Telecommunications providers have rights under the Telecommunications Act.
Ensure no further telecommunications providers occupy the site	1	The Telecommunications Act 1997 requires the co-location of mobile phone facilities unless it is not technically feasible to do so. Any future lease proposal will require the same public notification process under S.47(1) of the Local Government Act 1993.
Non-exhibition of the proposed lease to Optus.	1	There is no requirement under S.47(1) of the Local Government Act 1993 to exhibit a proposed deed of lease. The commercial lease was, however, placed on public exhibition in January, 2013, approximately 18 days prior to the revised closing date for submissions.

A copy of a publication from ARPNSA is attached to this report. Copies of all the submissions are included as an attachment to this report.

Sustainability Considerations

- **Environment**

The advice available indicates that there are no negative environmental impacts from this facility.

- **Social**

Residents living in close proximity to the Basalt Court water reservoir site, and others, have made submissions by way of objection to the proposed lease. However, the Optus facility is installed and has been operational since 1 August 2011.

Wireless technology has a high demand within the community, both at an individual and business level, and the telecommunications installation at Basalt Court helps to meet that demand.

- **Economic**

Wireless technology is an important adjunct to business activity and economic growth.

The negotiated rental for the facility guarantees Council, hence the community, a satisfactory financial return over the proposed lease term.

Legal / Resource / Financial Implications

Council is required to provide public notice of the proposed lease of 'community' land under S.47(1) of the Local Government Act 1993. The Minister's consent to enter into a lease of 'community' land is required where a person makes a submission by way of objection to the lease proposal.

Consultation

The matter has been the subject of past community objection and three previous reports to Council. As required under S.47(1) of the Local Government Act 1993, public notification of the lease proposal has been undertaken.

Options

1. Council can resolve to not enter into a lease agreement with Optus Mobile Pty Ltd for their occupation of the Basalt Court water reservoir, 'community' land site.

Having regard to the Telecommunications Act 1997, and the fact that Optus Mobile Pty Ltd occupied the site via statutory Notice, and have been operating their telecommunications facility from the site for 19 months since 1 August, 2011, and will remain in occupation and operational with or without a lease, and will not, on advice, be liable for the payment of the negotiated rental amount, this is not the preferred option.

2. Council can resolve to apply to the Minister for Local Government for consent to enter into the proposed lease agreement with Optus Mobile Pty Ltd.

As is required pursuant to S.47(5)(a) of the Local Government Act, Council must not grant the lease, licence or other estate except with the Minister's consent where a person makes a submission by way of objection to the proposal. As indicated previously, Council is in receipt of 13 written submissions, 12 of which are by way of objection. Accordingly, subject to Council's decision with regards option one above, should Council resolve to agree to a lease agreement with Optus Mobile Pty Ltd, the final decision is a matter for the determination of the Minister for Local Government.

Having regard to the Telecommunications Act 1997, and the fact that Optus Mobile Pty Ltd occupied the site via statutory Notice, and have been operating their telecommunications facility from the site for 19 months since 1 August, 2011, and will remain in occupation of the site and operational with or without a lease, this is the preferred option.

Subject to the Minister's consent, the proposed lease agreement will provide Council and the community with a level of protection and control, and assure a commercially acceptable rental return over the life of the lease term.

10.7 Lease - Telecommunications Facility, Basalt Court Water Reservoir

Unfortunately Council has been powerless to stop this installation proceeding and on that basis the reasonable approach is at least to ensure that a return is provided to the community to reflect the market value of that lease.

RECOMMENDATIONS

1. That pursuant to Section 47(5) of the Local Government Act 1993, and the consequent requirements of Section 47(6), Council resolve to make application to the Minister for Local Government for the grant of a lease to Optus Mobile Pty Ltd over a part of Lot 47 DP 240657 classified under the Local Government Act 1993 as 'community' land.
2. That should the Minister for Local Government, or delegate, consent to the grant of a lease over part community land at Lot 47 DP 240657 to Optus Mobile Pty Ltd, that consent is hereby granted to affix the Common Seal of Ballina Shire Council on the Deed of Lease to issue.

Attachment(s)

1. Report to Council of 25 August 2011
2. Submissions by way of objection
3. Submission in qualified support
4. Australian Radiation Protection & Nuclear Safety Agency: Mobile Telephone Communication Antennas and Health Effects

10.8 Legal Matters - Update

10.8 Legal Matters - Update

Delivery Program Governance

Objective To provide an update on legal matters involving Council.

Background

As a public authority Council is regularly involved in legal matters. This report provides an update on matters that have been subject to court action or may result in court action and represents the second report for the 2012/13 financial year.

Key Issues

- Type and cost of litigation

Information

This report provides an opportunity to examine legal matters in which the Council is, or has been, involved, with reference being to the current or previous financial year. The report has been provided in open Council to ensure the information is available to the public.

Solicitor for Council	Parties	Case Description	Original Cost Estimate	Costs Paid to Date
Blake Dawson	Oshlack v Ballina Shire Council & Ors	Land & Environment Court - ref. no. 2010/40570 - Challenge to approval of Marom Creek fluoridation plant - Rous Council and Lismore also joined in this case - Class Four	\$100,000	\$172,000
Comments <p>Mr Oshlack appealed the process followed by Rous, Lismore and Ballina councils in approving fluoridation. Rous Council engaged Blake Dawson Solicitors and Ballina Council agreed for that firm to also represent Ballina Council with costs to be shared. Lismore Council engaged a separate firm to act as their solicitors and only tendered a submitting appearance. The decision of the Court was eventually published on 16 May 2012 with the appeal being dismissed and Rous and Ballina councils being awarded costs. Whether or not Council has any chance of recovering costs will be subject to further advice from our solicitors.</p> <p>The time limitation for appeal of the original decision expired on Thursday 16 August, with Mr Oshlack lodging an appeal. The appeal process has commenced with the appellant and the respondents (Council and Rous Water) appearing in a directions hearing in mid October 2012. The directions hearing determined that the appellant was to file and serve his written submissions by 17 October 2012. As respondents our submission was required by 21 November 2012. The matter was listed for call over, for the purpose of allocating a hearing date, on 4 December 2012. It is understood that the hearing date will now be May 2013.</p> <p>Agreement has been reached with the NSW Department of Health whereby Rous Water and Council are able to fund the costs of the appeal from the interest earned on the project's capital grant. It is expected that it will not be necessary for Ballina Shire Council to allocate any funds towards the appeal process. Tenders will not be called to implement Council's earlier resolutions in respect to the construction of the plant needed to fluoridate Council's water supply until the appeal is determined.</p>				

10.8 Legal Matters - Update

Legal / Resource / Financial Implications

This next section of this report provides an update on the legal costs for 2012/13 along with a comparison to the previous four financial years.

Description	2008/09 Actual	2009/10 Actual	2010/11 Actual	2011/12 Actual	2012/13 Actual
Planning Legals					
Avalon	86,000	0	0	0	0
Bryson and Blake	33,000	57,000	0	0	0
Greenwood Grove	53,000	44,000	7,000	0	0
Lennox Head Apartments	0	26,000	0	0	0
Ramada	0	51,000	364,000	2,000	0
Rich and Rich	0	16,000	1,000	0	0
Simpson	125,000	0	0	0	0
Stockpile – Temporary	0	0	66,000	0	0
Advice - Riverside Suites	95,000	35,000	4,000	7,000	0
Advice - North Angels	0	7,000	4,000	0	0
Advice - Service Centre	0	0	37,000	0	0
Advice – Verna Wall	0	0	0	0	8,100
Advice – 84 Kerr St	0	0	0	0	11,400
Insurance – Merkat	0	0	0	6,000	6,300
Advice / Insurance - Misc	44,000	43,000	61,000	53,000	13,200
Sub Total	436,000	279,000	544,000	68,000	39,000
Property Legals					
Gunundi	139,000	23,000	3,000	0	0
Homeworld	215,000	110,000	4,000	0	0
Lennox Head Comm Ctre	0	0	0	55,000	55,900
Sub Total	354,000	133,000	7,000	55,000	55,900
Water Legals					
Oshlack – Fluoride	0	0	159,000	13,000	0
Total Expenses	790,000	412,000	710,000	136,000	94,900
Expenses Recouped					
Freedden	52,000	0	0	0	0
Jacobson / McMillan	103,000	0	0	0	0
Stubberfield	0	29,000	29,000	0	0
Gunundi	0	0	71,000	0	0
Homeworld	0	0	190,000	0	0
Ramada	0	0	8,000	0	0
Greenwood Grove	0	0	15,000	0	0
Stockpile Temporary	0	0	37,000	7,000	0
Miscellaneous	6,000	0	3,000	1,000	400
Total Income	161,000	0	353,000	8,000	0
Net Cost	629,000	412,000	357,000	128,000	94,500
Fund Summary – Net					
General Fund	629,000	412,000	198,000	115,000	94,500
Water Fund	0	0	159,000	13,000	0

The expenditure budget summary for 2012/13 is as per the following table. Please note this table excludes a few minor legal budgets in various Council Departments where legal enquiries may occur.

Item	Budget	Actual	Balance
Planning Legals	140,000	39,000	101,000
Property Legals - LHCC	32,000	55,900	(23,900)
Total General Fund	172,000	94,900	77,100
Water	5,000	0	5,000
Total Budget	177,000	94,900	82,100

10.8 Legal Matters - Update

The major outstanding matters remain the Oshlack case and the Lennox Head Cultural and Community Centre (LHCCC) insurance claim.

In respect to the LHCCC claim mediation sessions have been conducted in September 2012 and it was anticipated that an agreed settlement figure with the architect's insurer would be reached shortly after that date. An agreed figure was reached for the purposes of the mediation however the underwriter for the architect did not accept the offer within the 28 days agreement period. The underwriter is still considering the offer with the view to achieving a commercial resolution.

The parties have agreed to stay any further arbitration until the underwriter has responded to Council's offer. It is unfortunate that Council continues to pay legal costs to our solicitors (being Maddocks) while this process drags on. However legal representation is needed to pursue this matter to the finish.

Consultation

This report is provided in open Council to ensure the community is informed on legal matters involving Council.

Options

This report is provided for information purposes.

RECOMMENDATION

That Council notes the contents of this legal update report.

Attachment(s)

Nil

10.9 Financial Review - Quarter Ended 31 December 2012

10.9 Financial Review - Quarter Ended 31 December 2012

Delivery Program Financial Management

Objective To review the 2012/13 Council budget for the six months ended 31 December 2012.

Background

In accordance with the Local Government Act the responsible accounting officer of a council must, not later than two months after the end of each quarter, prepare and submit to the council a budget review statement that shows a revised estimate of the income and expenditure for that year.

The report that follows provides this review for the second quarter of 2012/13.

Key Issues

- Variations to the budget
- Financial performance of council

Information

The purpose of this report is to provide information on known budget variances as at 31 December 2012. The format of the report complies with the Quarterly Budget Review Statement Guidelines set down by the Division of Local Government (DLG).

To comply with these guidelines an Operating Statement, Capital Budget, Cash and Investment Statement, Key Performance Indicators, Contractors, Consultants, Legal Information and certification by the Responsible Accounting Officer are required.

Commentary on the variations recommended is then provided after the tables which form a major part of this report.

A brief overview of the information provided in the report is as follows:

Operating Income and Expense

These tables provide the operating revenues and expenses for the Funds (General, Water and Wastewater). The information is useful in determining whether a Fund is operating at a surplus or deficit (before and after depreciation).

The operating performance for each major activity within the General Fund is also able to be monitored by matching income and expenses.

Capital Budget

These tables outline the capital expenditure budgets and how that expenditure is being funded.

Table Three - Cash and Investment Statement

These tables provide details on the projected movements in reserve balances in each of the funds.

Key Performance Indicators

This information shows the calculated position as at 30 June 2011, 2012 and the estimated position at 30 June 2013. The ratios provide an indication of the financial health of the organisation. In forecasting ratios there are many variables and assumptions in the calculations that mean the forecast is very much a best guess scenario.

Contractors/Consultants/Legal Expenses

This information provides details of specific expenses incurred and contracts entered as required by the DLG.

Certification

This is a Statement by the Responsible Accounting Officer as to whether the current year's estimated financial performance is or is not satisfactory.

For the tables, the ORIGINAL budget plus / minus changes previously approved by Council equals the REVISED Budget figure. REVISED Budget plus / minus recommended changes for this quarter equals the PROJECTED Year End Budget figure for the year.

Actual figures to 31 December are also included in the final column as a comparison to the PROJECTED Budget.

General Fund

This next section of the report deals with Council's General Fund operations. Tables for income and expense follow, including recommended variations to budget.

Following the tables are comments in respect to proposed budget variations that are considered to be material.

10.9 Financial Review - Quarter Ended 31 December 2012

General Fund – Operating Revenues and Expenses

Operating Income	Original Budget	September Budget	Approved Changes	Revised Budget	Changes for Approval	December Budget	Actual to December
	000's	000's	000's	000's	000's	000's	000's
Strategic Services							
Strategic Planning	383	406		406	(100)	306	33
Community Services	195	230		230	30	260	167
Community Gallery	59	59		59	4	63	44
Sub Total	637	695	0	695	(66)	629	244
Regulatory Services							
Development Services	312	322		322	0	322	162
Building Services	670	670		670	(35)	635	307
Public and Env Health	191	191		191	3	194	178
Admin and Public Order	78	87		87	3	90	58
Sub Total	1,251	1,270	0	1,270	(29)	1,241	705
Civil Services							
Asset Management	163	200		200	116	316	133
Stormwater and Env Prot	290	293		293	10	303	295
Roads and Bridges	0	1,534	25	1,559	23	1,582	1,534
Ancillary Transport Services	713	729	20	749	0	749	304
Roads and Maritime Services	1,050	1,010		1,010	(250)	760	268
Open Space and Reserves	762	769		769	(1)	768	515
Fleet Mgmt and Workshop	4,022	4,022		4,022	0	4,022	2,026
Rural Fire Service	263	263		263	0	263	155
Quarries and Sandpit	324	324		324	1	325	221
Swimming Pools	291	291		291	0	291	169
Landfill Management	6,927	6,677		6,677	40	6,717	3,227
Waste-Domestic	6,925	6,985		6,985	60	7,045	6,726
Sub Total	21,730	23,097	45	23,142	(1)	23,141	15,573
General Manager's Group							
Administrative Services	33	33		33	(5)	28	9
Financial Services	20,658	18,814		18,814	20	18,834	17,822
Regional Library	95	115		115	0	115	116
Information Services	4	4		4	1	5	2
Human Resources and Risk	104	136		136	45	181	177
Tourism	36	92		92	0	92	80
Property Management	2,743	2,655		2,655	74	2,729	1,615
Ballina Byron Airport	3,786	4,260		4,260	(180)	4,080	1,926
Sub Total	27,459	26,109	0	26,109	(45)	26,064	21,747
Total Operating Income	51,077	51,171	45	51,216	(141)	51,075	38,269

10.9 Financial Review - Quarter Ended 31 December 2012

General Fund – Operating Income and Expenses (cont'd)

Operating Expenses (excluding depreciation)	Original Budget	September Budget	Approved Changes	Revised Budget	Changes for Approval	December Budget	Actual to December
Strategic Services							
Strategic Planning	966	1,249		1,249	16	1,265	495
Community Services	712	761		761	45	806	489
Community Gallery	174	172		172	4	176	92
Sub Total	1,852	2,182	0	2,182	65	2,247	1,076
Regulatory Services							
Development Services	1,313	1,303		1,303	(4)	1,299	583
Building Services	780	780		780	0	780	413
Public and Env Health	701	707		707	0	707	325
Admin and Public Order	1,053	1,068		1,068	0	1,068	490
Sub Total	3,847	3,858	0	3,858	(4)	3,854	1,811
Civil Services							
Asset Management	2,922	3,185		3,185	194	3,379	1,645
Stormwater and Env Prot	655	907		907	127	1,034	280
Roads and Bridges	4,915	3,902		3,902	136	4,038	1,947
Ancillary Transport Services	1,572	1,736		1,736	(17)	1,719	850
Roads and Traffic Authority	1,050	1,087		1,087	(250)	837	492
Open Space and Reserves	3,652	3,973		3,973	53	4,026	2,037
Fleet Mgmt and Workshop	2,863	2,759		2,759	0	2,759	1,322
Rural Fire Service	413	460		460	(12)	448	221
Quarries and Sandpit	55	104		104	0	104	60
Swimming Pools	696	686		686	0	686	549
Waste-Landfill/Commercial	5,633	5,398		5,398	9	5,407	2,691
Waste - Domestic	6,399	6,209		6,209	0	6,209	3,089
Sub Total	30,825	30,406	0	30,406	240	30,646	15,183
General Manager's Group							
Governance	1,198	1,214		1,214	25	1,239	567
Administrative Services	785	763		763	(8)	755	339
Financial Services	(3,105)	(3,095)		(3,095)	6	(3,089)	(1,869)
Regional Library	1,324	1,408		1,408	0	1,408	1,305
Information Services	1,356	1,346		1,346	0	1,346	1,016
Human Resources and Risk	1,684	1,723		1,723	(98)	1,625	694
Tourism	650	703		703	(5)	698	384
Property Management	1,747	1,799		1,799	(33)	1,766	1,052
Ballina Byron Airport	2,741	2,971		2,971	33	3,004	1,666
Sub Total	8,380	8,832	0	8,832	(80)	8,752	5,154
Total Operating Expenses	44,904	45,278	0	45,278	221	45,499	23,224
Net Operating Result							
Before Depreciation	6,173	5,893	45	5,938	(362)	5,576	15,045
Depreciation Expense	14,343	14,343	0	14,343	0	14,343	
Net Operating Result							
Continuing Operations	(8,170)	(8,450)	45	(8,405)	(362)	(8,767)	15,045

General Fund Working Capital Forecast

Item	Original Budget	September Budget	Approved Changes	Revised Budget	Changes for Approval	December Budget	Actual to December
Working Capital	(106)	6		(100)		(100)	

Comments - General Fund

The **forecast operating surplus** (before depreciation) is \$5.6 million which is a reduction of some \$317,000 in comparison to September. Whilst there are a number of adjustments the main influence is a net reduction to Airport operating surplus of \$222,000.

The estimated **unrestricted working capital** movement remains the same as the September forecast being negative \$100,000. Again whilst there have been many changes to estimates every effort has been made to counter any negative changes with positives; i.e. wherever possible a funding source has been identified for new or increased expenses, whether it is reduced expense, additional income or the use of reserves.

General Fund - Operating Revenues

Strategic and Community Services Group

Section 94 Car Parking Interest Income: Forecast income from interest earnings has been largely removed (decreased by \$100,000) following the purchase of the two properties in Tamar Street by the section 94 fund.

Community Services: Forecast income has increased by \$30,000 as revenue from Kentwell Community Centre (\$5,000) and Lennox Head Community and Cultural Centre (\$25,000) is trending better than forecast. The improved trending relates to room and equipment hire.

The increase to forecast income has been offset by an equal increase to forecast expense at the Lennox facility.

Regulatory Services Group

Building Services

Fees Income: Forecast income has been reduced by \$35,000 due to current trending. The main adjustment relates to building inspection fees.

Civil Services Group

Asset Management

Engineering Supervision: Income of \$114,000 has been raised in respect to supervising costs, incurred by Council, that are associated with reconstruction of Rifle Range Road. These works, including the supervision costs are funded by Roads and Maritime Services (RMS).

Stormwater

Hazard Studies: Additional grant income of \$10,000 has been received for the Coastal Hazard Study stage 3. Expenses have also been increased by the same amount.

10.9 Financial Review - Quarter Ended 31 December 2012

Roads and Bridges

Natural Disaster Grant: Funds of \$22,000 received to refurbish roads damaged in a November 2012 storm event.

Roads and Maritime Services(RMS)

Routine Maintenance Contract: Council has approved withdrawal from the RMS routine maintenance contract. Forecast income and expense has been reduced by \$250,000.

Open Spaces and Reserves

Regional Works Crews: Council receives grants to assist with the expense of employing regional works staff. The estimated income from the grants was ambitious and \$45,000 has been removed from forecast income.

Vegetation Management: Grant income received for project based work as follows; Roadside Vegetation \$24,000; Bitou Bush \$5,000; Chickiba Wetlands \$15,000.

Equivalent expenditure budgets have also been raised.

Landfill and Resource Management (LRM)

Operating Income: Small increase to forecast income based on trends for gate fees to \$40,000. Generally income is tracking reasonably close to estimates.

There remains a question mark over reimbursement of the State imposed waste levy. The 2012/13 estimate is \$304,000 and at this stage no funds have been received. It may be that the State will not pay these funds in 2012/13 but this has not been confirmed so no adjustment is proposed at this stage.

Domestic Waste Management

Gain on the Sale of Plant: Forecast income has been increased by \$60,000 as old plant items are sold. Council will recall that four new collection vehicles were acquired last year.

General Manager's Group

Financial Services

Interest on Investments: Returns from funds invested are trending slightly higher than forecast so the budget has been raised by \$20,000.

Human Resources and Risk Management

Insurances: The annual refund from Statecover in respect to workers compensation insurance is \$75,000 which is \$35,000 more than anticipated. Refer to comments in the Expenditure section of this report regarding substantial savings in regard to the premium.

10.9 Financial Review - Quarter Ended 31 December 2012

Contribution to Training: Council receives an annual contribution to staff training funded by the Department of Employment and Training. The contribution varies depending on the amount and type of training carried out. The forecast has been increased by \$7,000 to \$17,000.

Property Management

Interest on Investments: Forecast income for the three property reserves has been adjusted with a net increase to the forecast of \$30,000.

Fawcett Street Café: Forecast income for this property has been reduced by \$25,000 to \$5,000 as the property has been vacant. New tenants have recently been selected.

74 and 78 Tamar Street: New properties have been purchased by the section 94 car parking fund. Rent is estimated to amount to \$70,000 this financial year and these funds are going to the section 94 car parking reserve.

Airport: Income has been reduced by \$188,000. The main adjustments were;

- reduction to passenger fees of \$116,000. The forecast for this income source was increased as part of the September review based on information from the airlines on flight numbers. However the number of flights that were proposed at that time has not eventuated
- forecast interest on loan funds invested has been reduced by \$100,000. It was anticipated that loan funds raised for the runaway overlay (2013/14 project) would be invested for the second half of the year. However a substantial amount of these funds (\$2.7 million) has been required to pay for additional costs associated with the apron extension. Whilst this means that there is substantially less funds for the runaway overlay it also means that investment returns will be less than forecast
- forecast income from car rental franchises has been increased by \$35,000.

Refer to comments in the Expenditure section of this report regarding increases to forecast operating expense.

General Fund - Operating Expenses

Strategic and Community Services

Section 94 Car Parking Plan: A new budget of \$19,000 has been raised to enable a review of the Car parking contributions plan. The expense is funded from the section 94 car parking reserve.

Lennox Head Cultural and Community Centre: Forecast expense has been increased by \$30,000. Vacation care services account for \$10,000, which is a self funding program in that users pay for the service. The remaining increase of \$20,000 relates to cleaning and building maintenance. Cleaning expenses rise as usage increases.

Refer to comment in the Revenue section of this report regarding additional forecast room hire income that offsets the increase to expenses.

10.9 Financial Review - Quarter Ended 31 December 2012

Alstonville Leisure and Entertainment Centre: New contracts are in the process of being negotiated. At this point the matter is not finalised however a further \$15,000 has been added to the budget for the current year.

Civil Services

Asset Management

Roads Condition Assessment: A new budget has been raised of \$45,000 to pay for a contractor to do an independent assessment of our road network. This information will be invaluable in terms of decision making for maintenance and in terms of accuracy for our financial reporting. Looking forward this type of assessment is really required every three to five years.

The expense is funded from a reserve that has been built up over the last five years for this purpose.

Contracts Officer: This position was located in the General Manager's Group and it has recently been relocated to Civil Services. The budget of \$85,000 shows as increased expense to Assets Management section and a decrease in expense to the Property section.

Civica Assets System: New budget raised in Water Fund to finance the purchase of the system. General Fund is contributing \$60,000 towards the cost this year.

Emergency Services: The annual contribution has been increased by \$12,000. This is offset by a decrease of \$12,000 to annual contribution to fire services.

Stormwater

Blackwater Research: The total cost of this project is \$360,000 of which \$120,000 is forecast to be paid this financial year. Accordingly a new budget has been raised of \$120,000 which has effectively been sourced from the additional income raised in relation to engineering supervision of RMS projects. (refer to comment under 'Income' Civil Services, Asset Management)

Roads and Bridges

Mcleay Culvert: New budget raised of \$110,000 for interest that will accrue relating to the loan that was taken up to finance the construction works. This expense has been funded from the roads contribution plan.

Natural Disaster: Grant funds of \$22,000 received to refurbish roads damaged in a November 2012 storm event.

Ancillary Transport

Local Infrastructure Renewal Scheme (LIRS): Council approved borrowings under the LIRS scheme to finance various projects, one of which was to finance the upgrade of the Ballina town centre of \$1.3 million. The forecast loan repayment was too high and has been reduced by \$17,000.

10.9 Financial Review - Quarter Ended 31 December 2012

Roads and Maritime Services: Council has approved withdrawal from the RMS routine maintenance contract. Forecast income and expense has been reduced by \$250,000.

Open Space and Reserves

Vegetation Management: Refer to revenue section of the report. New budgets raised of \$45,000 regarding grant based projects.

Fire Services

Annual Contribution: The budget has been reduced by \$12,000 however this is offset by an equal increase to the Emergency Services contribution (located in Asset Management).

General Manager's Group

Governance

Organisation Structure: A new budget of \$20,000 has been raised for a consultant to review our structure. The expense is funded from the leave entitlements reserve as approved by Council.

Human Resources and Risk Management

Superannuation: This budget will vary depending on staff numbers and grades as well as resignations and replacements. Based on trending the budget of \$2,024,000 will not be sufficient and it has been increased by \$80,000.

Workers Compensation Insurance: Excellent work in respect to risk and safety has resulted in a reduction to the forecast premium of \$180,000 down to \$720,000. It is also the case that the premium forecast for 2013/14 is currently \$580,000. This is less than 2010/11 levels and is a terrific result for the organisation.

Property Management

74 and 78 Tamar Street: New budgets raised of \$15,000 to meet operating expenses for these recently acquired properties.

Old Ballina Library: Disabled access was provided to the rear of the building at a cost of approximately \$21,000. This expense was not forecast and has been financed by a transfer from the crown properties reserve.

Wollongbar Estate: Budget for operating expense increased by \$10,000 for items such as rates and preliminary expenses to prepare the site for development.

Southern Cross Estate: Budget for operating expense increased by \$10,000 for rates and sale costs.

Contracts Officer: This position was relocated from the Property Section to Civil Services reducing the expense in Property by \$85,000.

10.9 Financial Review - Quarter Ended 31 December 2012

Airport: Numerous adjustments have been done to forecast operating expense with a net outcome of \$33,000 increase. The largest single change was an increase to promotion expense of \$45,000.

A brief summary of the revised Airport financial forecast is that operating profit has declined by \$222,000 to \$1,067,000. Coincidentally this is quite similar to the original 2012/13 forecast (income forecasts were raised as part of the September review).

Capital expense has increased by \$59,000 to \$5,784,000 which is financed by a combination of grant funds and borrowings. Borrowings of \$7.3 million were taken up to fund the runway overlay (2013/14 project) however the scope of this project will be reduced to cater for the fact \$2.7 million is required for the apron extension.

The revised position of the airport reserve is that at the start of this year it was negative \$455,000 and the current forecast is that the balance will improve to a negative of \$154,000.

Water Operations

This next section of the report deals with Council's water operations.

Water - Statement of Operating Income and Expenses (\$'000)

Item	Original Budget	September Budget	Approved Changes	Revised Budget	Changes for Approval	December Budget	Actual to December
Operating Income	8,572	8,692		8,692	350	9,042	4,175
Operating Exps (excl. dep)	8,529	8,624		8,624	5	8,629	6,503
Net Operating Result Before Depreciation	43	68	0	68	345	413	(2,328)
Depreciation Expense	2,300	2,300		2,300		2,300	2,300
Net Operating Result from Continuing Operations	(2,257)	(2,232)	0	(2,232)	345	(1,887)	(4,628)

Forecast operating revenues have increased by \$350,000 and expense by \$5,000, improving the forecast operating result by \$345,000.

Adjustments to income budgets relate to:

- residential consumption income is trending above the forecast \$3.6 million and has been increased by \$300,000.
- water tapping fees increased by \$15,000 reflecting new services connected to properties
- sundry income has been increased by \$15,000 which is mainly attributable to the payment of the damages claim raised by Council against the meter reading contractor.
- lease income from radio equipment on reservoirs will be \$20,000 more than anticipated.

10.9 Financial Review - Quarter Ended 31 December 2012

The forecast **operating surplus** of \$413,000 (exclusive of depreciation) remains modest but is a good improvement from the original estimate. Whilst forecast income has increased, expenses have hardly altered which is a good outcome. There is significant room for improvement to achieve an operating surplus inclusive of depreciation, however the signs are encouraging.

Wastewater Operations

This next section of the report deals with Council's Wastewater operations.

Wastewater- Statement of Operating Income and Expenses (\$'000)

Item	Original Budget	September Budget	Approved Changes	Revised Budget	Changes for Approval	December Budget	Actual to December
Operating Income	12,823	12,823		12,823	390	13,213	10,885
Operating Exps (excl. dep)	11,257	11,517		11,517	80	11,597	5,831
Net Operating Result Before Depreciation	1,566	1,306	0	1,306	310	1,616	5,054
Depreciation Expense	4,411	4,411		4,411		4,411	4,411
Net Operating Result from Continuing Operations	(2,845)	(3,105)	0	(3,105)	310	(2,795)	643

Forecast revenue has increased by \$390,000 and expense by \$80,000 reflecting an improvement of \$310,000 to the forecast operating result.

The main changes to forecast Wastewater income are:

- interest income on funds invested has been raised by \$300,000. The majority of the funds invested are borrowed to facilitate the capital works program. The very large scale of borrowings and capital works that are underway means that estimating interest income is a moving target.
- trade waste charges are trending \$20,000 higher than forecast.
- income from the sale of plant is \$15,000.
- income from drainage plans is trending higher than estimated and has been increased by \$10,000.
- work carried out for the Office of Water has generated income of \$25,000
- income from the internal plant hire charge has been increased by \$20,000.

The main adjustment to operating expense relates to the raising of a new budget to \$45,000, being a contribution to Water Fund for the new assets system.

The forecast **operating result** is a surplus of \$1.6 million excluding depreciation. As from 2013/14 the true impact of the \$63 million loan will take effect and a cash surplus of around \$2.5 million will be required just to repay the capital portion of the loan.

The improved forecast at December assists this target. A continuation of increases to annual charges, as is forecast in the long term financial model, will be required.

10.9 Financial Review - Quarter Ended 31 December 2012

Capital Expenditure

This next section of the report looks at capital expenditure and examines proposed changes to the program.

General Fund - Capital Budget - Source and Application of Funds (\$'000)

General Fund Capital works	Original Budget 2012/13 \$'000	September Budget \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for Approval \$'000	December Budget \$'000	Actual to December \$'000
General fund Capital Funding							
General revenue	3,077	3,005		3,005	4	3,009	
Reserves	9,124	12,530	928	13,458	1,357	14,815	
Loans	7,200	11,581		11,581	475	12,056	
Section 94 contributions	194	2,349		2,349	234	2,583	
Grants and contributions	11,950	12,376		12,376	(3,473)	8,903	
Total Funding	31,545	41,841	928	42,769	(1,403)	41,366	0
General fund capital Expense							
<i>Strategic and Community Services</i>							
Art Gallery	0	12		12	6	18	11
<i>General Manager's Group</i>							
Information Services	25	25		25	0	25	20
Property Management (Commercial)	710	874		874	(106)	768	110
Property Management (Community)	7,508	10,452		10,452	54	10,506	3,573
Camping Ground	0	10		10	0	10	0
Ballina Airport	3,752	5,725		5,725	59	5,784	3,239
<i>Regulatory services</i>							
Animal shelter	340	616		616	0	616	92
<i>Civil Services</i>							
Asset Management	150	258		258	48	306	182
Stormwater	665	695		695	(18)	677	115
Roads and Bridges	9,066	11,864	928	12,792	134	12,926	7,744
Ancillary Transport Services	915	1,301		1,301	(30)	1,271	489
Town Beautification	2,300	3,492		3,492	50	3,542	2,571
Water Transport and Wharves	0	162		162	0	162	171
Open space -parks and reserves	279	348		348	0	348	181
Open Space - Sporting Fields	310	331		331	0	331	134
Cemeteries	0	30		30	0	30	19
Fleet and Plant	900	900		900	2,096	2,996	1,202
Waste Management	4,625	4,746		4,746	(3,696)	1,050	351
Total Capital expense	31,545	41,841	928	42,769	(1,403)	41,366	20,193

General Fund - Capital Budget

Funding for capital works has reduced from the September quarter by \$475,000. Details of the major adjustments to the program follow. The two most significant changes to the capital program relate to Landfill and Resource Management (\$3.7 million decrease) and Fleet and Plant (\$2 million increase).

General Manager's Group

Property Management (Commercial): A budget of \$110,000 for development work at Southern Cross Estate is not required and the transfer from reserve has been removed.

10.9 Financial Review - Quarter Ended 31 December 2012

Property Management (Community): The budget for legal costs associated with the Lennox Head Cultural and Community Centre has been increased by \$40,000 to \$72,000. Purchase expenses to buy 74 and 78 Tamar Street have been increased by \$12,000 to cover legal costs. Increased expenditure budgets have been financed from reserves.

Ballina Airport: Works associated with the apron extension are exceeding budget and a further \$50,000 has been added to the forecast project cost. These funds have been sourced from the loan taken out to finance the runway overlay.

Civil Services

Asset Management: Council approved expenditure of \$48,000 on the Administration building to provide energy efficient lighting. Funds for this work have been sourced through a contribution of \$15,000 from Water/Sewer/Waste, \$18,000 from an anticipated grant and the remainder by reducing the budgets for five different cost centres across all of the Groups.

Stormwater: Budget of \$18,000 was relocated from Coogee Street drainage (Stormwater) to Cumbalum culvert (Roads and Bridges).

Roads and Bridges: There have been a number of changes to the roads capital budget which are summarised below.

Project	Budget amendment	Comment
Eltham Bridge	Increase by \$15,000	Extra budget to pay for ongoing vegetation management funded from Roads to Recovery grant.
Yellow Creek Bridge	Increase by \$15,000	Extra budget to pay for ongoing vegetation management funded from Roads to Recovery grant.
Wardell Road blackspot	Increase by \$12,000	Funding from RMS
Rifle Range Road	Increase by \$204,000	Funding from RMS
McLeay Culvert	Decrease by \$101,000	Works carried out under budget by
Cumbalum Interchange	Decrease by \$233,000	By Pass Alliance, loan funding reduced
Green Street upgrade	Decrease by \$50,000	Budget transferred to Alstonville town centre upgrade to fund disposal of extracted material.
Ballina Road blackspot	Increase by \$17,000	Funding from RMS
Various rural roads	Increase by \$206,000	Upgrade of various roads funded from Heavy Vehicle Haulage contribution plan.
Bentnick Street	Increase by \$31,000	Funded by RMS
Cumbalum culvert	Increase by \$18,000	Budget transferred from Stormwater
Net change	Increase by \$134,000	

Ancillary Transport Services: A budget was available of \$180,000 for the installation of energy efficient street lighting. The work has been completed at a cost of \$150,000. Unexpended funds have been returned to reserve.

Alstonville Town Beautification: Additional budget to \$50,000 transferred to Alstonville Town Centre from Green Street upgrade.

10.9 Financial Review - Quarter Ended 31 December 2012

Fleet and Plant Management: The intent was that in 2011/12 Council would borrow funds to expand the plant fleet. All the purchases did not occur in 2011/12 so the borrowing did not occur either. It is proposed to purchase the additional fleet in the current year and estimated capital expense has been increased by \$2,096,000 to approximately \$3 million. These expenses will be funded using a combination of reserves, profits and borrowings to \$1 million.

Landfill and Resource Management: The budget included grant funds and capital expense of \$4.3 million for the biochar project. The grant and capital expense have been reduced by \$3.8 million to \$500,000 to more accurately reflect current year forecasts. The capital works program funded from the levy reimbursement has been increased by \$104,000 to comply with reporting to the State Government on how the funds will be applied.

Water - Capital Budget - Source and Application of Funds (\$'000)

General Fund Capital works	Original Budget 2012/13 \$'000	September Budget \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for Approval \$'000	December Budget \$'000	Actual to December \$'000
Water Capital Funding							
Reserves	450	500		500	25	525	
Section 64 contributions	7,170	7,227		7,227	(5,047)	2,180	
Grants & Contributions	0	0		0	125	125	
Total Funding	7,620	7,727	0	7,727	(4,897)	2,830	
Water Capital Expense							
Water storage	3,500	3,500		3,500	(1,500)	2,000	0
Pump Stations	360	360		360	(180)	180	0
Trunk mains	3,310	3,367		3,367	(3,367)	0	0
Other	450	500		500	150	650	115
Total Capital expense	7,620	7,727	0	7,727	(4,897)	2,830	115

The water program has been reduced to reflect current information. There was one addition to the program which is the inclusion of the Civica assets management system to \$150,000.

Wastewater - Capital Budget - Source and Application of Funds (\$'000)

General Fund Capital works	Original Budget 2012/13 \$'000	September Budget \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for Approval \$'000	December Budget \$'000	Actual to December \$'000
Sewer Capital Funding							
Reserves	15,626	21,822		21,822	(2,892)	18,930	
Grants	0	0		0	10	10	
Loans	17,800	17,800		17,800	0	17,800	
Total Funding	33,426	39,622	0	39,622	(2,882)	36,740	
Sewer Capital Expense							
Treatment Plants	21,971	24,840		24,840	1,950	26,790	9,756
Recycled Irrigation	2,900	3,594		3,594	(320)	3,274	161
Pump Stations	2,156	2,464		2,464	(1,606)	858	353
Trunk Mains	3,007	4,350		4,350	(416)	3,934	1,138
Other	3,392	4,374		4,374	(2,490)	1,884	149
Total Capital expense	33,426	39,622	0	39,622	(2,882)	36,740	11,557

The wastewater capital program has been adjusted based on current information. Projects not completed in the current year have been put into later years.

10.9 Financial Review - Quarter Ended 31 December 2012

Investments

The next table shows details of the projected cash and investments.

	Original Budget 2012/13 \$'000	September Budget \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for approval Dec \$'000	Revised Budget December \$'000	Actual YTD \$'000
Unrestricted	1,097	997	0	997	0	997	0
Externally Restricted							
- Section 94	7,503	5,283		5,283	(475)	4,808	
- Domestic Waste M'tment	395	981		981	60	1,041	
- Unexpended Grants/loans	(505)	6,693		6,693	(77)	6,616	
- Other	150	189		189	(17)	172	
- Section 64 Water	1,537	1,690		1,690	4,728	6,418	
- Water	1,407	1,955		1,955	320	2,275	
- Section 64 Sewer	5,820	5,940		5,940	(210)	5,730	
- Sewer	10,520	6,025		6,025	3,202	9,227	
Total Externally Restricted	26,827	28,756		28,756	7,531	36,287	0
Internally Restricted							
- Employee Leave Entitlements	1,463	1,715		1,715	(20)	1,695	
- Plant Replacement	925	1,192		1,192	(1,096)	96	
- Quarries	1,534	1,549		1,549	84	1,633	
- Properties activities	4,397	3,728		3,728	470	4,198	
- Properties Refurbishment	1,582	1,154		1,154	14	1,168	
- Management Plans & Studies	471	558		558	(231)	327	
- Cemeteries	59	120		120	0	120	
- Landfill Management	1,961	1,831		1,831	(450)	1,381	
- Civil Works	1,259	3,151	(928)	2,223	(176)	2,047	
- Other	110	155		155	(39)	116	
Total Internally Restricted	13,761	15,153	(928)	14,225	(1,444)	12,781	0
Total Restricted	40,588	43,909	(928)	42,981	6,087	49,068	0
Total Cash and Investments	41,685	44,906	(928)	43,978	6,087	50,065	0

The unrestricted cash figure is not inclusive of transactions that would normally be included when calculating working capital; i.e. it is exclusive of movements in items such as debtors and creditors. The available cash figure is taken from note six of the financial statements as at 30 June 2012. Council does not track movements in available cash on a quarterly basis.

Statements

1. Council's investments are all in accordance with the Local Government Act, the regulations and Council's investment policy.
2. As per the investments summary for December 2012, funds invested amounted to \$83,390,000. All restricted monies are included in these investments.
3. Cash has been reconciled to the bank statement as at 30 December 2012 to the amount of \$2,200,576.

10.9 Financial Review - Quarter Ended 31 December 2012

4. Actual year to date cash and investments amount of \$85,590,576 as at 31 December 2012. This amount includes cash at bank of \$2,200,576 and funds invested of \$83,390,000 which has been reconciled to bank statements and investment reports.

Bank Reconciliation Summary as at 31 December 2012

Balance as per Bank Statement	6,866,712
Less Unpresented Cheques	4,753,172
Sub Total	2,113,540
Plus Outstanding not Credited	143,675
Sub Total	2,257,215
Less Amounts Deposited at end of month not in ledger	56,639
Balance as per ledger	2,200,576

Comment on Cash and Investment Position

The forecast reserves position has increased from \$44.9 million to \$50 million. In this movement there has been an increase in external reserves of \$7.5 million and a decrease in internal reserves of \$2.4 million. Details of the major changes are summarised below.

Forecast Section 94: Decreased due to a combination of reductions to forecast income (interest and capital) and funds transferred from the reserves to finance road works, review the car parking plan and pay for accrued interest on a loan taken up half way through the year.

Water Operations: Increases to forecast reserves reflect reductions to the capital works program and a forecast increase in operating surplus.

Wastewater Operations: Increases to forecast reserves reflect reductions to the capital works program and a forecast increase in operating surplus.

Plant Replacement: Capital works were essentially being funded from forecast operating surplus however with the increase to the capital program reserves funds are required.

There have also been adjustments between internal and external reserves that more correctly reflect the status of the funds reserved.

Key Performance Indicators

The next section of the report takes selected financial benchmarks that have been adopted by Council and compares the 30 June 2011 and 2012 ratios with the forecast at December to 30 June 2013. The performance indicators that have been selected have a short term focus which suits the quarterly review, which also tends to focus on the short term.

To forecast performance indicators numerous assumptions must be made so it is far from an exact science. It is also the case that, with many of the indicators, a fairly large change to the current budget is required to materially change the ratio forecast. Hence the ratio forecast each quarter is likely to be similar and therefore similar comments remain appropriate.

The actual and forecast performance indicators measured against the benchmark provide an important insight into the financial well-being of the organisation.

10.9 Financial Review - Quarter Ended 31 December 2012

The indicators should be used to assist financial policy and strategy.

Key Performance Indicators - General Fund

1. Unrestricted Current Ratio - Unrestricted current assets divided by unrestricted current liabilities. The purpose of this ratio is to measure Council's ability to meet its short term liabilities with its short term assets.

Benchmark: >2:1 (The benchmark of 2:1 is taken from the Local Government Financial Professionals Health Check. This is a conservative benchmark. It is noted that the auditors report uses a benchmark of 1.5:1)

2010/11	2011/12	2012/13
Actual	Actual	Estimate
2.75	2.9	1.5
Pass	Pass	Fail

Comment

This ratio has traditionally been very strong as Council has held solid cash reserves and limited borrowings. The 2012/13 budget will convert cash into infrastructure with reserves to be expended on projects such as the Ballina Surf Club, Animal Shelter, Town Centres and Cycleways. Also loans are proposed for roads, Ballina Town Centre, the airport and plant fund amounting to \$16.15 million.

The ratio forecast is that it will go beneath the 2:1 benchmark. Obviously this forecast will vary depending on the timing of loan take up and capital works however it does seem quite likely that the benchmark will not be achieved.

Assuming the ratio does fall below the benchmark, going forward it will be important to minimise borrowings and endeavour to increase unrestricted current cash reserves.

2. Debt Service Ratio – Loan principal and interest payments divided by revenue from continuing operations excluding capital items and specific purpose grants and contributions (as per note 13). The purpose of this measure is to test whether Council has excessive debt servicing costs relative to revenue.

Benchmark: <12%

2010/11	2011/12	2012/13
Actual	Actual	Estimate
6.70	6.0	9.0
Pass	Pass	Pass

Comment

The ratio is forecast to rise as borrowings, described in the ratio above, begin to take effect. It has been assumed that some of the 2012/13 loans will not affect the ratio this financial year as repayments will not occur until the following year.

10.9 Financial Review - Quarter Ended 31 December 2012

For example a new \$1 million borrowing for plant fund was added to the budget this quarter however it will not affect this ratio for 12 months.

By 2013/14 it is estimated that the ratio will verge on the 12% benchmark as the full effect of the 2012/13 loans come into play.

The indicator is suggesting the current borrowing program will result in 11% to 12% of revenue being tied up to repay debt and that it is not desirable to take out further borrowings.

3. Operating Balance Ratio - Net operating result from continuing operations (excluding capital items) as a percentage of operating revenue (excluding capital items). The purpose of this percentage is to measure whether the Council is sustainable in terms of its operating result.

Council should not be recording recurring operating deficits or funding operating results from capital revenues.

Benchmark: < (10)

2010/11	2011/12	2012/13
Actual	Actual	Estimated
(4)	(12)	(17)
Pass	Fail	Fail

Comment

The forecast is for a loss that exceeds the negative 10% maximum which is not satisfactory.

Certainly depreciation, which has been increasing as assets are revalued, has had a negative impact on this ratio and Council is currently reviewing all depreciation estimates to make sure they are as accurate as possible. However based on the latest figures Council has over \$1 billion in assets (all funds) under its control and there is a heavy renewal burden associated with such a large asset base. Also in being negative 10%, the benchmark ratio is providing some tolerance for an operating loss.

It is important to point out that the General Fund operating result, exclusive of non cash items such as depreciation, has been improving over the last few years. This is partially due to progressive increases to the ordinary rate above the rate pegging limit and close attention to recurrent expenses.

Also the forecast can be distorted by numerous issues and forecasting this ratio is filled with assumptions. For example the forecast operating result does not include approximately 50% of income from the Federal Assistance Grant (FAG). This is because we actually received the money last financial year as a prepayment. It may be that we will receive a similar pre payment this financial year which would change the forecast ratio to a loss of 13% as opposed to 17%.

10.9 Financial Review - Quarter Ended 31 December 2012

The ratio does highlight that the operating result is a matter for concern, particularly when the forecast is that this will continue for some years in to the future. Continuing losses of this magnitude are indicating that operations are not sustainable at this same level over the long term. It is suggesting that the current generation is creating liabilities for future generations.

Corrective action may take the form of increasing operating revenue, decreasing operating expense or a combination of the two.

4. Available Working Funds (General Fund Only) - Total of cash, investments, receivables and inventory assets less total payables, liabilities, externally restricted receivables, internally and externally restricted investments and real estate inventory. The benchmark is set at \$3 million which is based on percentages of income and expenses. The purpose of this measure is to show Council's short term ability to cover financial shocks whether they be reductions in anticipated revenues or unplanned additional expenditure.

Benchmark: \$3,000,000

2010/11	2011/12	2012/13
Actual	Actual	Estimate
\$2.8m	\$3.5m	\$3.4m
Fail	Pass	Pass

Comment

The available working funds benchmark has been achieved and based on current forecasts the position will be similar to the start of the year.

Funds were set aside at the end of last year to increase working funds and this has assisted the result for 30 June 2012.

Benchmark Indicators - Water

1. Unrestricted current ratio - Unrestricted current assets divided by unrestricted current liabilities. The purpose of this ratio is to measure Council's ability to meet its short term liabilities with its short term assets.

Benchmark: >2:1 (The benchmark of 2:1 is taken from the Local Government Financial Professionals Health Check. It could be argued that this is a conservative benchmark. It is noted that the auditors report uses a benchmark of 1.5:1)

2011/12	2012/13
Actual	Estimate
34	30
Pass	Pass

10.9 Financial Review - Quarter Ended 31 December 2012

Comments

The Fund is in a very strong position from the balance sheet perspective with almost no debt. The September forecast assumed that a lot of the available cash would be converted into non current assets via the capital works program. However forecast capital works has been reduced so the forecast for the ratio has increased to levels approaching the 2011/12 outcome.

2. Debt Service Ratio - Loan principal and interest payments divided by revenue from continuing operations excluding capital items and specific purpose grants and contributions (as per Note 13). The purpose of this percentage is to measure whether Council has excessive debt servicing costs, relative to operating revenue.

Benchmark: < 12

2010/11	2011/12	2012/13
Actual	Actual	Estimate
0.05	0.00	0.00
Pass	Pass	Pass

Comments

The Fund is virtually debt free so passes this benchmark with ease.

3. Operating Balance Ratio - Net operating result from continuing operations (excluding capital items) as a percentage of operating revenue (excluding capital items). The purpose of this percentage measures whether the Council is sustainable in terms of its operating result. Council should not be recording recurring operating deficits or funding operating results from capital revenues.

Benchmark: < (10)

2010/11	2011/12	2013/13
Actual	Actual	Estimate
(24.26)	(22)	(21)
Fail	Fail	Fail

Comments

The operating position of Water Fund has improved from the September forecast however the outlook remains unsatisfactory. A loss of \$1.9 million is forecast which is consistent with recent years. Again long term sustainability must be questioned. The strategy must be to improve the operating performance of this Fund to at least achieve the benchmark of negative 10.

Benchmark Indicators - Wastewater

1. Unrestricted current ratio - Unrestricted current assets divided by unrestricted current liabilities. The purpose of this ratio is to measure Council's ability to meet its short term liabilities with its short term assets.

10.9 Financial Review - Quarter Ended 31 December 2012

Benchmark: >2:1 (The benchmark of 2:1 is taken from the Local Government Financial Professionals Health Check. It could be argued that this is a conservative benchmark. It is noted that the auditors report uses a benchmark of 1.5:1)

2010/11	2011/12	2012/13
Actual	Actual	Estimate
9.7	8.2	3.2
Pass	Pass	Pass

Comments

The ratio is predicted to fall as cash reserves are expended on the upgrade program. There will be a further decline to the ratio once the current portion of the loan facility is recognised and unexpended loan funds, currently sitting in reserves are expended.

2. Debt Service Ratio - Loan principal and interest payments divided by revenue from continuing operations excluding capital items and specific purpose grants and contributions. (as per Note 13). The purpose of this percentage is a measure of whether Council has excessive debt servicing costs, relative to operating revenue.

Benchmark: <12

2010/11	2011/12	2012/13
Actual	Actual	Estimate
9.40	21	33
Pass	Fail	Fail

Comments

The ratio is indicating that the amount of recurrent income tied up repaying debt is excessive. However whilst the ratio is very poor the financial plan takes the debt and associated repayments into account.

The real strength of wastewater fund is the guaranteed income source from annual charges and the fact that the charging structure is at council's discretion. This means that major capital works can be financed with a high level of confidence.

The ratio is likely to be unsatisfactory for some years and gradually improve.

3. Operating Balance Ratio - Net operating result from continuing operations (excluding capital items) as a percentage of operating revenue (excluding capital items). The purpose of this percentage is whether the Council is sustainable in terms of its operating result. Council should not be recording recurring operating deficits or funding operating results from capital revenues.

10.9 Financial Review - Quarter Ended 31 December 2012

Benchmark: < (10)

2010/11	2011/12	2012/13
Actual	Actual	Estimate
(11)	(22)	(23)
Fail	Fail	Fail

Comments

An operating loss of \$2.8 million is forecast. The short term goal is to achieve an operating surplus, exclusive of depreciation, that will fund impending loan repayments. The improvement forecast at the December review assists this target.

Contractors

The table below provides details of contracts entered into in the December quarter. Contracts below \$50,000 are not included.

Contractor Name	Purpose	Amount \$	Start Date	Duration of Contract	Incl in Budget Y/N
Biolink	Koala survey	50,000	1/11/12	1 year	Y
Bennett Constructions	Ballina surf club	3,245,000	17/9/12	1 year	Y
Hazell bros	Airport apron	3,854,000	1/10/12	6 months	Y
RPQ p/l	Supply bitumen	variable	1/10/12	3 years	Y
Boral Ashphalt	Supply bitumen	variable	1/10/12	3 years	Y
Peachy constructions	Wollongbar fields	1,761,000	15/11/12	1 year	Y
Murphy McCarthy & Ass	Recycled water	11,053,000	Dec 12	1 year	Y
Civica p/l	Asset system	250,000	Dec 12	1 year	Y

Consultants

The table below summarises the expense incurred to date on consultants. The definition of consultants includes a person or organisation engaged under contract on a temporary basis to provide recommendations or high level specialist advice or professional advice to assist decision making by management. The focus has been to include only those consultants providing strategic direction.

Item	Expenditure YTD	Included in Budget Y/N?
Consultancies	6,000	Y

Legal Expenses

The table below summarises the expense incurred to the end of December on legal fees. For the purposes of the report legal fees have been included where there is a dispute situation. This includes for example recovery of rates not paid but excludes processing of infringement notices (no dispute at this point) and amounts paid to legal firms that may be related to the creation of a lease or sale of land.

10.9 Financial Review - Quarter Ended 31 December 2012

	Expenditure YTD	Included in Budget Y/N?
Legal Fees	110,000	Y

Statement

The following statement is made in accordance with clause 203(2) of the Local Government (General) Regulations 2005.

It is my opinion that the Quarterly Budget Review Statement for Ballina Shire Council for the quarter ended 31/12/2012 indicates that Council's projected financial position at 30 June 2013 will be satisfactory* at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

* The satisfactory position is based on the short term (twelve month) outlook. Council is forecasting operating losses, inclusive of depreciation and exclusive of capital grants, on both a consolidated and fund basis into the foreseeable future.

From a long term perspective Council needs to work towards an operating surplus.

Signed Peter Morgan, Responsible Accounting Officer

Sustainability Considerations

- **Environment**
This report encompasses the entire Council budget and as such has implications for environmental, social and economic outcomes. Council needs to bear in mind the implications of allocating or not allocating resources to particular works and services.
- **Social**
See above
- **Economic**
See above

Legal / Resource / Financial Implications

This report informs Council of actual financial results to date in comparison to budget. Where legal ramifications are envisaged they are detailed within the information section of this report.

Consultation

This report has been prepared to inform the community of budget variations.

Options

Council may approve the budget amendments proposed, make changes or not approve any changes. It is considered that the proposed changes reflect either Council policy or necessary adjustments that reflect the trending of actual incomes and expenses.

RECOMMENDATION

That Council notes the contents of the December 2012 Quarterly Budget Review and approves the changes identified within this report.

Attachment(s)

Nil

11.1 Local Traffic Committee Report - February 2013

11. Civil Services Group Reports

11.1 Local Traffic Committee Report - February 2013

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 February 2013

Background

The Local Traffic Committee (LTC) met on 13 February 2013. 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 seven business items of which one item requires 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 item is referred to Council for its determination. Further background details are available in the LTC agenda previously circulated to Council.

a) **Request Speed Zone Reduction – Broken Head Road**

The Committee reviewed a request seeking to lower the speed limit on Broken Head Road from 80kph to 60kph. The recommendation for Council to request the RMS to complete the speed zone and delineation review was endorsed.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Traffic matters typically have social impacts.
- **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 RMS 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.

RECOMMENDATION

That the Council request the RMS complete a speed zone and delineation review of Broken Head Road.

Attachment(s)

Nil

11.2 Tender - Design and Contract Administration - Wollongbar Sports Fields

11.2 Tender - Design and Contract Administration - Wollongbar Sports Fields

Delivery Program Commercial Services

Objective To obtain Council approval to award the contract for the detailed design and contract administration – 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. 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 detailed design and construction of the access road, drainage, playing fields, tennis and netball courts and buildings during 2013.

The preliminary design of civil/ground works was completed in September 2012 and the tender for the civil/ground works was awarded in October 2012. These works are proceeding and should be completed in April 2013.

Registrations of interest for a contract for the design of the second part of the work was advertised in October 2012, with six companies being shortlisted and asked to submit formal tenders.

Key Issues

- Award the tender in accordance with the Local Government (General) Regulations 2005.
- Engage a suitably qualified and experienced consultant 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

The tender documentation required tenderers to submit a lump sum amount for the design and documentation component of the works and a schedule of rates for the contract administration and supervision based on hourly rates.

Tender responses were received from the following companies:

Tenderer	Amount (excluding contract administration)
GeoLink Environmental Management & Design	\$ 116,650
Complete Urban Pty Ltd	\$ 138,850
Ardill Payne & Partners	\$ 143,550
Cardno (QLD) Pty Ltd	\$ 149,000
TGM Group Pty Ltd	\$ 199,845
Arup Pty Ltd	\$ 254,285

Based on the tendered amounts, TGM Group Pty Ltd and Arup Pty Ltd were not considered further in the tender evaluation.

11.2 Tender - Design and Contract Administration - Wollongbar Sports Fields

The final cost of this contract will be dependant on the actual construction period, which will be determined when tenders are resolved to undertake the construction works. Therefore to assess the expected total cost of the project, the evaluation team applied the various hourly rates from each tenderer and calculated the expected contract administration and supervision costs for an estimated construction period of 20 weeks. This resulted in the following calculations.

Tenderer	Amount (including contract administration)
GeoLink Environmental Management & Design	\$ 201,445
Complete Urban Pty Ltd	\$ 206,224
Ardill Payne & Partners	\$ 231,535
Cardno (QLD) Pty Ltd	\$ 226,610

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

Total Price	60%
Conformity with Project Objectives	20%
Methods for Project Delivery	10%
Timing of Works	10%

The tender evaluation panel, consisting of two Council staff and a consultant engineer, then assessed each of the tenders against the above criteria and a summary of the rankings follows.

Evaluation Criteria	GeoLink Environmental Management & Design	Complete Urban Pty Ltd	Ardill Payne & Partners	Cardno (QLD) Pty Ltd
Total Price	60.0%	58.6%	51.0%	52.5%
Conformity with Project Objectives	9.0%	10.0%	10.0%	16.0%
Methods for Project Delivery	5.8%	4.8%	5.5%	7.6%
Timing of Works	8.0%	8.0%	8.0%	8.0%
Total	82.8%	81.4%	74.5%	84.1%

Based on the tender submissions Cardno (QLD) Pty Ltd although not providing the lowest priced tender, has ranked highest in the tender evaluation. Cardno (QLD) Pty Ltd is a very experienced organisation and has undertaken the design of a number of sporting fields similar in nature to the Wollongbar sporting fields. Additionally, Cardno (QLD) Pty Ltd have proposed an experienced sports playing field specialist to advise on both the natural and artificial playing surfaces.

With this being an entirely new sporting complex for the Shire the input from a specialist in sporting field design was considered to be very important in the evaluation process.

Sustainability Considerations

- **Environment**
Not Applicable

- **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 significant community infrastructure for Ballina Shire.

- **Economic**
The grant funding available creates economic development through the provision of more affordable land through a discount in the developer contributions payable.

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.

1. Council may determine not to accept any of the tenders received and invite fresh tenders.

2. Council may award the contract to Cardno (QLD) Pty Ltd to undertake the detailed design of the sporting fields, access roads and carparks and contract administration of the Wollongbar Sporting Fields.

Option one is not recommended as Council has undertaken the tender process in accordance with the Local Government (General) Regulations 2005.

Option two is recommended as the preferred option as the tender assessment indicates that a reliable market has been established and the assessment by the evaluation panel has determined the preferred tenderer.

RECOMMENDATIONS

1. That Council accepts the tender for the design and contract administration – Wollongbar Sports Fields from Cardno (QLD) Pty Ltd.
2. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

11.3 Tintenbar to Ewingsdale (T2E) - Road Naming Report

11.3 Tintenbar to Ewingsdale (T2E) - Road Naming Report

Delivery Program Asset Management

Objective To determine road names for new or changed roads within Ballina Shire due to the Tintenbar to Ewingsdale Pacific Highway upgrade

Background

There are road changes to occur due to the Pacific Highway upgrade from Tintenbar to Ewingsdale (T2E). In response to this, some roads require naming or renaming in accordance with the Council policy for the "Naming of Roads and Bridges."

RMS has undertaken the community consultation and has presented a list of preferred names.

Council is the roads authority for local roads and RMS is the roads authority for the current Pacific Highway. The proposed names for local roads now require Council to endorse the preferred (or other names) for exhibition.

After this exhibition period the names can be adopted by Council and gazetted.

As the old Pacific Highway is within both Ballina and Byron Shires, RMS has conducted the consultation with land owners and chaired the 'Business Signage Strategy Group'. The RMS and this group have determined a preferred name and present this to Council for endorsement.

Key Issues

- To endorse the preferred name

Information

The first step in the process to name or rename these roads is to seek suggestions from the community, especially residents impacted by new or affected roads.

The RMS undertook the community consultation process for the old Pacific Highway as the project covered land in both Ballina and Byron Shires and the initial consultation process for the local roads in Ballina Shire.

Part One – Roads within Ballina Shire

These road name suggestions are now presented to the Council for endorsement, or otherwise, prior to exhibition.

11.3 Tintenbar to Ewingsdale (T2E) - Road Naming Report

	Road Location	Proposed Road Name(s)
1.	Extension to Saddle Road – this road starts from the Ross Lane interchange and runs along the western side of the motorway for approximately 5km and will provide road access for approximately 20 properties	Saddle Road
2.	Local Road B – this road starts at Ch 18900 on the eastern side of the motorway and will provide road access for two properties	Creekside Lane
3.	Local Road C – this road starts at Ch 19000 on the western side of the motorway and will provide road access for three properties	William Johnson Road or Delserene Lane
4.	Local Road F – this road provides a link between the old highway and the proposed Saddle Road. There is one property access from this section of road.	School Lane Or Old Schoolhouse Lane
5.	Kinvara Ridge Road – this road is currently the exit ramp from the Pacific Highway to the Ross Lane roundabout	Renaming to Hinterland Way

Item One – Saddle Road

The southernmost section of Saddle Road was named in conjunction with the Ballina Bypass works. This road will continue northwards along the western side of the motorway. The consultation process identified a resident who preferred that the road be called Cedar Lane. In accordance with our policy, the name ‘Cedar’ has already been used elsewhere in the Shire and is therefore unacceptable. As some properties have been addressed to Saddle Road already, it is appropriate to leave the existing name as is. It is therefore recommended the extension of Saddle Road be proposed to be named Saddle Road.

Item Two – Local Road B

This new road starts at about Ch 18900 on the eastern side of the motorway adjacent to the upper reaches of Emigrant Creek. The name suggested from the community consultation is Creekside Lane and is considered appropriate. It is recommended the new local road B be proposed to be named Creekside Lane.

Item Three – Local Road C

This section of road starts at about Ch 19000 on the western side of the motorway and will provide road access for three properties.

The names suggested from the community consultation are William Johnson Road and Delserene Drive.

William Johnson has been suggested as this is the name of a past landowner in this location. It is considered beneficial to avoid the use of long two worded names that may cause some confusion as these names are used separately elsewhere in the shire.

11.3 Tintenbar to Ewingsdale (T2E) - Road Naming Report

Delserene has been suggested as this was the name of a past property at this location and is considered appropriate. The community feedback sheet circulated by RMS used 'Drive' as the suffix to the name. As this is a short rural access road with a cul-de-sac turning head, the road type is more suited to be called 'Place'. It is recommended the new local road C be proposed to be named Delserene Place.

Item Four – Local Road F

This section of road starts at about Ch 15000 and provides a link between the current highway and the proposed Saddle Road. There is one property access from this section of road.

The community feedback sheet circulated by RMS had five suggested road names being:

- School Lane
- Old Schoolhouse Lane
- Graham Lane
- Fraser Lane
- Havinder Lane

All these names have some relevance, however the old Knockrow Public School site is nearby to this road and is considered a suitable name. It is recommended the new local road F be proposed to be named School Lane.

Item Five – Renaming of Kinvara Ridge Road

The southernmost section of what will become the old Pacific Highway at Tintenbar was previously named Kinvara Ridge Road as part of the Ballina Bypass project.

The T2E design changes since then now have one continuous road from the Ross Lane roundabout at Tintenbar all the way to Ewingsdale. This means Kinvara Ridge Road will need to be renamed to have the same name as what will become the old Pacific Highway from Tintenbar to Ewingsdale. This situation cannot be overcome as it is necessary to provide future road signage and numbering to meet the appropriate standards. There will be some inconvenience to those residents along Kinvara Ridge Road during this changeover process.

It is recommended that Kinvara Ridge Road be named the same name as the old Pacific Highway from Tintenbar to Ewingsdale,

Part Two – Road in Ballina & Byron Shires – Old Pacific Highway

The old Pacific Highway will remain as a continuous road link from Ross Lane (Ballina Shire) to Ewingsdale (Byron Shire). As RMS is the authority for this road, it was considered appropriate that RMS undertake the community consultation with all residents along this road as well as public advertisements requesting naming suggestions. RMS also conducted a 'Business Signage Strategy Focus Group' to assess signage and naming associated with the T2E project. An extract from the 1 February 2013 focus group meeting notes are attached where the group's consensus was for Hinterland Way.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The proposed names have a direct link with the respective localities or Ballina Shire generally.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The Council has adopted a policy in respect of road naming and this was developed to be consistent with the Geographical Names Board Guidelines.

Consultation

The community consultation has been undertaken by RMS. The community was informed by a media release, advertisements in local newspapers, at the September and November 2012 project community information sessions, the project website and an email was sent to the project database. A letterbox drop with a feedback form was also delivered to approximately 200 residences along the Pacific Highway between the Ross Lane and Ewingsdale interchanges. The RMS community feedback forms for the local roads are attached to this report for information.

The focus group concluded on balance the way forward, based on the consultation with the community and the feedback received, that RMS should proceed with the signposting strategy and recommend the existing Pacific Highway between the Ross Lane interchange and the Ewingsdale interchange be re-named Hinterland Way.

The RMS consultation also conducted a 'Business Signage Strategy Focus Group' to assess signage and naming associated with the T2E project which considered the old Pacific Highway naming.

The local road names endorsed by Council will require a notice to be published and advice that submissions will be received by the prescribed date in accordance with the policy.

Options

The options for each road name task are discussed above. The preference is to endorse the proposals as presented to Council.

RECOMMENDATIONS

1. That Council adopts Saddle Road as the name for the extension of Saddle Road.
2. That Council approves the public exhibition of the proposal for the road name for local road B to be Creekside Lane.
3. That Council approves the public exhibition of the proposal for the road name for local road C to be Delserene Place.
4. That Council approves the public exhibition of the proposal for the road name for local road F to be School Lane.
5. That Council resolves that the road name for the old Pacific Highway be changed to Hinterland Way.
6. That Council resolves that the Kinvara Ridge Road be renamed Hinterland Way.

Attachment(s)

1. RMS T2E Community Feedback Form - New Local Road Name B
2. RMS T2E Community Feedback Form - New Local Road Name - C
3. RMS T2E Community Feedback Form - New Local Road Name F
4. RMS T2E Business Signage Strategy Focus Group - Extract of Meeting Notes 1 February 2013

11.4 Coastal Zone Management Plan for the Ballina Shire Coastline

11.4 Coastal Zone Management Plan for the Ballina Shire Coastline

Delivery Program Engineering Works

Objective To obtain Council approval to exhibit the draft Coastal Zone Management Plan for public comment.

Background

A workshop was held with Councillors on 28 November, 2012 which included an update on the progress of the draft Coastal Zone Management Plan (CZMP).

A draft Coastal Zone Management Plan was initially completed in 2010, however, redrafting was required in response to legislative changes. A copy of the revised plan has been provided to Councillors under separate cover.

The purpose of this report is to request Council's endorsement for public exhibition of the draft plan.

Key Issues

- Draft Coastal Zone Management Plan prepared for public exhibition and community feedback.

Information

History

Part of the 2010 draft Plan included a section dealing with emergency management for coastal erosion events. This section has now become a stand alone document, "Emergency Action Subplan for Coastal Erosion". This document was placed on public exhibition during July and August 2012, and was subsequently endorsed without receiving further public comment.

The 2010 draft Plan also needed to reconsider any implications arising from NSW State Government Sea Level Rise (SLR) benchmarks. The State Government adopted SLR benchmarks of 0.4m for 20150 and 0.9m for 2100 in late 2009. Council subsequently adopted these same benchmarks as policy at its Ordinary meeting of Council in November 2012 on the basis that the current State Government has rescinded its policy including the SLR benchmarks. Council has adopted the benchmarks due to the core scientific evidence presented by the previous State Government as being the best available information.

An update of the Coastal Hazard zones was undertaken for Lennox Head during 2011, using the 2050 and 2100 SLR benchmarks.

Although the draft CZMP describes coastal erosion along the Shire's coastline, the mapping of Coastal Hazard zones has only occurred at Lennox Head due to vulnerable public and private assets.

11.4 Coastal Zone Management Plan for the Ballina Shire Coastline

A letter report by BMT WBM (Attachment Two) describes the update of the Coastal Hazard assessment for Lennox Head. In summary, there has been accretion of sand since earlier assessments, being the Coastline Hazard Definition Study (WBM, 2003), however together with increased recession due to SLR, has resulted in hazard zones being similar to earlier assessments.

Overall the scope of the draft CZMP remains unchanged due to this assessment, and the draft document has accordingly been finalised.

As noted at the Councillor workshop, the Executive Summary of the draft CZMP provides a synopsis of the plan content, and this is provided as Attachment Three.

Previous Exhibition

As noted, the draft Coastal Zone Management Plan (CZMP) has been prepared for some time. The draft CZMP has undergone redrafting and background material has been updated to meet legislative changes.

Previously, the draft Coastal Zone Management Study was placed on public exhibition during 2008. The result of this public exhibition was reported to Council at a Civil Committee meeting, 9 July 2008. This report can be made available with a request to the Group Manager Civil Services, otherwise the agenda is located on Council's website.

The draft CZMP refers to the engagement of a Community Reference Group (CRG). The CRG was active during the preparation and public exhibition of the above study. However, following Council's endorsement to prepare a draft CZMP, the CRG has not been called upon to comment during the preparation of the draft plan.

Following the public exhibition of the study, there was also further feedback from some residents (Mr Connelly and Mr Thorpe) in relation to the extent of the 2050 and 2100 hazard zones.

This feedback related to the usage of the Hazard Definition Study (WBM, 2003) rather than the coastal zone management study. Further consultation did occur with Mr Connelly and Mr Thorpe, the State Government and the consultants. The outcome has been to continue with the methodology of calculating hazard lines as has been the case, however recognising the opportunity to improve as science and technology evolves.

For example, the consulting team has a staff member involved in computer based coastal modelling. A technical paper was presented to the 18th NSW Coastal Conference, 2009, dealing with the Richmond River training walls. This technical paper is presented as Attachment Four.

Although the draft CZMP does not specifically refer to the application of computer based modelling, the need to monitor and measure coastline changes may lead to such developments.

Overall the challenge for the draft CZMP will be the implementation of longer term protection works.

11.4 Coastal Zone Management Plan for the Ballina Shire Coastline

Specific actions within the draft CZMP are summarised in tables in Section Four. These actions are comprised of:

- Monitoring – Table 4.2
- On going works – Table 4.3; and
- Long term works – Table 4.4

Copies of these Tables are included as Attachment Five. As shown in Table 4.4 the significant challenges for the plan will be the harnessing of stakeholder support and funding for planning and preparation, as well as implementation.

A further recommendation from the draft CZMP, which has not been itemised, refers to the need to update the current DCP for coastal hazards as it applies to the Lennox Head area. This will be amended for the exhibition version of the draft CZMP.

Sustainability Considerations

- **Environment**

The draft CZMP are prepared in accordance with the principles set out in the Coastal Protection Act 1979 which includes environmental values.

- **Social**

The draft CZMP are prepared in accordance with the principles set out in the Coastal Protection Act 1979 which includes social values.

- **Economic**

The draft CZMP are prepared in accordance with the principles set out in the Coastal Protection Act 1979 which includes economic values.

Legal / Resource / Financial Implications

The preparation of the draft CZMP is a requirement of Council and is similar in process to the Floodplain Risk Management Study and Plan process. Furthermore the State Government has re-established a timeline for completion of the draft CZMP for the Lennox Head precinct (Attachment Six).

This follows on from previous reporting about the State Government requirements for completion of the Emergency Action Subplan for Coastal Erosion.

Resource and financial implications are significant considerations into the future, and will need to be implicitly included within further studies, planning and design development.

For the information of Councillors, some grant funds have already been secured from the rollout of the draft CZMP actions.

An amount of \$40,000 has been granted for the investigation of the buried seawall at Lennox Head, and an amount of \$30,000 has been granted for the completion of updating hazards and the draft CZMP, and in particular the review of the Lennox Head coastal DCP.

11.4 Coastal Zone Management Plan for the Ballina Shire Coastline

Consultation

As noted previously in this report, a CRG has been active during the course of this project up to the completion of the draft coastal zone management study.

Furthermore, the Office of Environment and Heritage has been assisting with ongoing review of the draft CZMP with particular reference to the recent legislative changes and document requirements.

The public exhibition of the draft CZMP will require appropriate communication with the community to seek further public comment.

Given the specific interest of Mr Thorpe and Mr Connelly, a letter will be forwarded to these gentlemen advising of the changes and exhibition should Council endorse the recommendation.

Options

There is no option in regard to preparing a draft CZMP, in part due to Ministerial direction. Council can support changes or amendments to the draft CZMP, with the recommendation to proceed to exhibition.

RECOMMENDATION

That Council approves the exhibition of the draft Coastal Zone Management Plan for public comment.

Attachment(s)

1. Draft Coastal Zone Management Plan
2. Letter Report by BMT WMB
3. Executive Summary of the Draft CZMP
4. Technical Paper - Richmond River Training Walls
5. Tables from Section 4 of the Draft CZMP
6. Letter from Minister for the Environment - Timeline for Completion

11.5 Wastewater Treatment Plants Upgrade - Update

11.5 Wastewater Treatment Plants Upgrade - Update

Delivery Program Wastewater

Objective To provide and update on progress of the upgrade of the Ballina and Lennox Head Wastewater 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 reports have been provided to Council on a quarterly basis 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

- The construction of the MBR, Aeration and Anoxic tanks have been completed, with the mechanical equipment test run, and the plant being seeded with activated sludge ready for operation
- The inlet works have been completed, and the equipment test run ready for operation
- The blower room and switchboard room have been completed, the installation of the blowers completed, and now in operation
- The amenities building structure is complete, the internal fitout including kitchen, wet area, flooring electrical and plumbing completed and in operation
- 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. The second sludge lagoon has now been decommissioned
- The main electrical switchboard construction is completed and installed, a new transformer installed on the site, and is now powered up
- Electrical conduit and cable installation is complete for the sewage treatment area – it has not yet commenced for the sludge handling facilities
- 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
- Civil works on the sludge buildings has commenced

11.5 Wastewater Treatment Plants Upgrade - Update

- Training of Council operating and maintenance staff is occurring

For the Lennox Head site, the following is reported.

- 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
- Electrical cabling and connection works are currently occurring
- The RW concrete reservoir is fully completed
- The foul water pump station is complete
- The chemical storage area concrete bunds, roofing structure, tanks pumps and pipework have been constructed and installed – electrical connections are outstanding
- The emergency generators have been installed.

Cost of Work Completed

\$38,620,573 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
22	Automatic Greasing system for Belt Press	17,659.95
	Total	3,030,189.66

11.5 Wastewater Treatment Plants Upgrade - Update

Progress to Schedule

The last report to Council noted the resolution of the Delay Claim by the Contractor and the granting of a revised Completion date of 23 August 2013. It is noted that with further extensions due to inclement weather likely during 2013, 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, and the ebb-tide discharge reservoir.

Commissioning works for the MBR WWTP are currently occurring, and it is anticipated that it will be fully in service in February/March 2013, with demolition of the old plant commencing immediately after, 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 in place.

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

For the Haslin Constructions contract, there have been twenty two approved variations to date for a sum of \$3,030,189.66. As detailed above there was a significant variation required for the changes to the effluent streams.

It is anticipated that further variations will be within the contingency for this contract and no variation is currently be required to the budget.

Consultation

This report is provided for the public record.

11.5 Wastewater Treatment Plants Upgrade - Update

Options

This report is for information only.

RECOMMENDATION

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

12. Public Question Time

12. Public Question Time

13.1 Notice of Motion - River Street Banner

13. Notices of Motion

13.1 Notice of Motion - River Street Banner

Councillor Cr Cadwallader

I move

- 1) As part of the 2013/14 budget considerations Council receive information on the cost and practicalities of providing infrastructure that would allow banners to be promoted across the main streets of the town centres (i.e. River Street – Ballina, Ballina Street – Lennox Head etc) to assist in promoting the various activities occurring in our Shire.

2)

Councillor Comment

- 3) Council traditionally provided a service where banners could be hung across the main street to promote activities. Due to issues such as work health and safety and instalment costs this activity was ceased and Council provided banner poles for the promotion of events etc. The banner poles are effective however this promotion could be improved through appropriate infrastructure being provided that could result in a banner being promoted across the main street. Other councils still do this and this infrastructure, so long as it minimised the costs and risk associated with putting up and pulling down the banners, could assist in promoting our Shire.

COUNCILLOR RECOMMENDATION

- 4) As part of the 2013/14 budget considerations Council receive information on the cost and practicalities of providing infrastructure that would allow banners to be promoted across the main streets of the town centres (i.e. River Street – Ballina, Ballina Street – Lennox Head etc) to assist in promoting the various activities occurring in our Shire.

Attachment(s)

Nil

13.2 Notice of Motion - Forced Amalgamations

13.2 Notice of Motion - Forced Amalgamations

Councillor

Cr Jeff Johnson

I move that

1. BSC write to the NSW Local Government Minister and local MP Don Page, expressing Ballina Council's opposition to any forced amalgamation of Ballina Shire Council.
2. BSC seek confirmation in writing from the NSW Planning Minister, Brad Hazzard, and the Local Government Minister Don Page, that they will not approve or initiate the forced amalgamation of Ballina Shire Council.
3. BSC supports a binding plebiscite of all residents of our LGA on any proposed amalgamation before any amalgamation is proceeded with.

Councillor Comment

Premier O'Farrell, prior to the March 2011 NSW election, stated that there would be no forced amalgamations of local councils under his government. Despite these comments, it appears that forced amalgamations are back on the agenda of the NSW Government. An independent (Government endorsed) panel on restructuring councils is expected to recommend in March that there be local government mergers, even outlining which ones should be amalgamated. Mr Page said he will take the plan to cabinet for approval despite the state government promising before the 2011 election there would be no forced amalgamations.

Recent comments by our local MP and Minister for Local Government seem to contradict the pre-election commitment by the NSW Government. Recent media reports (Dec 2012 - Jan 2013) have attributed the following quotes and comments from Mr Page "Local Government Minister Don Page considers the current situation of 152 councils to be unsustainable". "It's not an option to stay as we are - we have to change in order to be sustainable into the future," he said.

COUNCILLOR RECOMMENDATIONS

1. BSC write to the NSW Local Government Minister and local MP Don Page, expressing Ballina Council's opposition to any forced amalgamation of Ballina Shire Council.
2. BSC seek confirmation in writing from the NSW Planning Minister, Brad Hazzard, and the Local Government Minister Don Page, that they will not approve or initiate the forced amalgamation of Ballina Shire Council.
3. BSC supports a binding plebiscite of all residents of our LGA on any proposed amalgamation before any amalgamation is proceeded with.

Attachment(s)

Nil

13.3 Notice of Motion - NSW White Paper Planning Review

13.3 Notice of Motion - NSW White Paper Planning Review

Councillor

Cr Jeff Johnson

I move that

1. BSC notes that the NSW Government will shortly release the Planning White Paper as part of the NSW Planning Review.
2. BSC writes to Premier O'Farrell, NSW Planning Minister, Brad Hazzard, and Local Government Minister Don Page calling for a 6 month consultation period on the White Paper, to allow community groups and individuals to produce informed submissions in response to the proposed changes.
3. BSC commits to holding one or more community consultation workshops on the White Paper once it is released to:
 - a) Assist the community to understand the NSW Government planning reforms
 - b) Discuss the implications of these reforms for our Local Government Area
 - c) Consult with the community on how to cooperate in the new environment for the benefit of our local area
 - d) Obtain resident views for the Council response to the White Paper and Draft Legislation.

Councillor Comment

The White Paper will outline the specific law reforms that the government is intending for planning. It will detail key matters in the proposed new planning regime such as the role for local councils, the extent of community consultation, the new plan making process and the extent of environmental protection. If the government's early Green Paper is any guide then it will be a very pro-developer proposal with many, many challenges for local communities and the environment.

Time line on Planning Reforms to date:

Planning Review Panel's Consultation

[July 2011] Government Announces Planning law review by Planning Review Panel consisting of Tim Moore and Ron Dyer

[July 2011 – November 2011] Consultation and submissions on law reforms undertaken by Planning Review Panel

[December 2011] Planning review Panel publish Issues Paper

[December – March 2012] Public consultation on Issues Paper

[June 2012] Final report and Recommendations of the Planning Review panel delivered to NSW Planning Minister

13.3 Notice of Motion - NSW White Paper Planning Review

Government's Consultation

[14 July 2012] Govt. releases its Green Paper on Planning Review together with the Planning Review Panel's Report and Recommendations

[May – September 2012] Public Submissions received on Green Paper

[October 2012] Extension granted for submission from Local Councils

[TBA March 2013?] Government's White Paper to be released for public consultation

COUNCILLOR RECOMMENDATIONS

1. BSC notes that the NSW Government will shortly release the Planning White Paper as part of the NSW Planning Review.
2. BSC writes to Premier O'Farrell, NSW Planning Minister, Brad Hazzard, and Local Government Minister Don Page calling for a 6 month consultation period on the White Paper, to allow community groups and individuals to produce informed submissions in response to the proposed changes.
3. BSC commits to holding one or more community consultation workshops on the White Paper once it is released to:
 - a) Assist the community to understand the NSW Government planning reforms
 - b) Discuss the implications of these reforms for our Local Government Area
 - c) Consult with the community on how to cooperate in the new environment for the benefit of our local area
 - d) Obtain resident views for the Council response to the White Paper and Draft Legislation.

Attachment(s)

Nil

13.4 Notice of Motion - Ballina LEP - E-zones

13.4 Notice of Motion - Ballina LEP - E-zones

Councillor

Councillor Ken Johnston

I move

That Council staff write to all affected landowners advising them of the proposed changes to their properties.

Councillor Comment

As you may recall at last months council meeting in the "Questions Without Notice" I asked if the Council staff could write to all affected landowners advising them of the proposed changes to their properties. My request was refused. I note that at this month's Byron Council meeting a Motion was passed to do the same thing. A letter to be sent stating the following-

- Current zoning
- List of permitted uses with & without consent
- Proposed zoning including split zones and a map
- List of permitted uses with & without consent
- Any proposed overlays or similar covenants
- Limitations of existing use rights

Consultants are discussing any concerns with landowners this week, however submissions can be made to the State Dept of Planning up to 13/03/2013.

COUNCILLOR RECOMMENDATION

That Council staff write to all affected landowners advising them of the proposed changes to their properties.

Attachment(s)

Nil

14.1 Commercial Services Committee Minutes - 26 February 2013

14. Advisory Committee Minutes

14.1 Commercial Services Committee Minutes - 26 February 2013

The Minutes will be distributed prior to the meeting.

RECOMMENDATIONS

That Council confirms the minutes of the Commercial Services Committee meeting held 26 February 2013 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

15.1 Mayoral Meetings

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

15.1 Mayoral Meetings

Councillor David Wright

Activities since the January 2013 Ordinary meeting:

<u>Date</u>	<u>Function</u>
25/1/13	Meeting - Ballina Service Centre
26/1/13	Australia Day Celebration – Elizabeth Ann Brown Park
29/1/13	Urban Water Strategy Meeting
30/1/13	La Balsa – Maritime Museum Meeting
31/1/13	Meeting with proponents of Masters
3/2/13	Community CSG Free Day – Tintenbar
5/2/13	Alstonville Chamber of Commerce Meeting
5/2/13	Richmond River County Council Meeting in Lismore – General Manager Review
8/2/13	Meeting on Broadband in the Shire
11/2/13	Income Diversification – Wardell Hall Meeting
13/2/13	Richmond River County Council Meeting – Woodburn
13/2/13	Wollongbar Progress Association Meeting
14/2/13	Meeting on lease of ALEC
15/2/13	Meeting Alstonville Pre-School Committee
18/2/13	Meeting - RDA/Water Loss Meetings
19/2/13	Porter Park Visit
19/2/13	Meeting - Wollongbar Sport Fields - Clubhouse
19/2/13	Lions Club Youth of the Year – Ballina RSL
20/2/13	Joint Regional Planning Panel Training
20/2/13	Wardell Progress Association Meeting
23/2/13	East Ballina Lions – Youth of the Year
25/2/13	Workshops Festivals/Bi-Centennial Gardens
26/2/13	Commercial Services Meeting
28/2/13	Ordinary Meeting

RECOMMENDATION

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

Attachment(s)

Nil

16. Questions Without Notice

16. Questions Without Notice

17. Confidential Session

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

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

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

17.1 Contract Renewal - ALEC

This report contains information relating to as the report contains information relating to commercial negotiations currently occurring with respect to the ALEC contract.

RECOMMENDATION

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

17.1 Contract Renewal - ALEC

Reason for Confidentiality

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

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business; and
- 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 the report contains information relating to commercial negotiations currently occurring with respect to the ALEC contract.