



Notice of Commercial Services Committee Meeting

Notice is hereby given that a Commercial Services Committee Meeting will be held in the Ballina Shire Council Chambers, 40 Cherry Street, Ballina on **Tuesday 26 March 2013 commencing at 4.00 pm.**

Business

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

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

Paul Hickey
General Manager

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

2. Declarations of Interest

3. Deputations

4.1 Community Land - Lease

4. Committee Reports

4.1 Community Land - Lease

Delivery Program Commercial Services

Objective For Council to consider an application to lease an area of land classified as community land, being Lot 1 DP 781542.

Background

For approximately 15 years, Council has leased all of Lot 1 DP 781542 (Lot 1) to the various owners or tenants of the adjoining land at No. 23 Compton Drive, East Ballina, identified as Lot 3 DP 525783 (Lot 3).

Lot 1 is classified under the Local Government Act 1993 (LGA) as community land and comprises an area of 158.1m².

Lot 3 has functioned as a restaurant, under a variety of names, for many years. A cool room and storage annexe was placed on the adjoining Lot 1 (community land) as part of the original lease due to the site constraints of Lot 3.

Lot 3 was recently sold and the new owner plans to renovate/refurbish the building and re-establish a restaurant business. The solicitor acting for the new owner of Lot 3 has now formally applied to lease Lot 1.

Copies of the site layout plan and request from the solicitor are included as attachments one and two to this report.

It is prudent to note that unlike other prospective purchasers, the new owners of Lot 3 did not liaise with Council prior to the purchase regarding prospective leases or potential matters of significance.

Key Issues

- Commercial use of community land

Information

On the expiration of the last lease agreement and prior to considering the matter and undertaking the statutory process as required pursuant to Section 47 of the LGA for the lease of community land, a fire occurred in the adjoining restaurant in mid 2012, and the business has been closed since that time.

Accordingly, the lease of Lot 1 was placed on-hold pending decisions regarding the restaurant site and the receipt of a formal request regarding Lot 1.

4.1 Community Land - Lease

A lease of 'community' land requires certain actions to be undertaken in accordance with Section 47 of the LGA, and in particular, S47(1) is required for a proposed lease term exceeding five years. In this regard, the application before Council is for a lease term of 5 + 5 + 5 years.

Consequently, to accord with the requirements of Section 47(1), Council must:

- 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 own or occupy land adjoining the community land, and
- 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.

As a separate, but associated issue, other encroachments associated with the restaurant exist within the Compton Drive road reserve fronting both Lots 1 and 3, and comprise the following (refer to the attached site plan):

- Fronting Lot 3 – Enclosed seating area within the awning structure (73m²) and associated non-compliant disabled access ramp (27m²).
- Fronting Lot 1 – Part of an outdoor hardstand area (22m²) and associated steps (10.6m²)

These additional, substantial, encroachments need to be addressed separate to, but concurrent with, this lease process, should Council proceed with the lease of Lot 1. The encroachments fronting Lot 3 totalling 100m² will need to be dealt with in any event as the structure on the road reserve (i.e. building) is not in a position to be removed.

Council has previously advised earlier owners that preferably structures associated with the restaurant should be contained wholly within the property boundaries of Lot 3 and not on Lot 1. Some of the original items located on Lot 1 (i.e. the cool room and storage area) have been demolished as a result of the fire and through various changes in ownership, however concrete slabs, wooden steps and a sign frame currently remain.

As per the correspondence attached, the new owner wishes to reinstate the cool room and storage space on Lot 1, as part of any new lease. Should Council decide not to lease Lot 1, the owner of Lot 3 will need to locate any additional cool room/storage within the restaurant building and the site constraints will make this extremely difficult for the owner, if not impossible. The site constraints of Lot 3 are undoubtedly the reason why owners have sought to lease Lot 1 over the years.

Legal / Resource / Financial Implications

Should Council resolve to proceed with a lease of Lot 1, the statutory process pursuant to Section 47 of the LGA is required. The previous income for this lease was approximately \$2,000 per annum.

Consultation

No public consultation has yet occurred.

Options

1. Council can refuse the request to lease Lot 1. This is not the recommended option having regard to the historical use of Lot 1, and the limitations present upon Lot 3 to contain necessary infrastructure associated with the operation of the restaurant. Also there have been no recorded objections to Lot 1 being occupied from residents even though it is community land. Despite these comments refusal is a viable option if Council wishes to remove the commercial use of this reserve. Also the nature of the encroachments is now limited which makes removal a relatively straight forward process.
2. Council can consent to the proposed lease subject to the public notification process and the outcomes of that process, noting that if a submission by way of an objection is received, the matter will need to be referred to the Minister for Local Government for determination, as the proposed lease is over five years.

Option two is recommended as the site has limited community value in terms of a public reserve or for general community use, and the site has a history of use as an ancillary site associated with the restaurant operations on Lot 3.

If this is the preferred approach it is also recommended that Council formalise the encroachments into the road reserve by way of lease.

Finally due to the on-going commercial use of Lot 1 it is recommended that Council receive a report on the merits of having the land reclassified to operational. If the land is going to be leased on a long term basis it makes more sense for the land to be operational due to its commercial use.

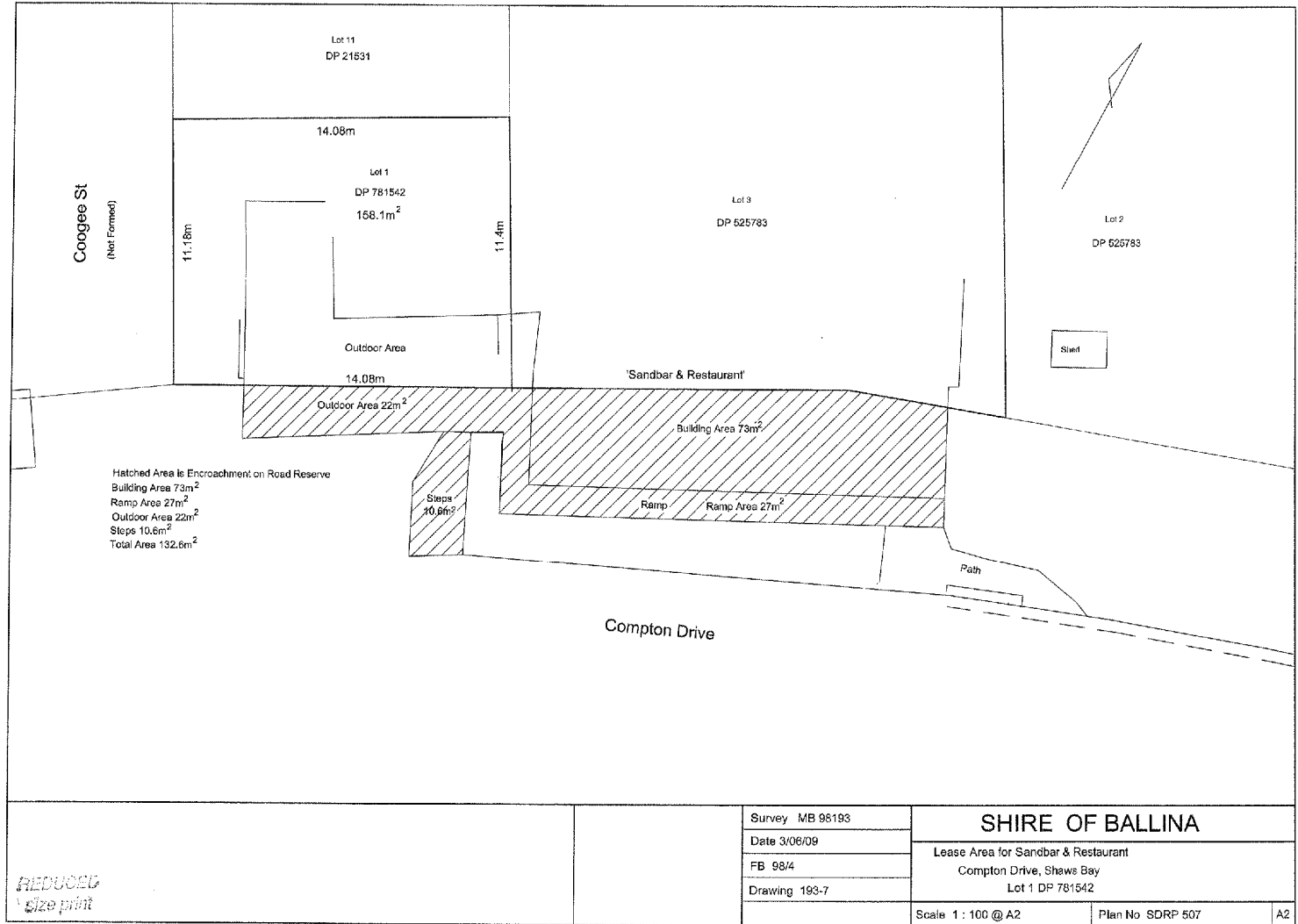
RECOMMENDATIONS

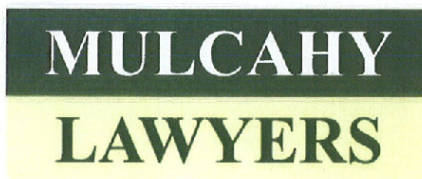
1. That Council approves the publication notification process as per Section 47(1) (2) of the Local Government Act 1 to the lease of Lot 1 DP 781542 for the purposes of a restaurant / café as per the information outlined in this report.
2. That Council approves a lease of approximately 32.6m², being the encroachment area, of the Compton Drive road reserve fronting Lot 1, with the terms of the lease to be based on Council's standard conditions and the rental based on an assessment of the market valuation.
3. That Council approves a lease of approximately 100m², being the encroachment area, of the Compton Drive road reserve fronting Lot 3 DP 525783 and rental based on an assessment of the market valuation.
4. That the use of the common seal of Ballina Shire Council be granted to affix to the Deed of Lease or any other associated legal documents pertaining to the lease of Lot 1 DP 781542, the lease of the encroachments upon the Compton Drive road reserve fronting Lot 1 DP 781542, and/or the lease of the encroachments upon the Compton Drive road reserve fronting Lot 3 DP 525783.
5. That Council receive a further report on the merits of reclassifying Lot 1 DP 781542 from community to operational land.

Attachment(s)

1. Map - Encroachments fronting Lots 1 & 3
2. Application to lease Lot 1 & encroachments fronting Lots 1 & 3

4.1 Community Land - Lease





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LENNOX HEAD NSW 2478

Our Ref: ACM TAH 12/431/009

5 March 2013

Ballina Shire Council
Cherry Street
BALLINA 2478

Andrew Mulcahy
Principal
Public Notary

Tracey Hamilton LLB
Licensed Conveyancer

ATTENTION: CHRIS GRANT

Dear Sirs

APPLICATION TO LEASE COMMUNITY LAND

We advise we act for Ricky Tinwo Lau and Ling Kwok who recently purchased 23 Compton Drive East Ballina, formally known as Lot 3 in Deposited Plan 525783. We confirm that a restaurant is currently situated on the land.

We note there are significant encroachments from our client's lot onto adjoining land know as Lot 1 in DP781542 which we understand is community land. We attach a copy of a plan which shows such encroachments highlighted in green.

We have been informed by our client that Council have previously leased this land to the owner of lot 3 in DP525783, such lease now being expired.

Our client has instructed us to make formal application to Lease such land in accordance with s 47 of the Local Government Act 1993. Details of our client's application are as follows:-

Land to be leased	Folio Identifier 1/781542, Compton Dv East Ballina
Use of Land	Storage and cool room area
Proposed Lessee	Ricky Tinwo Lau and Ling Kwok
Term of Proposed Lease	5 years plus 2 5 year option periods.

We note that under s47 of the Local Government Act 1993 that Leases in respect of community land must be advertised and that notice must be given to adjoining owners, we would ask that Council attend to this and advise of the outcome.

We further note that there are further encroachments onto what we believe is council land, possibly "road reserve" in front of lot 3 in DP525783, owned by our client and Lot 1 in DP 781542, the abovementioned Community Land. This area is highlighted yellow on the attached plan.

Our client also makes application for the closure of such road reserve, if required, and a formal lease of this area. The Lessee and the term the same as the above Lease, the use is to be for restaurant, concrete path and steps entrance and signage.

60 BALLINA STREET, LENNOX HEAD

Liability limited by the Solicitors Scheme, approved under the
Professional Standards Act 1994 (NSW).

Lastly our client's have instructed that there are presently glass windows on the north east and south end of the structure which presently encroaches onto the "road reserve" our client's request approval/consent from council to be included in the requested lease to replace the existing plastic blinds which run along the front of the structure between the existing glass windows with glass windows. We have marked this area with red lines.

As there appears to be an imminent change to the zoning of our clients land it is imperative that they be able to have the restaurant up and running by June 2013, we ask that council give this matter its urgent attention.

Should you require any further information please do not hesitate to contact Andrew Mulcahy or Tracey Hamilton of this office.

We look forward to your initial response within seven days.

Yours faithfully

MULCAHY LAWYERS



ANDREW MULCAHY / TRACEY HAMILTON

4.2 Surplus Land - Skennars Head

4.2 Surplus Land - Skennars Head

Delivery Program Commercial Services

Objective To seek Council's approval to sell Council operational land being Lot 11 DP 1181479 at Skennars Head Road, Skennars Head.

Background

On 18 December 2012 the Commercial Services Committee considered the attached report which recommended the sale of Lot 11 in plan of proposed subdivision of Lot 1 DP1154810 and Lot 48 DP 833002. Since that meeting the plan of subdivision creating the subject land has now been registered, and the land is now described as Lot 11 DP 1181479 (a copy of the plan is attached).

The meeting 18 December 2012 resolved to defer this matter to receive a further report on rezoning options.

Council staff engaged planning consultants CivilTech to prepare a Rezoning Options Report on the property. A copy of this report is attached.

Key Issues

- Legislation and planning strategies affecting the Property
- Cost and benefits of rezoning

Information

The Summary & Conclusion of the CivilTech Report are noted as follows:

"The CivilTech Report undertook a review of legislation and planning strategies affecting the Property and consulted with Council's Strategic Planning Department.

The subject land is not identified for future residential uses in either the Ballina Shire Growth Management Strategy 2012 or the Far North Coast Regional Strategy. Council staff has also advised that they would unlikely support a Planning Proposal to rezone the land for residential purposes given the inconsistency with strategic planning documents. Given the above, it is not recommended that Council proceed to prepare a Planning Proposal to rezone the subject site for residential purposes."

Legal / Resource / Financial Implications

Current legislation indicates the chances of rezoning the Property for residential subdivision are remote.

Given the findings of the CivilTech Report the most certain financial outcome for Council would be to place the Property on the market for sale "as is" i.e. as a rural residential lot with one dwelling entitlement.

Consultation

CivilTech consulted with Council's Strategic Planning Department in regards to the possible rezoning of the Property. They confirmed that the land was not identified for future residential uses in either the Ballina Shire Growth Management Strategy 2012 or the Far North Coast Regional Strategy. As a result, they advised that they would unlikely recommend that Councillors support any Planning Proposal to rezone the subject site for residential purposes.

Options

Given to findings of the CivilTech Report, the Options and Recommendations of the previous report to Council of 18 December, 2012 are reiterated as follows.

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

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

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

RECOMMENDATIONS

1. That Council authorises the sale of Lot 1 DP 1181479 by way of public auction. If the land fails to sell at public auction it is to be placed on the market for sale by private treaty at a price to be determined following on from the public auction process.
2. The General Manager and Mayor are delegated the authority to set a reserve for the Property, prior to the auction based upon advice obtained from the marketing agent, and or if required by way of an independent valuation.
3. Council authorises the attaching of the Council seal to the contract for sale.

Attachment(s)

1. Report to Commercial Services Committee on 18 December 2012
2. CivilTech Rezoning Options report
3. Locality Plan

4.3 Surplus Land - Skennars Head

4.3 Surplus Land - Skennars Head

Delivery Program Commercial Services

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

Background

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

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

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

Key Issues

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

Information

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

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

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

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

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

4.3 Surplus Land - Skennars Head

Legal / Resource / Financial Implications

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

Consultation

A public auction process is proposed.

Options

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

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

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

RECOMMENDATIONS

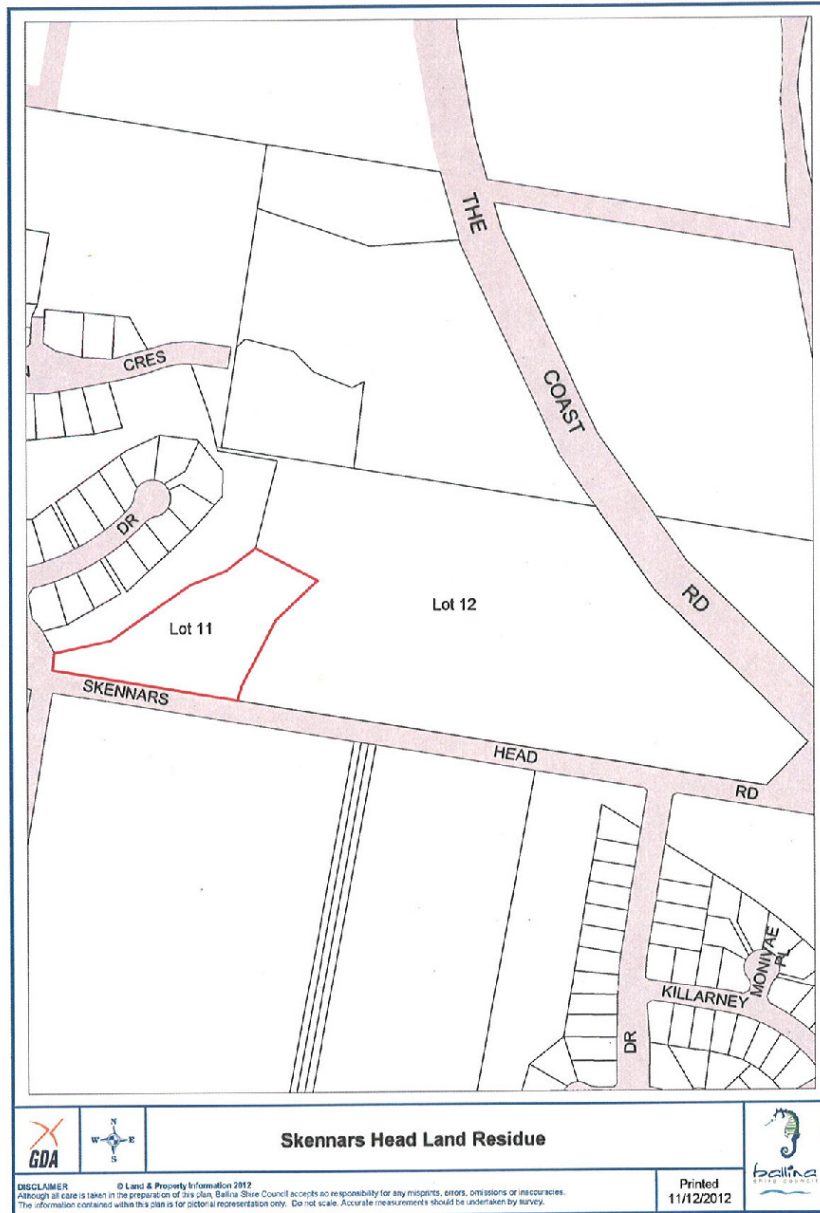
1. That Council authorises the sale of Lot 11 in proposed plan of subdivision of Lot 11 DP 1154480 and Lot 48 DP 833002 by way of public auction. If the land fails to sell at public auction it is to be placed on the market for sale by private treaty at a price to be determined following on from the public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

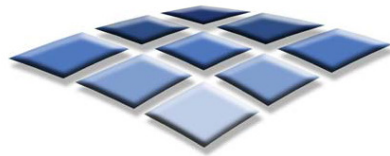
Attachment(s)

1. Site Plan
2. Locality Plan

4.2 Surplus Land - Skennars Head

4.3 Surplus Land - Skennars Head.DOC





CivilTech
Consulting Engineers

● Subdivision Design ● Civil Engineering ● Town Planning ● Project Management

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Rezoning Options Report

Lot 11 DP1181479
Skennars Head Road, Skennars Head

26 February 2013

Adrian Zakaras
Town Planner, CivilTech

Ref No 1260



DISCLAIMER

This report has been prepared for the use of the stated client and for the specific purpose described in the Introduction and is not to be used for any other purpose or by any other person or corporation. CivilTech accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this report in contravention of the terms of this disclaimer.

Due consideration has been given to site conditions and to appropriate legislation and documentation available at the time of preparation of the report. As these elements are liable to change over time, the report should be considered current at the time of preparation only.

No site inspections were undertaken in the preparation of this report, CivilTech accepts no responsibility for any omissions that may have occurred due to the desktop nature of the report.

Conclusions to the report are professional opinions and CivilTech cannot guarantee acceptance or consent of the relevant determining/ consent authorities. Subsequent requests for further work or information may be subject to agreements and additional fees.



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PROPERTY SUMMARY

Address	Skennars Head Road, Skennars Head
Real Property Description	Lot 11 DP1181479
Current Use	Vacant
Land Area	1.5840 hectares
Land Use Zoning	7(l) - Environmental Protection (Habitat) Zone under the provisions of the Ballina Local Environmental Plan 1987. Please note that the land is identified as being a deferred matter under the provisions of the Ballina Local Environmental Plan 2012.



1. Introduction and Subject Site

CivilTech Consulting Engineers (CivilTech) has been engaged by Ballina Shire Council to prepare a Rezoning Options Report for land formally known as Lot 11 DP1181479 located on Skennars Head Road, Skennars Head. An aerial view of the subject site is provided in Plate 1 below.

The land has an area of 1.584 hectares and is accessed via Henderson Drive. A second access point is located along Skennars Head Road. The site is the residue land of the recent expansion to the Skennars Head Sporting Fields and was formerly a residue block of the Lennox Palms subdivision.

The land is currently vacant (apart from disused cattle yards) and is connected to all relevant utility services.

This report has been prepared to provide Council with the rezoning potential, if any, of the land. It contains the following information:

- Introduction and Subject Site;
- Legislation applicable to the site;
- Council Liaison;
- Gateway Process;
- Summary & Conclusions.



Plate 1: Aerial View of Subject Site (source www.imagery.maps.nsw.gov.au)



2. Legislation Applicable to the Site

The following section identifies relevant planning legislation and other documentation that may be applicable to the site for rezoning purposes. No comment on applicable legislation and planning documents for future development of the site, if rezoned, has been made.

- **Ballina Local Environment Plan 2012**

As shown in Attachment 1, the land is identified as "Deferred Matter" under the Land Zoning Maps (Sheet LZN_005D) of the Ballina Local Environmental Plan 2012 (BLEP 2012). Clause 1.3 states that the BLEP 2012 does not apply to land identified as Deferred Mater on the Land Zoning Maps.

- **Ballina Local Environment Plan 1987**

As shown in Attachment 2, the land is zoned 7(l) - Environmental Protection (Habitat) Zone under the provisions of the Ballina Local Environmental Plan 1987 (BLEP 1987).

The minimum allotment size in the 7(l) zone is 40 hectares (Clause 11(2)(b)).

- **Ballina Shire Growth Management Strategy 2012**

The Ballina Shire Growth Management Strategy 2012 provides the framework for managing population and employment growth in the Ballina Shire, with respect to residential, commercial and industrial development opportunities, over the planning period of 2012-2031.

As shown in Attachment 3, the site is not mapped as being located in a Strategic Urban Growth Area. Therefore, any rezoning of the site for residential purposes would be inconsistent with this strategy.

- **Far North Coast Regional Strategy**

The land is identified as being located within the "Environmental Assets and Rural Land, National Parks and State Forests" under Sheet 3 of this Strategy (see Attachment 4). Therefore, rezoning of the site for residential purposes is inconsistent with this strategy as the land is not located within an area mapped as "Proposed Future Urban Release Areas".



3. Council Liaison

Council's Strategic Planning Department were consulted in regards to the possible rezoning of the site. They confirmed that the land was not identified for future residential uses in either the Ballina Shire Growth Management Strategy 2012 or the Far North Coast Regional Strategy. As a result, they advised that they would unlikely recommend that Councillors support any Planning Proposal to rezone the subject site for residential purposes.



4. Gateway Process

In order for the land to be rezoned, the Gateway Process is required to be followed.

The gateway process has the following steps:

- **Planning proposal** — the relevant planning authority is responsible for the preparation of a planning proposal, which explains the effect of and justification for the plan. If initiated by the Minister (rather than the local council which is mostly the case) the Minister can appoint the Director-General of the Department of Planning or a joint regional planning panel to be the relevant planning authority.
- **Gateway** — The Minister (or delegate) determines whether the planning proposal is to proceed. This gateway acts as a checkpoint to ensure that the proposal is justified before further studies are done and resources are allocated to the preparation of a plan. A community consultation process is also determined at this time. Consultations occur with relevant public authorities and, if necessary, the proposal is varied.
- **Community consultation** — the proposal is publicly exhibited (generally low impact proposals for 14 days, others for 28 days). A person making a submission may also request a public hearing be held.
- **Assessment** — The relevant planning authority considers public submissions and the proposal is varied as necessary. Parliamentary Counsel then prepares a draft local environmental plan — the legal instrument.
- **Decision** — With the Minister's (or delegate's) approval the plan becomes law and is published on the NSW legislation website.

source:

<http://www.planning.nsw.gov.au/LocalPlanning/GatewayProcess/tabid/291/language/en-US/Default.aspx>



5. Summary & Conclusions

The subject land is not identified for future residential uses in either the Ballina Shire Growth Management Strategy 2012 or the Far North Coast Regional Strategy. Council staff has also advised that they would unlikely support a Planning Proposal to rezone the land for residential purposes given the inconsistency with strategic planning documents.

Given the above, it is not recommended that Council proceed to prepare a Planning Proposal to rezone the subject site for residential purposes.



6. Attachments

Attachment 1 – Ballina Local Environmental Plan 2012 Land Zoning Map (Sheet LZN_005D)

Attachment 2 – Ballina Local Environmental Plan 1987 – Land Zoning Map (Sheet 1987_LEP_005D)

Attachment 3 – Ballina Shire Growth Management Strategy 2012 – Lennox Head Map

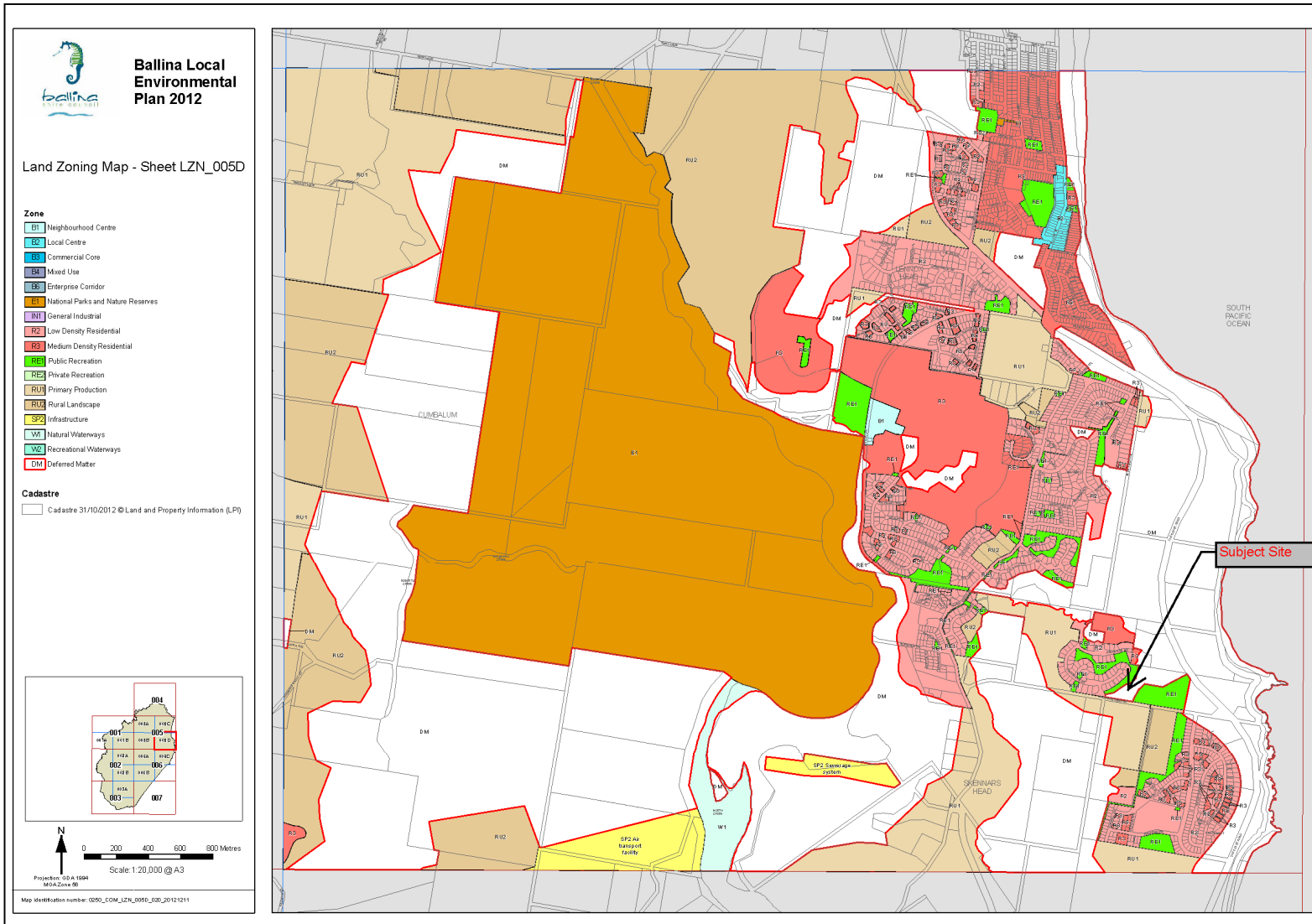
Attachment 4 – Far North Coast Regional Strategy – Sheet 3



Attachment 1 – Ballina Local Environmental Plan 2012 Land Zoning Map (Sheet LZN_005D)



4.2 Surplus Land - Skennars Head



4.2 Surplus Land - Skennars Head

*Rezoning Options Report
Lot 1 DP1181479*

Attachment 2 – Ballina Local Environmental Plan 1987 – Land Zoning Map (Sheet 1987_LEP_005D)

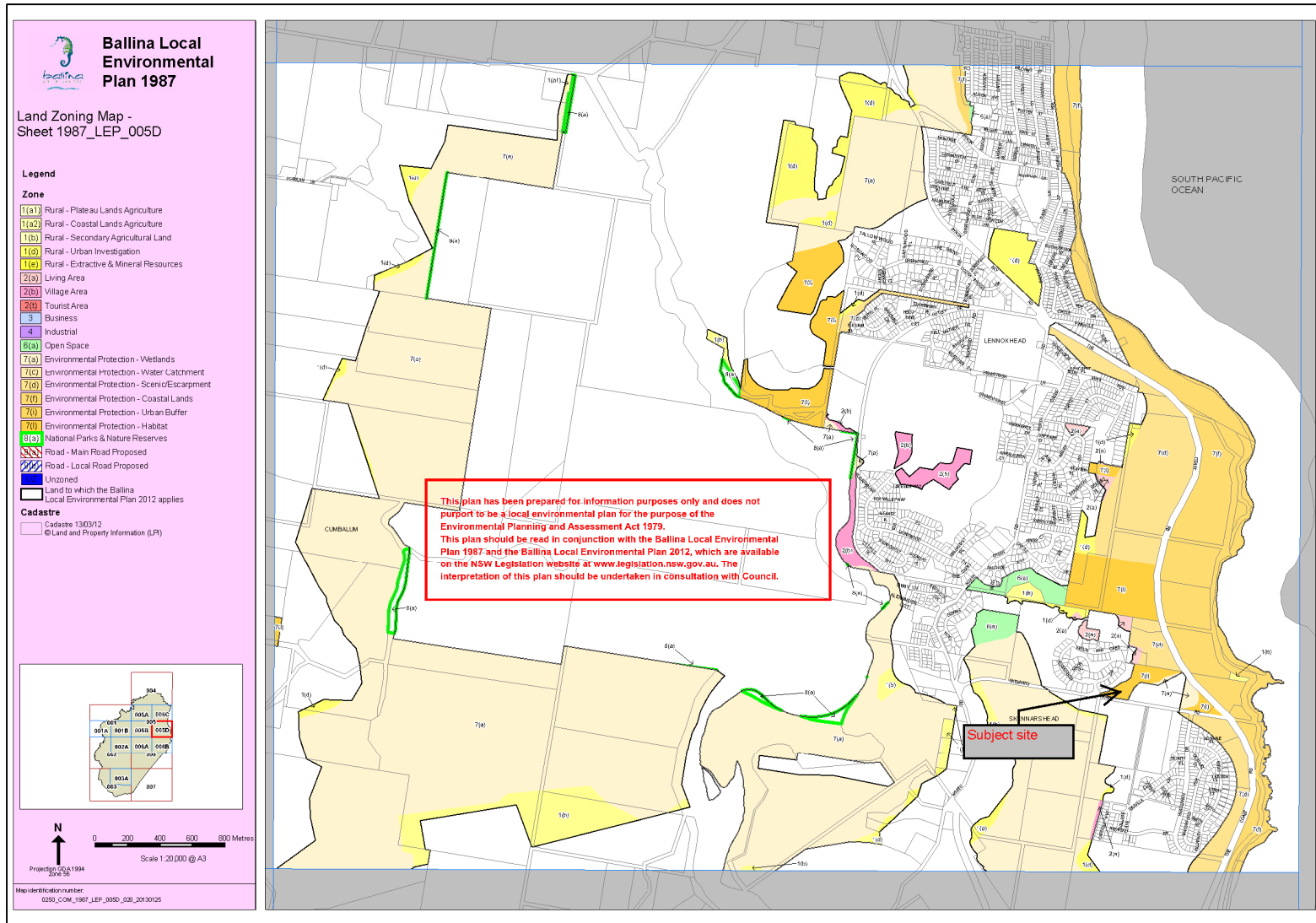
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CivilTech Consulting Engineers



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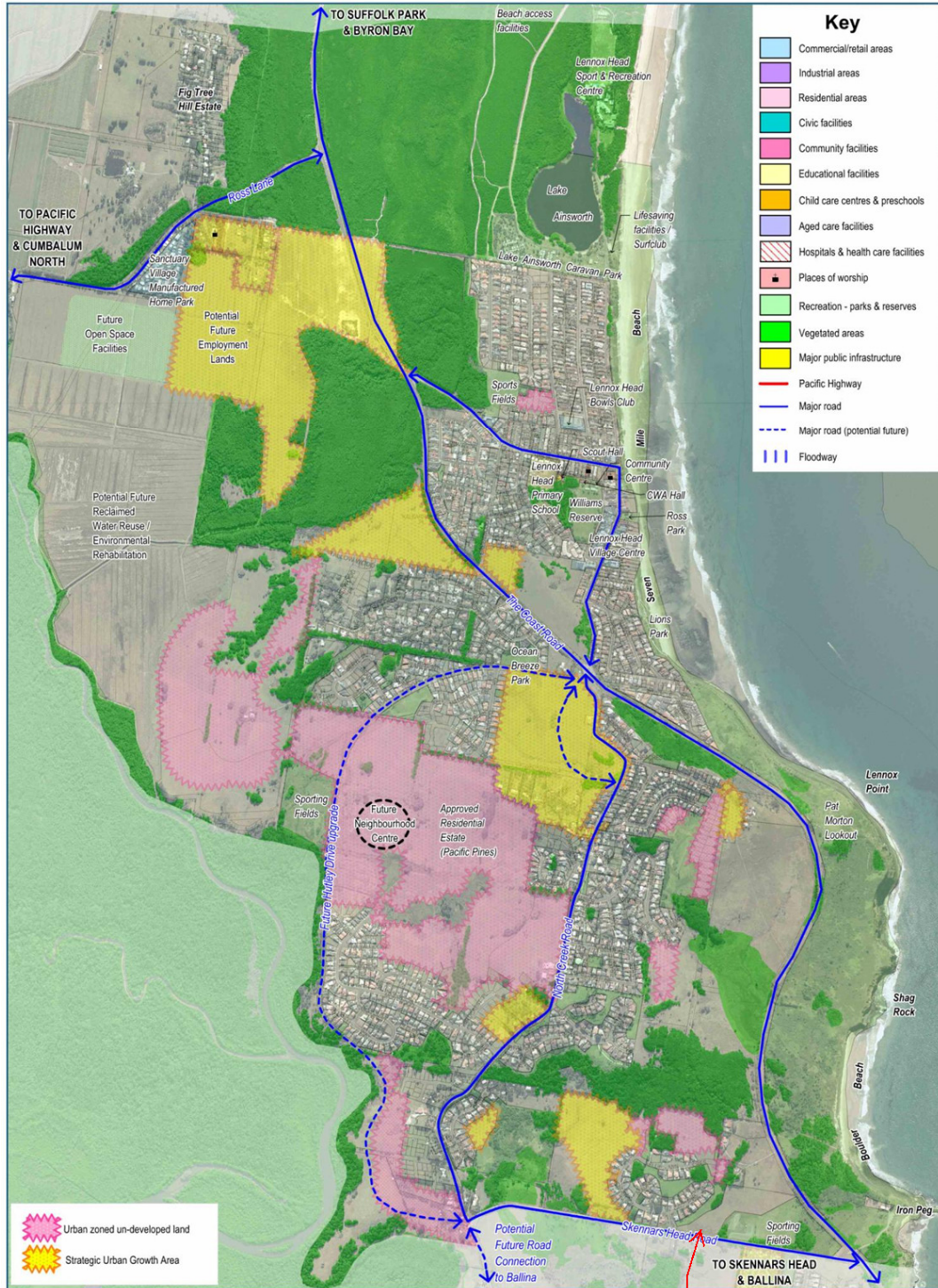
4.2 Surplus Land - Skennars Head



Attachment 3 – Ballina Shire Growth Management Strategy 2012 – Lennox Head
Map



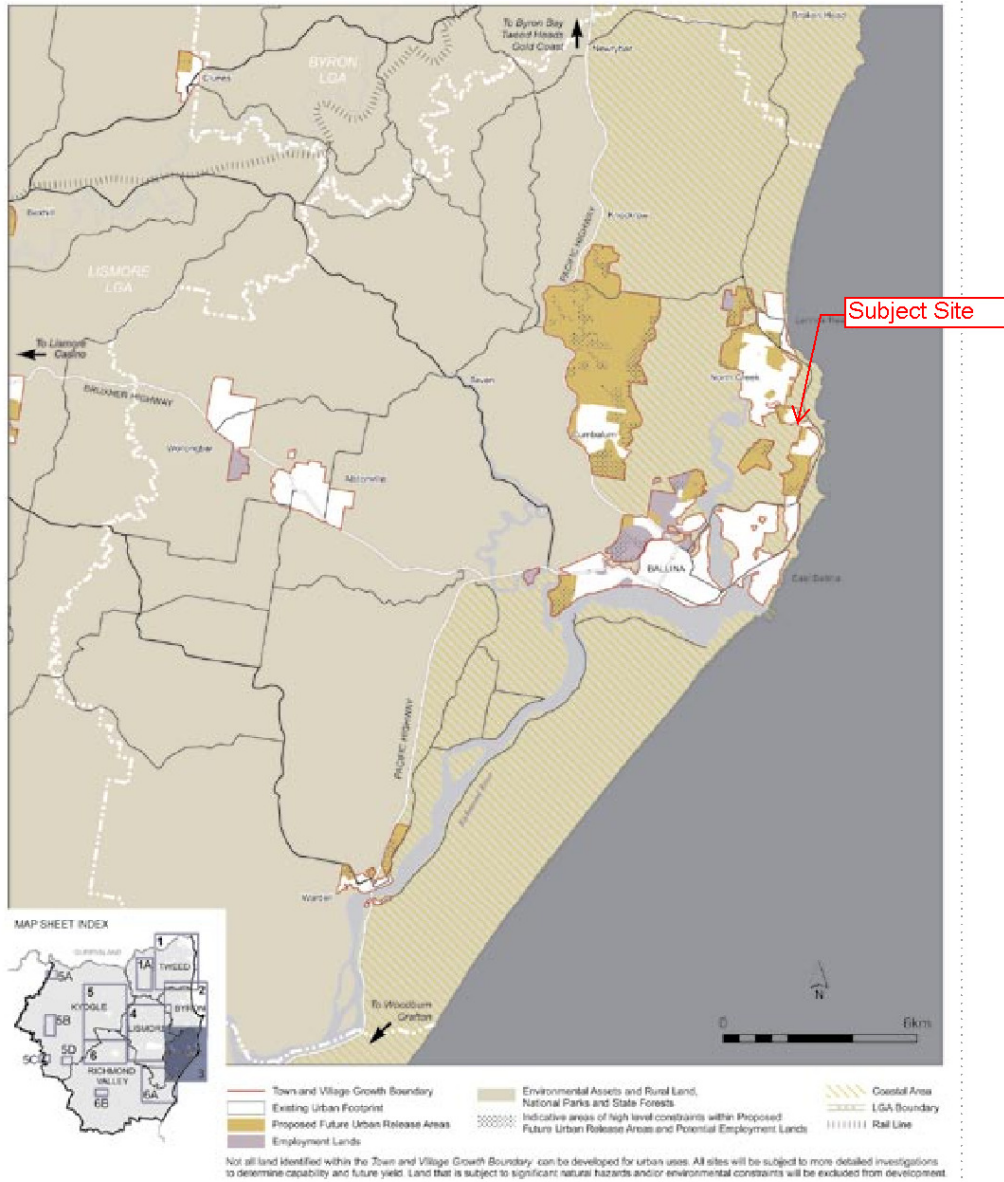
4.2 Surplus Land - Skennars Head



Attachment 4 – Far North Coast Regional Strategy – Sheet 3

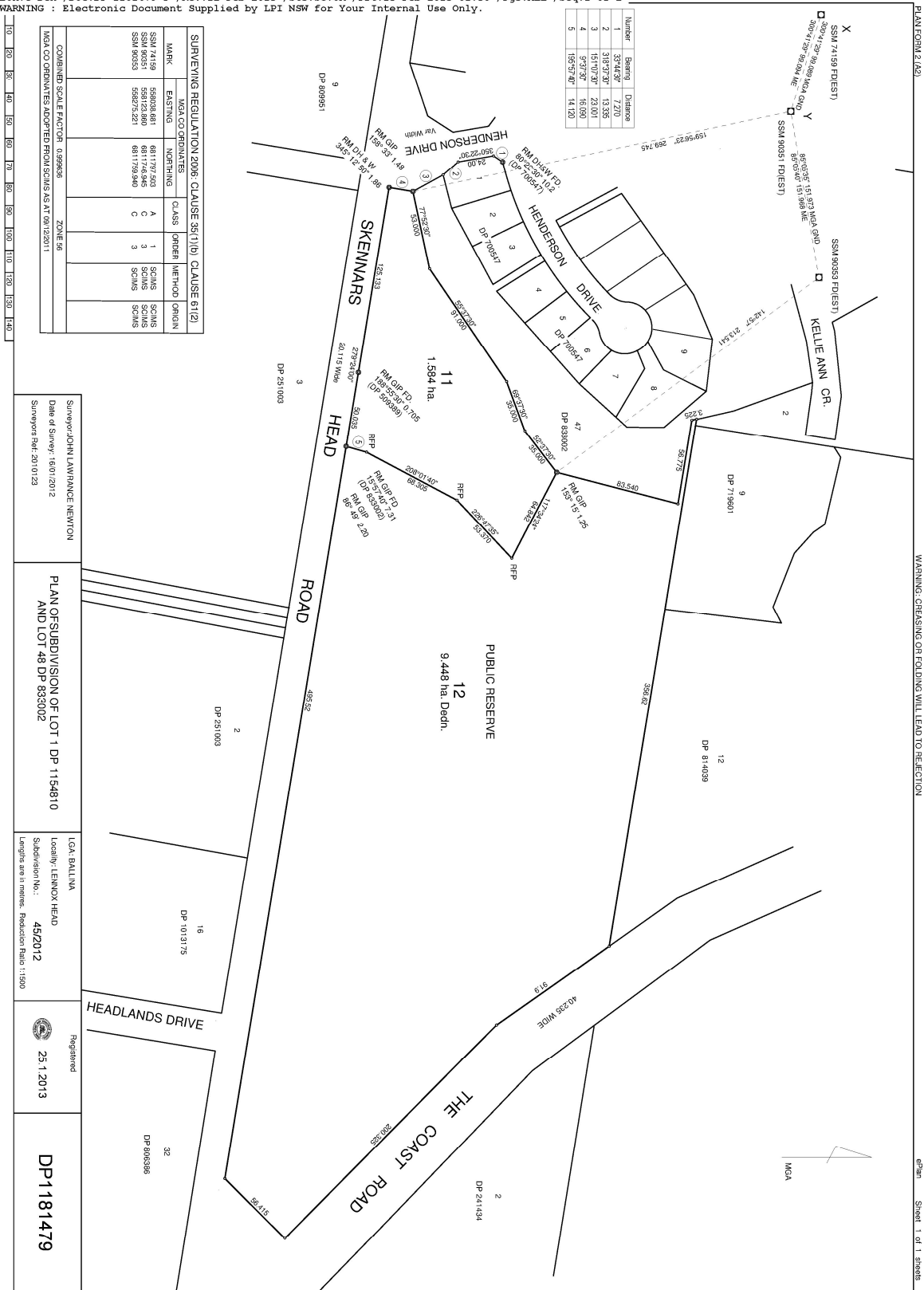


TOWN AND VILLAGE GROWTH BOUNDARY MAP
SHEET 3 - BALLINA



4.2 Surplus Land - Skennars Head

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 WARNING : Electronic Document Supplied by LPI NSW for Your Internal Use Only.



DP1181479

4.3 Wollongbar Urban Expansion Area - Development of Council Land

4.3 Wollongbar Urban Expansion Area - Development of Council Land

Delivery Program Commercial Services

Objective To consider development proposals for the Council's land holdings within the Wollongbar Urban Expansion Area.

Background

Council is the owner of allotments 5 and 6 DP 1161720 having frontage to Rifle Range Road and Plateau Drive, Wollongbar. The site is generally referred to as the former drive-in theatre site as a consequence of part of the land having previously been used for that purpose. The combined area of Lots 5 and 6 is 7.94 hectares. Improvements include perimeter fencing and dilapidated structures. Stockpiling of materials and equipment has been undertaken on the land, which is in a generally unkempt state.

The site forms part of an area referred to as the Wollongbar Urban Expansion Area (WUEA) which is fundamental to Council's endorsed strategy for accommodating future urban growth within the Alstonville Plateau. The Council site is centrally located within the WUEA on the northern edge of the established Wollongbar village. The preliminary stages of the planned residential subdivision and development are presently occurring on land located between Rifle Range Road and Sneaths Road, linked by Plateau Drive. The purpose of this report is to consider preliminary development options for the land.

Key Issues

- Options and timing for development of the site (Council owned land);
- Opportunities to improve outcomes through rezoning of parts of the site.

Information

Allotments 5 and 6 were acquired on separate occasions by Council for the purpose of undertaking residential development. Each lot is classified as Operational Land for the purpose of the Local Government Act 1993.

Allotment 5 is zoned R3 Medium Density Residential under the provisions of Ballina Local Environmental Plan 2012. Approximately fifty percent of the area of Lot 6 is similarly zoned R3, whilst the remaining area is zoned RE1 Public Recreation.

In general terms, Council has been prepared to defer its consideration of development of Lots 5 and 6 until the long-standing issue of providing integrated sporting facilities for the Wollongbar community had been resolved. Council was prepared to hold Lots 5 and 6 as a contingency arrangement in the event that other suitable land for sporting facilities was not able to be identified, acquired and developed.

4.3 Wollongbar Urban Expansion Area - Development of Council Land

Now that the commitment has been made to the Wollongbar Sporting Fields in an alternative location, it is considered timely for the Council to discuss in greater detail its preference for the urban development of the site.

Arrangements have been made to engage consultants Newton Denny Chapelle (“NDC”) and Design Team Ink (“DTI”) to prepare development concepts for the site which may be used as a basis for lodgement of a development application. There are three concepts under consideration and a copy of each concept is included as an attachment to this report.

Set out below is a land use budget for the site, along with indicative residential lot yields for various development options prepared by the consultants.

1. Land Budget			
Residential Land	Area M²		
East Side of Plateau Drive	19,220		
West Side of Plateau Drive	14,180		
North Side of Plateau Drive	27,640		
Total	61,040		
Open Space	18,460		
Total Site Area (Approximate)	79,500		
2. Concept Plan Analysis	Scenario One	Scenario Two	Scenario Three
East Side			
<i>East Side - Open Space Component</i>			
Community Pre-school	4,000m ²	4,000m ²	4,000m ²
Park Land	12,000m ²	12,000m ²	12,000m ²
Total Open Space	16,000m²	16,000m²	16,000m²
<i>East Side - Indicative Lot Yield</i>			
Conventional 600m ² or >	8	10	0
Conventional 600m ² to 800m ²	19	14	30
Large > 800m ²	0	4	0
Sub Total – East Side	27	28	30
West Side of Plateau Drive	16	16	16
North Side of Plateau Drive	19	19	19
Sub Total – Other	35	35	35
Total Indicative Lot Yields	62	63	65

It is important to note the circumstances relating to the current zoning of the two allotments under the local environmental plan. At the time the new LEP was being drafted, Council was investigating options to acquire property for the proposed sporting facilities.

However, no preferred option had been identified, no decision had been made regarding acquisition and no grant funding toward construction of new facilities had been received.

As a gesture of good faith to the Wollongbar community, Council agreed to place a Public Recreation zone over part of the property, but it was arbitrarily allocated to the eastern portion of Lot 6 as no planned outcome for the two lots had been devised.

4.3 Wollongbar Urban Expansion Area - Development of Council Land

There was a concept plan prepared for the recreation space and included in Council's development control plan for the area. However, that plan was only intended to illustrate one option for the land and no commitment had been made to its delivery.

Now that Council is in a much better place with regard to sporting facilities to service the Wollongbar community, greater attention can be given to the outcomes being sought for Lots 5 and 6. The concept options supplied by the consultants have given consideration to repositioning the area proposed to be given over to open space and community facilities. In other words, the options have not been limited to the extent of the area currently zoned for public recreation purposes.

The revised open space allocation in the concept plans has decreased from 18,460 square metres to 16,000 and this allocation still more than meets all planning standards and is more than adequate from an open space perspective. This allocation also needs to be considered with the 13 hectares of land that Council has now acquired for sports fields which did not exist prior to the commencement of the planning for BLEP 2012.

If Council decides to support one of the concept plans, where the open space and community facilities options are not aligned with the current LEP zoning, a planning proposal (rezoning) can be initiated to accommodate that.

It is emphasized Council could still proceed to lodge a development application and (if approved) commence the development and marketing of other parts of the holding not impacted by the planning proposal. For example, the development of the land located within Lot 5 on the northern and southern side of Plateau Drive, could proceed while the adjustments to zoning over land on the eastern side of that road, comprising Lot 6, are being undertaken.

Legal / Resource / Financial Implications

Allotments 5 and 6 DP 1161720 were acquired by Council as economic development opportunities and to date Council has delayed developing the land and bringing it to the market pending the detailed planning associated with the Wollongbar Urban Expansion Area and the commitment to the delivery of integrated sporting facilities. These issues are now resolved and it is considered timely to advance the development of the land to capitalise on the earlier investment.

Consultation

No targeted community consultation has been undertaken concerning the development of the Council's land holding. At the time of the rezoning associated with the WUEA the local community was fully aware of the Council's interest in the area.

Further consultation will be undertaken if the Council proceeds to initiate a planning proposal to adjust the area to be allocated for community usage as recommended in this report, and/or as part of development application assessment.

Options

In respect to the scenarios presented all are viable options. On balance number three is considered to deliver the best community outcomes in that it provides:

- Circular traffic flow through the development
- Reduced intrusion of roads to the park and pre-school through residential areas
- Improved entry statement for Plateau Drive.

In respect to the outcomes from this report Council has a number of options available to it including:

1. Council may defer any further consideration of this matter for further information
2. Council may sell one or both of the allotments as future development opportunities
3. Council may proceed to lodge a development application for the urban subdivision of the land involving Lots 5 and 6 DP 1161720, insofar as the extent of the current zoning permits
4. Council may lodge a development application relating to Lot 5 DP 1161720 based on scenario three. Concurrently, Council may initiate a planning proposal to adjust the allocation of land zoned for public recreation generally in accordance with scenario three. Once this process is concluded, Council would be in a position to apply to develop the balance of the residential zoned land within Lot 6 DP 1161720.

Option four is the preferred option. This enables Council to seek development consent for the residential subdivision of a substantial part of the Council's land holding whilst pursuing a better outcome for the provision of community facilities on part of the residual land. Development consent will increase the market value of Council's land holdings and Council can then determine whether it wishes to develop or sell the land.

RECOMMENDATIONS

1. Council authorises the General Manager to prepare and submit a development application for the residential subdivision and development of allotment 5 DP 1161720 Plateau Drive, Wollongbar.
2. Council's preferred development concept is scenario three, as per the plans attached to this report.
3. Council authorises the General Manager to initiate a planning proposal having the effect of adjusting the area of land to be allocated for the purpose of public recreation, as per scenario three, in the plans attached to this report.

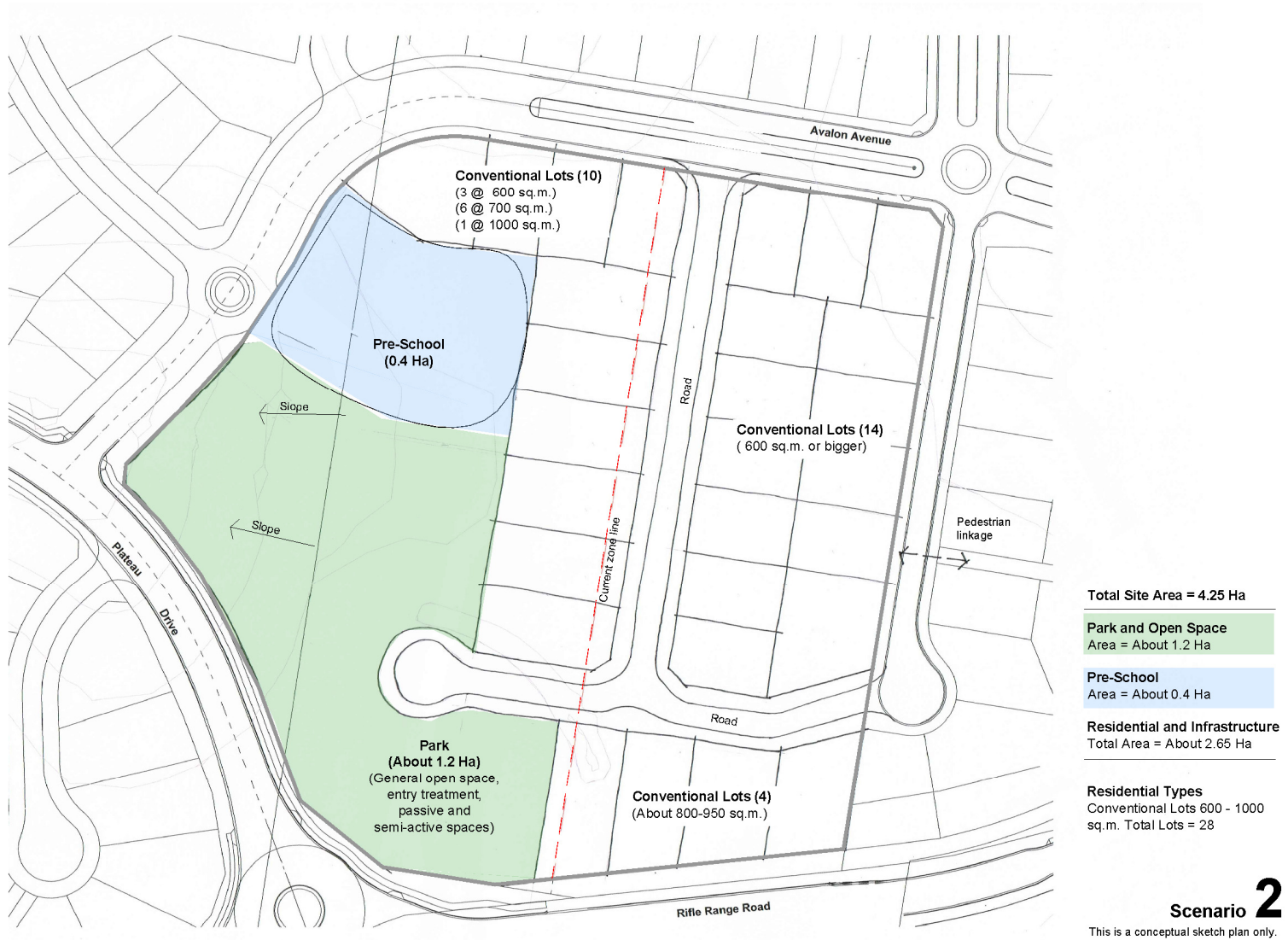
Attachment(s)

1. Scenario 1 Layout Plan
2. Scenario 2 Layout Plan
3. Scenario 3 Layout Plan

4.3 Wollongbar Urban Expansion Area - Development of Council Land



4.3 Wollongbar Urban Expansion Area - Development of Council Land



4.3 Wollongbar Urban Expansion Area - Development of Council Land



Total Site Area = 4.25 Ha

Park and Open Space
Area = About 1.2 Ha

PreSchool
Area = About 0.4 Ha

Residential and Infrastructure
Total Area = About 2.65 Ha

Residential Types
Conventional Lots (600 - 740 sq.m.) Total Lots = 30

Scenario 3
This is a conceptual sketch plan only.

5. Confidential Session

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

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

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

5.1 Wigmore Arcade Redevelopment Proposal

This report contains a feasibility assessment on options for the possible redevelopment of the Wigmore Arcade. The feasibility assessment contains a significant amount of confidential leasing and sales information to support the assessment.

RECOMMENDATION

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

5.1 Wigmore Arcade Redevelopment Proposal

Reason for Confidentiality

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as Council will need to negotiate a number of new leases with tenants in the Wigmore Arcade and the release of any confidential information may limit Council's ability to conduct those negotiations.