



Notice of Extraordinary Meeting

Notice is hereby given that a Extraordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street, Ballina on **Tuesday 30 April 2013 commencing at 4.10 pm.**

Business

1. Acknowledgement of Country
2. Apologies
3. Declarations of Interest
4. Deputations
5. Reports
 - 5.1 BBRC Funding – Ballina Heights Drive
 - 5.2 Tender – Construction of Ballina Heights Drive

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

Paul Hickey
General Manager

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.

Table of Contents

1.	Acknowledgement of Country	1
2.	Apologies.....	1
3.	Declarations of Interest.....	1
4.	Deputations	1
5.	General Manager's Group Reports	2
5.1	BBRC Funding - Ballina Heights Drive	2
5.2	Tender - Construction of Ballina Heights Drive	33

1. Acknowledgement of Country
 2. Apologies
 3. Declarations of Interest
 4. Deputations
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1. 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.

2. Apologies

3. Declarations of Interest

4. Deputations

5.1 BBRC Funding - Ballina Heights Drive

5. General Manager's Group Reports

5.1 BBRC Funding - Ballina Heights Drive

Delivery Program Commercial Services

Objective To determine whether Council wishes to accept \$5 million in funding from the Building Better Regional Cities Program to assist with the construction of Ballina Heights Drive.

Background

At the July and November 2012 Ordinary meetings Council considered reports on the conditions attached to a \$4.5 million Federal Government grant that had been awarded to Council under the Building Better Regional Cities (BBRC) Program for the construction of the Wollongbar Sports Fields.

Briefly, the reports outlined a number of key conditions for the grant including:

- The objective of the BBRC program is to invest in local infrastructure projects that support an increase in the number of homes for sale and / or rent that are affordable for working families on ordinary incomes, in communities that are experiencing positive jobs and population growth, that need more homes to be built.
- The two main groups targeted as part of this program are working families on ordinary incomes (low to moderate income earners) living in regional centres who are suffering from cost of living pressures and new residents who want to move into the area for jobs, who need homes.
- Applications from councils had to demonstrate how low to moderate income earners would benefit as a result of the upfront development costs being borne by the Australian Government and what mechanism(s) will be used to deliver more affordable homes for sale or rent (the affordability mechanism(s)), such as rebates provided at the point of sale of lots, the value of the benefits per lot / dwelling; the anticipated number of lots / dwellings to which the benefit will be applied; and the anticipated timeframe for delivering these benefits and who will be eligible to purchase the affordable land or housing.
- In order to meet the criteria the application submitted by Council was based on eligible purchasers, being low to moderate income earners, receiving a rebate of development contributions (both section 94 and section 64), up to a maximum of \$25,000, on the price of the land.
- For example, if land was on the market for \$200,000, the value of the selling price, to an eligible purchaser(s), would be \$175,000 once the \$25,000 rebate was applied.

5.1 BBRC Funding - Ballina Heights Drive

- Following discussions with the Federal Government the agreed definition of low to moderate income earners for the purpose of this grant was to be based on the National Rental Affordability Scheme (NRAS).

The benchmark income levels for this scheme are as follows:

Household Type	Maximum Income (\$)
1. One adult	56,870
2. Two adults	78,624
3. Sole parent with 1 child	78,679
4. Sole parent with 2 children	97,542
5. Sole parent with 3 children	116,404
6. Couple with 1 child	97,487
7. Couple with 2 children	116,349
8. Couple with 3 children	135,212
Additional Person Type	Income level (\$)
Extra child	15,090

- As a condition of the grant Council was required to provide a total of \$2.4 million in rebates (i.e. 96 lots @ \$25,000). Initially Council's application asked for approval to waive only \$1.8 million in rebates however the Federal Government required a higher return on their investment and Council's application was subsequently amended to \$2.4 million.
- The targeted timelines for the rebates are 24 by September 2013, another 24 by June 2014, a further 24 by June 2015 and the final 24 by June 2016. These agreed timelines are indicative only and the advice from the Federal Government is that if Council does not meet the timelines the timeframe will be extended until the commitment of 96 allotments is met.
- The Wollongbar Sports Fields project incorporates: one x AFL field and sports lighting; two x rugby grounds and lighting; one x cricket oval (summer use of rugby grounds); six x tennis courts and lighting; four x netball courts; clubhouse facilities; vehicular and pedestrian access; car and bus parking; and vegetated buffers. The Funding Agreement with the Federal Government has since been amended removing the AFL field and replacing it with two x rugby grounds and lighting with a cricket pitch in between.
- The preliminary estimate for the construction of the works, that supported Council's application, was as follows:

Item	Estimate (\$)
Road Works and Civil Works	3,045,000
Stormwater Drainage	516,000
Sewerage Reticulation	100,000
Water Reticulation	77,000
Central Clubhouse / Amenities	500,000
Tennis Courts	240,000
Netball Courts	120,000
Lighting	450,000
Electrical Supply	300,000
Landscaping	200,000
Miscellaneous Fees and Charges	72,000
Sub Total	5,620,000
Contingency (10%)	560,000
Total	6,180,000

5.1 BBRC Funding - Ballina Heights Drive

- Council has to fund the shortfall between the grant and the total project cost, which is approximately \$1.7 million. Our shortfall is being funded from Council's commercial property reserves.
- The Wollongbar Sports Fields is only one component of a much larger picture for the Wollongbar Urban Expansion Area (WUEA), as Council owns land in this precinct, and part of our goal will be to develop and release this land for sale, possibly to eligible purchasers as part of the BBRC program.
- From an urban planning perspective this project further promotes the WUEA as a desirable location to live, due to the excellent sports fields, easy access to the industrial estate for employment opportunities, close proximity to Alstonville for localised shopping and well situated halfway between the major population centres of Lismore and Ballina.

Since the July 2012 and November 2012 reports the construction works for the Wollongbar Sports Fields are well underway and the rebate program for eligible purchasers has now been operating for approximately two months.

In respect to the rebate program, the status of applications, to date, is as follows:

- We have now received 15 applications (i.e. eligible applicants) for the scheme.
- Four applications have settled (i.e. land purchased) and the \$25,000 rebate for each application has been paid back to the developers (i.e. in other words the applicant has purchased the land at a \$25,000 discount to the market value and the difference has been paid back to the developer).
- Three more applications are expected to be settled within the next month.
- A summary of the eligible applicants received to date is as follows:

1 - One Adult	4 applications
2 – Two Adults	3 applications
3 – Sole Parent / One Child	1 application
4 – Sole Parent / Two Child	1 application
6 – Two Adults / One Child	1 application
7 – Two Adults / Two Children	2 applications
8 – Two Adults / Three Children	3 applications

The BBRC was only offered to 47 eligible local government areas in Australia, with the areas being regional towns / cities that were recognised as regional growth centres. A total of \$100 million was available under the program.

The program is rather complex as councils have to try and interact with private developers in developing and releasing land and then ensuring appropriate rebates are provided to eligible purchasers.

5.1 BBRC Funding - Ballina Heights Drive

Feedback from other local government areas has indicated that many are having trouble meeting the program criteria. Due to this feedback Council took the initiative to write to the Federal Minister for Housing, Mr Brendan O'Connor, asking whether or not he would consider allocating any surplus funds to the Ballina Heights Drive project (refer to first attachment to this report – correspondence dated 2 July 2012).

The Ballina Heights Drive project had been submitted, along with the Wollongbar Sports Fields project, at the time the original funding was available, as eligible councils were allowed to submit a total of two applications.

This initial letter to the Minister resulted in a response confirming that no further funding was available however Ballina Heights Drive was still recognised as a viable project, if funding did become available.

Towards the end of 2012 there was further feedback that councils were continuing to struggle with the BBRC program and another letter was sent to the Minister on 4 January 2013 (refer to second attachment to this report) again expressing our interest in the project.

It is now pleasing to report that on 21 March 2013 Council received advice from the Minister (now Minister Butler) confirming approval of BBRC funding of up to \$5 million for the construction of Ballina Heights Drive (refer to third attachment to this report).

The report that now follows outlines the details of the grant and the conditions that Council must meet for the grant.

Key Issues

- Project details
- Grant conditions
- Funding of rebates and impact on future cash flows

Information

As per the key issues there are three key components to this report being the details of the project, the conditions attached to the grant and the impact on our future cash flows through the refund of developer contributions.

Each of these is now dealt with in detail.

Ballina Heights Drive

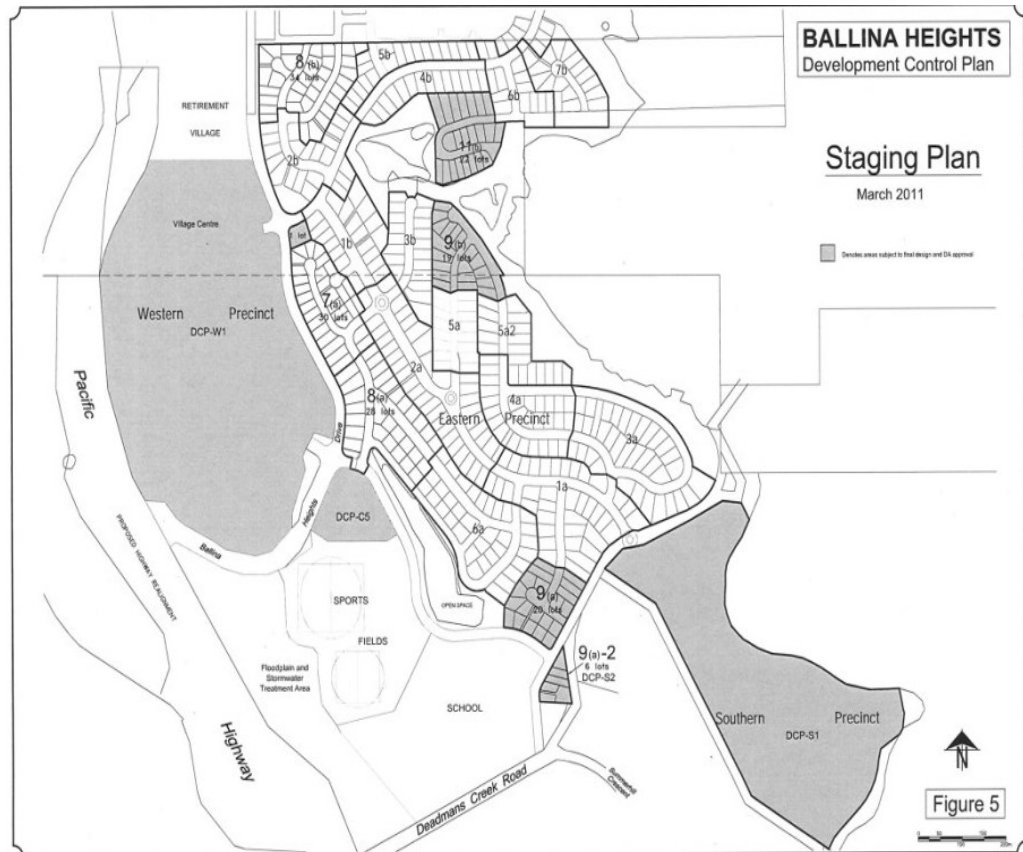
The construction of Ballina Heights Drive (BHD) has been a major road infrastructure project identified in Council's forward infrastructure plans and section 94 plans for many years.

BHD is a new road that accesses Ballina Heights off the Cumbalum interchange roundabout and then provides access to the western and northern areas of Ballina Heights.

5.1 BBRC Funding - Ballina Heights Drive

The following staging plan highlights how BHD opens up the western side of Ballina Heights including access to the proposed village centre and the retirement village.

It also provides access to the balance of the Cumbalum Urban Release Area (CURA A) and ultimately CURA B.



BHD is included in Council's Section 94 Roads Plan with 70% of the cost to be sourced from development and the balance from Council or other sources. This is called the apportionment factor which essentially means that 70% of the use of the road will be by future residents and 30% by existing residents. Therefore existing residents (i.e. through Council revenue) should pay for 30% of the cost and future residents (the developer) should pay for 70% of the cost.

Council's entire Section 94 Roads Plan is based on this 70 / 30 apportionment for works.

The estimated cost of BHD, as per the Section 94 Roads Plan, was originally \$4 million, when the Plan was adopted in 2010. This estimate had been provided by Ardill Payne and Partners (APP) (correspondence dated 11 November 2010) when the Roads Plan was originally adopted.

APP is the lead consultant for the developers of Ballina Heights, being the Diocese of Lismore (Catholic Church) and Vixsun Pty. Ltd. (a small family owned private company).

5.1 BBRC Funding - Ballina Heights Drive

Unfortunately when Council first went to tender in 2011/12 for the construction of BHD the tender responses were more than double the estimated cost.

As there was only \$4 million allocated to the project Council subsequently declined to accept any of the tenders and during the past 18 months Council staff and representatives from APP have been reviewing the road construction specification to identify savings to the construction contract.

A revised tender specification was recently issued based on segments of this road being distinct components of the contract. The idea being that Council could then select which components of BHD it may wish to complete as part of the \$4 million available.

The tender responses have now been received and the tender evaluation report is included as the second report in this business paper.

In respect to the \$4 million available in Council's budget this funding is sourced as follows:

- a) Section 94 Roads Contributions Collected - \$2 million
- b) External Loan - \$1.2 million
- c) Contribution from developers to be reimbursed from future section 94 roads contributions as and when collected by Council - \$800,000

Point c) is important in that when this proposal was initially considered by Council in 2010/11 there was a shortfall between the roads contributions funds collected and the amount able to be funded from section 94 contributions. This is explained as follows:

- a) Construction estimate in Roads Plan - \$4 million
- b) Contribution required from Developer Contributions in Roads Plan = 70% (\$2.8 million)
- c) Actual Road Contributions collected at that time = \$2 million
- d) Shortfall in contributions available = \$800,000

As the construction of BHD is critical for future releases of Ballina Heights, the developers were proposing to finance the shortfall in contributions, with Council to then repay that shortfall to the developers as and when the additional roads contributions were collected.

It is been approximately two years since these initial discussions occurred and the balance of the section 94 roads contributions is now estimated at \$2.85 million by 30 June 2013.

In respect to the latest project cost the tender evaluation report later in this agenda identifies a total construction cost of \$9.00 million for BHD.

If Council wishes to accept the BBRC grant of \$5 million it is proposed to finance the BHD construction contract as follows:

- a) Section 94 Roads Contributions – Estimated balance - \$2.85 million
- b) BBRC Grant - \$5 million
- c) Ballina Heights Drive Loan Reserve - \$141,000
- d) Ballina Heights Drive 2012/13 Loan Repayment - \$141,000
- e) Ballina Heights Drive 2013/14 Loan Repayment - \$141,000

f) External Loan - \$727,000

Council had planned to take out the \$1.2 million loan identified in the original funding for BHD in 2011/12. The estimated loan repayment for that year, being \$141,000, was transferred to an internal reserve at the end of the 2011/12 financial year, as the work did not proceed.

Similarly, the 2012/13 and 2013/14 budgets include an estimated loan repayment of \$141,000 for the \$1.2 million loan, with the loan still not being taken up.

If the revised loan figure of \$727,000 is required, due to the 40 week timeframe for construction, the loan funds will not be needed until late in 2013/14. Therefore the first loan repayment should not be paid until the 2014/15 financial year, which allows the funding allocated for the loan repayments in 2012/13 and 2013/14 to be allocated directly to the capital cost of the project.

Under this revised funding proposal, the \$1.2 million loan originally proposed is reduced to \$727,000. If we can minimise the contingencies for the project the loan funding could be further reduced as the project progresses. Also there may be additional Section 94 Roads Contributions collected during this period that could help to reduce the amount of the loan funding and thus minimise loan repayments in future years. As the forecast loan term is for 15 years this represents significant financial savings to Council.

In respect to the Section 94 Roads Plan, a copy of which is available on our website (enter Developer Contribution Plans into the search field), the finalisation of BHD also removes a significant liability from that Plan. Councillors should familiarise themselves with the works schedule in the Roads Contribution Plan as it highlights the future road works planned for the Shire.

Pages 31 and 32 (included as an attachment to this report) of the Plan provide a summary of the estimated cost and timing of the works proposed in the Plan. BHD is actually referred to as the Cumbalum North-South link in the works schedule.

Importantly the Section 94 Roads Plan only includes this segment of BHD in the Plan. Therefore any future extension of BHD through the balance of CURA A and CURA B will need to be financed by the developers through the agreements Council has been working on in relation to the current rezoning for CURA A and CURA B, albeit that a new Section 94 Plan will need to be written for components of CURA A, due to the reluctance of the various owners to sign a voluntary planning agreement.

In reviewing the works schedule for the Roads Contribution Plan major projects that will have been completed, if BHD proceeds, include BHD, Cumbalum Interchange and the River Street / Cherry Street roundabout.

The major project that remains in the early stages of the works schedule for the Roads Plan is the finalisation of Hutley Drive. It is understood that the Royal Bank of Scotland, as the owners of the former Petrac land (i.e. Pacific Pines) are still seeking planning approval for a variation to the original consent for Pacific Pines.

Once that approval is in place there may be a push by the developers for additional elements of Hutley Drive to be constructed with Council's current long term financial plan not having the works funded until 2018/19.

The timing of this work has been pushed back due to the current slow rate of development and the low collection rate occurring for Section 94 contributions.

Due to the current slow collection rate for contributions if Council allocates all of the available Section 94 Roads contributions collected to BHD this then limits the funds available for other Section 94 Plan related road projects.

Council actually has the option of allocating the Roads Contribution monies collected to date to other road works in the Roads Plan.

For example, the construction of the River Street / Moon Street roundabout is one project in the Roads Plan. Council could finance 70% of this project from the funds held to allow this work to proceed now, subject to the balance being funded by Council.

Even though there is some merit in this project, and in also considering any other works in the Roads Plan, BHD has been identified as a high priority in Council's budget for the last two years.

It also has the potential for significant economic benefits due to the opening up of large parts of Ballina Heights and with the BBRC funding now available, BHD is considered to be the most appropriate priority for the allocation of the Section 94 roads contributions collected to date.

One final point in respect to the works schedule in the Section 94 Roads Plan is that population growth rates have dropped significantly since the original road modelling was completed.

It is intended to review this modelling during 2013/14 and based on the current low growth rates it is likely that the timeframe for a large number of the projects in the Plan will be pushed further into the future.

This will then help to reduce Council's liability for future works in the short to medium term. Further information on this review will be provided during 2013/14.

Grant Conditions

The grant conditions for BHD are similar to the Wollongbar Sports Fields project in that Council must provide rebates of \$3 million to eligible purchasers.

Council's initial application was for a lower figure but again the Federal Government wanted higher leveraging for their grant funding.

Due to our experience with Wollongbar the proposal for BHD is the same, being rebates of \$25,000 (for a total of 120 lots this time as compared to 96 for Wollongbar)) to eligible purchasers, with the criteria for purchasers being based on the NRAS income thresholds.

5.1 BBRC Funding - Ballina Heights Drive

As is often the case with Federal Government Departments they are working to tight timeframes and the agreement requires the road construction works to be completed by 31 March 2014.

Based on a 40 week construction contract for BHD this timeframe can be met, weather permitting.

The grant has the following indicative timeframe for the proposed lot sales:

- 24 lots by 30 June 2014
- 24 lots by 31 December 2014
- 24 lots by 30 June 2015
- 24 lots by 31 December 2015
- 24 lots by 30 June 2016

In respect to these dates, as with Wollongbar, the Federal Government has confirmed that the dates can be extended if sales don't proceed as planned.

Key dates for the BBRC funding program are completion of the infrastructure works by 31 March 2014 and lot sales completed by 30 June 2016. Similar dates apply for the Wollongbar Sports Fields project.

The benefit we have with BHD is that the tender for the project is included in this agenda and work on the construction contract should commence shortly, subject to acceptance of the tender by Council.

The Federal Government Department responsible for this project, being the Department of Families, Housing, Community Services and Indigenous Affairs, also require significant funding to be paid to Council by 30 June 2013, presumably for their own budgeting purposes.

The dates and milestones for the payment of the grant funds to Council are:

- 1 May 2013 - Execution of Agreement - \$1 million
- 15 May 2013 – Finalisation of infrastructure works design - \$1 million
- 15 May 2013 – All approvals for commencement of works - \$1million
- 31 October 2013 – 50% of road works completed - \$1.5 million
- 31 March 2014 – Completion of road works - \$500,000.

Representatives from the Department were in Ballina on Thursday 11 April 2013 to inspect the BHD site and review the progress of the Wollongbar works and due to their tight timeframes they asked for the funding agreement to be executed on that date.

This was subsequently signed by the General Manager, which means Council is in position to receive \$3 million in funding for this work by 15 May 2013, as the first three milestones points have already been completed.

Even though the agreement was signed by the General Manager, primarily due to timeframe restrictions from the Federal Government, it still remains open for Council not to proceed with this grant.

If Council does not ultimately feel satisfied with the contents of this report then it will be a matter of liaising with the Federal Government to advise we are not proceeding.

5.1 BBRC Funding - Ballina Heights Drive

The reasons why Council may not feel comfortable proceeding are outlined in the next section of this report, being the rebates and cash flow implications.

Developer Contribution Rebates and Impact on Future Cash Flows

With the Wollongbar project the current development contributions payable for land releases in the Wollongbar Urban Expansion Area (WUEA) are as follows:

Ballina Section 94 Plan	Amount (\$)
Open Space	5,160
Community Facilities	5,004
Roads	9,836
Sub Total (Section 94)	20,000

Ballina Section 64 Plan	
Sewer (Wastewater)	10,138
Water	1,735
Total Council Charges	31,873

This means that the total contributions payable are \$31,873 (subject to annual CPI), which is well above the \$25,000 rebate.

Council subsequently resolved for Wollongbar to apply rebates based on a full refund of the section 64 contributions (water and wastewater) with the balance then applied on a pro-rata basis for the section 94 contributions.

This was explained in the following table as presented to the November 2012 Ordinary meeting.

Table One - WUEA - Section 94 / Section 64 Contribution Apportionments

Plan	Contribution	Lot Waiver	Total Waiver
Open Space	5,160	4,677	374,000
Community Facilities	5,004	4,535	363,000
Roads	9,836	8,915	713,000
Sub Total (Section 94)	20,000	18,127	1,450,000
Sewer (Wastewater)	10,138	10,138	811,000
Water	1,735	1,735	139,000
Total Council Charges	31,873	*30,000	2,400,000

- Since this meeting the rebate has been reduced to \$25,000 and the number of lots increased from 80 to 96 which still results in a total waiver of \$2.4 million. The apportionment remains the same.

The difficulty we face with Ballina Heights is that a large part of the land to be developed has an existing consent from 2001 which provides approval for a maximum of 753 lots to be created on the area identified within that consent.

This consent (reference number 2001/128) approved the release of 210 lots as part of stages one to four of the development. A further development consent in 2003 (2003/413) then approved the release of another 189 lots as part of stages five to eight of the development.

5.1 BBRC Funding - Ballina Heights Drive

This represents approvals to date, for stages one to eight, of 399 lots, out of a total approval of 753 lots.

In respect to the contributions payable under these two consents the applicant is not required to make any road contributions for the entire 753 lots, whereas open space contributions are not required for any consents issued prior to 1 November 2008 (being the 399 lots approved to date). The reasons for this are set out in point (a), as follows shortly.

What this has meant is that as linen plans are released for the various stages of 2001/128 and 2003/413, the applicant is only being required to make the following contributions per lot (based on the 2012/13 charges), as compared to the current contributions payable:

Plan	Current Plans	Actual Payable
Open Space	1,757	0
Community Facilities	5,513	1,289
Roads	10,857	0
Sub Total (Section 94)	18,127	1,289
Sewer (Wastewater)	7,275	7,275
Water	2,437	2,437
Total Council Charges	27,839	11,001

Due to this relatively low level of contributions payable, the actual rebate required under the BBRC scheme (\$25,000) is now more than the contributions being paid under these consents (2001/128 and 2003/413).

This subsequently leaves a shortfall in the rebate to be provided by Council.

The planning advice is that a total of 322 lots have been released, or registered, to date, under the 2001/128 and 2003/413 consents. The developers have paid Rous Water contributions for an additional 22 lots in Stage 7A, however, this stage is still under construction, has a total of 30 lots, and is yet to be registered and leased.

The total contributions paid to date, by the developers, are as follows:

Plan	Wastewater	Water	Com Facils	Total Paid
Paid	\$1,701,441	\$545,043	\$327,095	\$2,573,579

This represents an average payment per lot of approximately \$7,500 which is a long way short of the \$25,000.

This information raises a couple of key issues:

- a) There was agreement at the time of the original consent (2001/128) that the developers would undertake construction works on Deadmans Creek Road and Cumbalum Way (now Ballina Heights Drive) in lieu of paying any road contributions for the entire 753 lots. At that time Council was in the process of preparing a Roads Contribution Plan and the roads contributions were minimal (around \$1,151 per lot). The final attachment to this report is correspondence from APP which provides an estimate of the works they were providing in lieu of the section 94 roads contributions.

5.1 BBRC Funding - Ballina Heights Drive

In summary the estimate of 753 lots on the then roads contribution was slightly under \$1 million and APP and the developers agreed to finance the works in that correspondence, which totalled approximately \$1 million (exclusive of GST) in lieu of paying any road contributions.

- b) This may have seemed reasonable at the time but what has happened is that during the period since the original consent was issued Council has reviewed its Roads Contribution Plan to reflect current costs and a more realistic works program and the contribution per allotment is now \$10,857.
- c) Since this new Roads Contribution Plan was adopted in March 2010, 44 of the approved lots have been registered and there are still around 354 (753 minus 399) lots to be released from the original 753 approved. It can be argued that the developers will have benefited, to the detriment of the community, by approximately \$4 million as any consent issued from March 2010 onwards would normally be paying the new Roads Plan contribution rate of \$10,857 (subject to annual CPI adjustments).
- d) The developers may state that they saved Council the initial outlay for part of Deadmans Creek Road and the early stages of Ballina Heights Drive, along with other offsetting works, but there is little doubt, in the opinion of staff, that due to increased construction costs and Council introducing a more sophisticated Roads Contribution Plan, the community has missed out on a significant amount of funding due to the low roads contributions being paid by this development. Even though the developers having been providing works on site they have not been making a contribution to the wider road network which is what occurs with the latest Section 94 Roads Contribution Plan.
- e) In hindsight Council should not have agreed to the offset for the in-kind works for a development of this magnitude (753 lots). With 322 lots released to date the life of the consent may well approach something in the order of 25 years. However the reality is that changes in infrastructure requirements and costs over that period of time are far too difficult for anyone to predict.
- f) In respect to Section 94 Open Spaces contributions the developers were again not required to provide these contributions as part of consent 2001/128 and 2003/413, due to the direct provision of sporting fields and local open spaces in the consents.
- g) However Council introduced an updated Section 94 Open Spaces Plan on 1 November 2008 and under this new plan consents for Ballina Heights issued after that date must make a development contribution to regional and district open space facilities. This represents a contribution of approximately \$1,757 per lot.
- h) With this Open Spaces contribution included, and a Community Facilities contribution that now reflects the updated Community Facilities Plan, that was also introduced on 1 November 2008, the total Section 64 and Section 94 contribution charges per lot, once the 399 are exhausted, will be approximately \$17,000; i.e.

Plan	Payable
Open Space	1,757
Community Facilities	5,513
Roads	0
Sub Total (Section 94)	7,270
Sewer (Wastewater)	7,275
Water	2,437
Total Council Charges	16,982

These figures are subject to annual CPI adjustments.

A couple of other key points for consideration are:

- a) Consents for areas outside the original 753 lots will be immediately required to pay the full contribution rate (i.e. currently \$27,839 inclusive of roads).
- b) For example, the developers applied for planning consent for six lots near the end of Deadmans Creek Road. The contributions payable for this consent (2012/118) are in excess of the \$25,000 threshold, albeit that the consent has not yet been acted upon and the contributions have not yet been paid.
- c) The western precinct and village centre areas, as identified in the earlier concept plan, are outside the original 753 lot approval, which means the full contribution rate applies. The construction of BHD may bring the release of this land forward, although this will be at the discretion of the developers.
- d) With the construction of BHD, other landowners at the end of BHD will be in a position to develop their land, subject to the rezoning of CURA being finalised. These developments will pay the full contribution rate.
- e) With consents 2001/128 and 2003/413 providing for the actual release of 399 lots and contributions having been paid to date for 322, there is still another 79 lots to be registered and released at the low contribution rate of \$11,001 (subject to annual CPI).
- f) Due to the existing layout it is possible for the developers to submit a section 96 amendment to consent 2003/413 to increase the lot yield by 11, from 189 to 200. This extra 11 would pay contributions at the lower rate.

What all of this means is that there is likely to be approximately another 80 to 90 lots released at the low contribution rate of \$11,001 prior to an increase to the \$16,982 rate that applies when the current Open Spaces and Community Facilities contributions are charged.

Against this we then have the issue where under the BBRC program a total of 120 eligible purchasers have to receive a rebate of \$25,000 for a total rebate of \$3 million. The issue that Council must address is how to fund this rebate when the existing contributions being paid are so low.

5.1 BBRC Funding - Ballina Heights Drive

As the contributions are so low rebates cannot be reimbursed on a per lot paid basis, and the only option to make this work is to consider the amounts paid by the developers to date (i.e. a total of \$2,573,579 as mentioned earlier) as accumulated funds and then reimburse the rebates from the total funds paid.

For example, the balance of contributions held by Council, as at 31 March 2013, for the Contribution Plans in question is approximately:

- Section 64 Wastewater – North Ballina and Cumbalum - \$1,501,000
- Section 64 Water – North Ballina and Cumbalum - \$756,000
- Section 94 Community Facilities - Cumbalum - \$159,000

The amounts paid by the developers to these Plans to date, as outlined earlier, are \$1,701,441 (wastewater), \$545,043 (water) and \$327,095 (community facilities).

What Council could resolve to do is reimburse the \$25,000 based on the same apportionments as the funds paid to date by the developers.

This is highlighted in the following table:

Table Two - BHD - Section 94 / Section 64 Contribution Apportionments

Plan	Paid	% Paid	Rebate
Sewer (Wastewater)	1,701,441	66	17,000
Water	545,043	21	5,000
Community Facilities	327,095	13	3,000
Total	2,573,579	100	25,000

Under this scenario the rebates are paid based on the pro-rata amount of funds collected, with those rebates drawn from the total pool of funds currently held.

Remembering that there are different amounts held by Council, as compared to those collected, as some of the funds collected have previously been applied to Council projects, the number of rebates able to be provided on this basis, is as follows:

**Table Three - BHD – Lots Able to Receive a Rebate
(with no additional funds collected)**

Plan	Paid and Held	Rebate	Lots
Sewer (Wastewater)	1,501,000*	17,000	88
Water	545,000	6,000	90
Community Facilities	159,000	2,000	80
Total	2,205,000	25,000	N/A

*Developer contributions received for Ballina Heights Estate were applied to works that benefitted Ferngrove and other estates. At the time of the works contributions in respect of Ferngrove Estate had not been received. Ballina Heights precinct will be reimbursed as funds are received from Ferngrove Estate.

The “Paid and Held” column represents the funds held and if that figure is more than the total paid by the developers, the amount actually paid is included, as Council cannot rebate contributions to the developers if they have actually not paid those contributions. Conversely, if the figure held is less than the amount paid, we can only include the balance held.

5.1 BBRC Funding - Ballina Heights Drive

Using this method the maximum rebates that could be provided is 88 from wastewater, 90 from water and 80 from community facilities monies. All of these figures are below the 120 rebates required for the BBRC program.

However this model fails to recognise that additional contributions will be paid as new lots are registered and released from the existing consents.

It is understood, although not confirmed in writing, that there are nine lots on the market from registered and paid consents. This means that once these nine lots are sold further lots will need to be registered, which will then trigger the payment of additional Section 64 and 94 contributions, albeit at the lower rates.

This will result in an increase in contributions held of \$11,001 per lot registered, which in turn will extend the life of the funding available for the rebates.

Once a rebate is applied there will actually be a net reduction in the funds held by Council of \$14,000 (i.e. \$25,000 rebate less the \$11,001 collected).

If it is assumed that every lot registered is sold to a purchaser, who receives a rebate, the number of lots that can be reimbursed from the funds held, under this scenario, increases as follows:

**Table Four - BHD – Lots Able to Receive a Rebate
(with additional funds being collected
(assuming 100% of lots are sold to eligible purchasers)**

Plan	Funds Held	Net Rebate	Lots
Sewer (Wastewater)	1,501,000	9,500	158
Water	545,000	3,500	155
Community Facilities	159,000	1,000	159
Total	2,205,000	14,000	N/A

This table works off the net reduction of \$14,000 per rebate. As per these figures the lot yield of 120 is covered entirely.

This scenario assumed that every lot sold is to an eligible purchaser. The following table provides revised lot numbers based on 100%, 75%, 50% and 25% of sales going to eligible purchasers.

**Table Five - BHD – Lots Able to Receive a Rebate
(with additional funds being collected
(100% to 25% of lots sold to eligible purchasers)**

Plan	Funds Held	100%	75%	50%	25%
Sewer (Wastewater)	1,501,000	158	210	316	632
Water	545,000	155	206	310	620
Community Facilities	159,000	159	212	318	636
Total	2,205,000				

5.1 BBRC Funding - Ballina Heights Drive

What this table highlights is that as the percentage of eligible purchasers decreases from 100%, the number of lots that can be sold to eligible purchasers, while still ensuring adequate funds are held for rebates, increases rapidly.

This scenario also does not recognise that over time the current contribution per lot will increase from \$11,001 to \$16,982 and there may be consents that require the developer to pay the full contribution rate, which is in excess of \$25,000.

In summary, based on the funds collected and held Council appears to be in a position to finance the rebates but the cash flow for the reimbursement is very difficult to predict. Outcomes will vary depending on which lots are developed and the contributions payable for each stage of the development. Also the ratio of sales that require a \$25,000 reimbursement to those that do not will have a big impact on the forecast cash flow.

This then leads us to the second part of this financial analysis. That is what happens to Council's long term financial planning by retaining the funds held and what is the impact of rebates being provided at both Ballina Heights and for Wollongbar?

The agreements with the Federal Government are based on combined rebates, if sales proceed as per the agreements, of 72 per annum for the financial years 2013/14, 2014/15 and 2015/16.

This represents reimbursements of \$1,800,000 per annum for the three years (\$5.4 million in total), distributed as follows.

Table Six – Cumulative Impact of Rebates

Year	2013/14			2014/15			2015/16		
Project	BHD	WUEA	Total	BHD	WUEA	Total	BHD	WUEA	Total
Sewer	408,000	480,000	888,000	816,000	240,000	1,056,000	816,000	240,000	1,056,000
Water	12,000	81,600	201,600	240,000	40,800	280,800	240,000	40,800	280,800
Sec 94	72,000	638,400	710,400	144,000	319,200	463,200	144,000	319,200	463,200
Total	600,000	1,200,000	1,800,000	1,200,000	600,000	1,800,000	1,200,000	600,000	1,800,000
Rebates	24	48	72	48	24	72	48	24	72

It is extremely unlikely that this level of rebates will occur each year, but for the purposes of this exercise the impact needs to be modelled, particularly in respect to the water and wastewater operations.

Council's long term financial modelling for water and wastewater assumes that we will be collecting from \$500,000 to \$700,000 in section 64 contributions per annum. In reality these figures vary substantially from year to year dependent on the rate of development with \$500,000 to \$700,000 being an average for both water and wastewater. At times the figures can be as low as \$200,000 and at other times higher than \$1 million.

The annual turnover for water and wastewater is now approximately \$9 million and \$14 million respectively. If the contributions identified in table six are refunded each year, additional income may need to be raised through increases in the annual charges for the years in question, to ensure both businesses remain financially sound.

5.1 BBRC Funding - Ballina Heights Drive

For example, the average annual rebate of \$280,800 for water represents a 3% increase in water charges, whereas the average of, say \$1 million, for wastewater represents a 7% increase in wastewater charges.

This simplistic analysis fails to recognise the additional contributions that may be collected from the overall increase in lots released, along with land releases in other areas in the Shire, but again this is very difficult to predict.

The retention of the funds currently held in the Section 64 Plans for Ballina Heights to reimburse the rebates also has some flow on impact in respect to the cash flows for water and wastewater. However this is not considered to be quite as significant as Council's forward financial modelling assumes at least \$1 million in reserves held for these funds and what will need to occur is to ensure that the \$1 million held relates directly to these Plans.

For the section 94 contributions the majority of funds now being collected are being transferred back to Council's Community Infrastructure Reserve to recognise works in the Section 94 Plans that have been provided in advance by Council, through the use of our property reserves.

Examples include, but are not limited to, the Lennox Head library expansion, the Kentwell Centre, the Wollongbar Sports Fields and the River / Cherry Street roundabout.

If Council agrees to this proposal the Section 94 funds being recouped to Council's Community Infrastructure reserve will decrease, which in turn will limit our ability to finance additional community infrastructure projects such as sports centres, swimming pool upgrades etc. Although to be fair land sales or other funding sources are needed to finance a lot of those projects due to the magnitude of the funds required.

In summary, what is highlighted in this section is that by accepting the BBRC funds up front, there are then on-going impacts on Council's future cash flows.

Sustainability Considerations

- **Environment**
The construction of the BHD will be based on the latest environmental standards.
- **Social**
The construction of BHD will provide social benefits to the local community through the further release of residential land, while the land discount will provide a more affordable supply of land to eligible purchasers.
- **Economic**
The overall scale of this project and the possible stimulus from the discounted land supply will generate significant economic benefits. This is already being seen through the increase in land sales in Wollongbar.

Legal / Resource / Financial Implications

Legal agreements with the developers and the eligible purchasers will be prepared by a member of Council's legal panel as has occurred with the WUEA agreements.

Due to the technical nature of this report legal advice was sought from Lindsay Taylor Lawyers in respect to the management of the Section 64 and Section 94 contributions, particularly as we are proposing to rebate funds at a higher rate than what was originally paid on a per lot basis.

The advice from Dr Taylor is that Council should only be reimbursing (or repaying) developer contributions that represent monies recouped. In other words the contributions we reimburse should be for funds that Council has recouped due to expenditure we have previously incurred on projects in the Section 64 and Section 94 Plans.

The reason for this is that these recouped funds are then treated as Council general revenue and are not, as such, subject to the various restrictions of Section 64 and Section 94 legislation.

Also, even Section 64 contributions, which are for water and wastewater services, can be treated as general revenue (General Fund), when they represent funds recouped by Council.

Pleasingly Council has significant monies to be recouped under the Section 64 and Section 94 plans due to works that we have completed in advance of the contributions being collected.

Examples of this include the current wastewater treatment plant expansion and as previously mentioned community facility projects such as the Lennox Head Community Centre, Kentwell Centre, Wollongbar Sports Fields and the River Street upgrade.

The wastewater treatment project is particularly relevant as to date we have been funding the works completed through loan funding with the section 64 contributions held in reserve until needed. However if we now need to use these contributions for the BBRC refunds it will be necessary to ensure that adequate contributions are applied to the wastewater treatment expenditure to offset the magnitude of the refunds.

The legal advice received is that contributions recouped can be paid back under Section 356 of the Local Government Act ("Can a council financially assist others") and clause four of this section allows a council to include details of a financial assistance program in its draft Operational Plan. Therefore one of the recommendations arising from this report will be to include details of the BBRC program in the draft 2013/14 Operational Plan.

This form of payment may have GST implications for the developers / purchasers and this issue will need to be worked through with further legal advice. Also this means the reimbursement will be recorded as an expense in Council's accounts whereas to date the proposal has been to record the reimbursement as a net reduction against the capital contributions initially received.

This process may appear complicated but it does allow Council to meet the requirements of the BBRC program and our legal responsibilities, based on the advice from Lindsay Taylor Lawyers, in respect to the management of developer contributions.

Staff are confident we can manage the cash flows in this manner due to the high level of developer contributions still to be collected for works already undertaken by Council along with the fact that other works will be completed during the time the BBRC scheme is in place.

Finally the Lindsay Taylor Lawyer's advice is only one legal opinion and there are other opinions (both legal and personal) that Council does not need to follow this convoluted process to provide the refunds.

Nevertheless as Lindsay Taylor Lawyers specialise in local government matters, particularly development contributions, the preference is to follow their advice.

Consultation

The Ballina Heights Estate has been subject to significant consultation and planning over many years. The availability of the rebate will be promoted by Council through avenues such as the community connect magazine and by local real estate agents. This has worked well for Wollongbar. Discussions have been held with the landowners who will participate in this scheme.

Options

The options are to either accept the \$5 million in BBRC funding or not accept the funding.

The major benefit that Council is able to achieve with the BBRC funding for BHD is to significantly reduce a General Fund liability, being the construction of BHD.

Council is also in a position to utilise other areas of our operations, such as water and wastewater, to assist in providing major components of the rebates for eligible purchasers.

As Council is in a position to set our own charges for water and wastewater we are in a much better position to manage our cash flows for those operations, as against the General Fund, where rate pegging is so restrictive.

It is highly likely that the timeframes for the rebates will be extended due to the optimistic sales figures. This means as time advances we can review the structure of the rebates provided to determine whether the cash flows need to be amended to reflect the contributions being paid and the funds available in the Section 64 and 94 contribution plans. It may also be necessary, at times, to vary the funding sourced from the various areas; i.e. water, wastewater and section 94, depending on the balances available.

Even though there are some inherent financial management or cash flow issues that need to be considered in respect to the funding, on balance, it is considered that the positives more than outweigh the negatives, as explained within the report, and the negatives are manageable.

The construction of BHD will make a major difference to the Ballina Heights Estate and it is hoped there will be economic benefits for the Shire. At the same time there will be increased competition with the WUEA for land sales which in turn may assist in improving the overall affordability of land in the Shire. Affordability has been identified as one of the top five priorities in our community survey and it is important that we do what we can to assist with addressing affordability levels.

In conclusion the recommendation is to accept the grant and approve the rebates. Also it is recommended that Council confirm a total project budget of \$9.0 million for the construction of BHD to allow the tender, included as the next report in this agenda, to be accepted in full.

RECOMMENDATIONS

1. 1. That Council confirms its acceptance of the \$5 million grant under the Building Better Regional Cities (BBRC) program for the construction of Ballina Heights Drive.
2. That Council confirms that the rebates / refunds and eligible purchaser(s) for the BBRC program will be based on the same criterion as the Wollongbar Sports Field BBRC project (i.e. \$25,000 per lot with income levels consistent with the National Rental Affordability Scheme guidelines).
3. That Council confirms that the developer contribution amounts rebated / refunded under the Ballina Heights Drive BBRC program will be based, initially, on a pro-rata basis for the total contributions paid by the developers of the Ballina Heights Estate to date, as outlined in table two of this report, with the funding to be paid based on contributions recouped for expenditure previously incurred by Council.
4. That in respect to point three, Council authorises the General Manager to vary the distribution of the funding of the rebates, between Section 64 and Section 94 contributions, as required dependent upon future cash flows.
5. That Council approves the inclusion of the BBRC Program in the draft 2013/14 Operational Plan to ensure that the requirements of Section 356(3) of the Local Government Act are satisfied.
6. That Council authorises the Council seal to be attached to any agreements deemed necessary to ensure that all participating parties meet their obligations in respect to the BBRC program.
7. That Council authorises a total budget of \$9.0 million for the construction of Ballina Heights Drive, financed as follows:

Section 94 Roads Contributions held - \$2.85 million
BBRC Grant - \$5 million
Ballina Heights Drive Loan Reserve - \$141,000
Ballina Heights Drive 2012/13 Loan Repayment - \$141,000
Ballina Heights Drive 2013/14 Loan Repayment - \$141,000
External Loan - \$727,000

Attachment(s)

1. Correspondence to Federal Minister for Housing - 2 July 2012
2. Correspondence to Federal Minister for Housing dated 4 January 2013
3. Approval of Funding for Ballina Heights Drive dated 21 March 2013
4. Extract from Ballina Shire Roads Contribution Plan 2012
5. Correspondence from Ardill Payne & Partners dated 3 December 2002

enquiries refer
Cr Phillip Silver
in reply please quote
BBRC (1333)

2 July 2012

Hon Brendan O'Connor MP
Minister for Housing
Minister for Homelessness
Parliament House
CANBERRA ACT 2600



Dear Minister O'Connor

Re: Building Better Regional Cities (BBRC) Program
Your Reference: MN12-001460

On behalf of Council I wish to offer my community's gratitude for your Department providing approval of \$4.496 million to assist Council in constructing the Wollongbar Sports Fields as part of the BBRC Program. Our Council has significant expertise and experience in developing residential land, and in combination with the private sector I am confident that this funding will provide assistance to a large number of low to moderate income earners in achieving their personal goals of purchasing their own homes.

I was particularly pleased that Ballina was identified as one of the eligible cities for this program as we have been identified by the NSW State Government as an emerging regional centre for the northern rivers of NSW. I would also like to highlight that due to the attraction of the northern rivers, that Ballina has some of the least affordable housing stock in regional Australia, despite our on-going efforts to ensure there is residential land stock available.

With this being the case I am also aware that our Council submitted a second application under the BBRC program, which was for \$6 million to assist in constructing a new arterial road, being Ballina Heights Drive. Unfortunately this application was not supported, despite verbal advice from your Department's staff to our General Manager, Mr Paul Hickey, that the application was of a very high standard.

I acknowledge that there is limited funding available, however I do understand that some of the councils who were originally allocated funding may not be in a position to accept that funding. If this is the case, and if there is any funding still available under the BBRC program, it would be appreciated if your Department could reconsider our Ballina Heights Drive proposal. In support of this reconsideration I would offer the following updated information:

- The area surrounding Ballina Heights Drive is one of the major residential land releases planned for the north coast of NSW as supported by the NSW Department of Planning and Infrastructure
- Woolworths Pty. Ltd. wish to construct a medium range supermarket on land in this locality, however that construction, which will provide a significant employment boost for the region, plus provide an incentive for further residential development, cannot proceed until Ballina Heights Drive is completed

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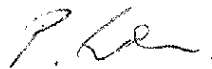
Page 2
Hon Brendan O'Connor MP
2 July 2012

- Council's initial application was for \$6 million in BBRC funding, however I am prepared to propose that Council would proceed immediately with the completion of this project if the BBRC funding was limited to \$5 million. This is a substantial shift in Council's contribution and it does highlight the importance of this project to our region.
- Real estate development, which represents 30% to 40% of our local economy, remains severely depressed and further incentives such as the additional BBRC funding would provide substantial support to our struggling economy.
- Real estate development in northern NSW has been funded and supported significantly over many years by a combination of three local property trusts being the Richmond Mortgage Fund, Mayne Investments and East Coast Mortgage Trust. Unfortunately during the past six months East Coast has announced that it is now winding down and Mayne, which is the largest of the three, has also announced that it is now winding down with no further deposits or loans to be provided. The closure of these mortgage funds is exacerbating the down turn in the residential property market.

Overall Ballina Shire is somewhat unique in regional Australia due to its combination of a high level of a lack of affordable housing, the impact the closure of the property trusts is having regionally and our level of dependence on the residential property market. On the positive side Ballina Shire is a well managed and financially viable Council and we are in a position to complete the Ballina Heights Drive project, however we need your financial support, through the BBRC program, to make that happen.

I do hope you are in a position to reconsider our original proposal and I am well aware that your colleague, the Honourable Janelle Saffin, Federal Member for Page, is in a position to verify the information outlined in this correspondence.

Yours faithfully



Cr Phillip Silver
Mayor

cc Janelle Saffin MP
Member for Page
63 Molesworth Street
LISMORE NSW 2480

Matt Dunn
Janelle Saffin's Office
63 Molesworth Street
LISMORE NSW 2480

Ctr David Wright

BBRC (1333)

4 January 2013

Hon Brendan O'Connor MP
Minister for Housing
Minister for Homelessness
Parliament House
CANBERRA ACT 2600

Dear Minister O'Connor

Re: Building Better Regional Cities (BBRC) Program
Your Reference: MN12-001460

On behalf of Council I wish you and your Government a prosperous New Year and for your particular portfolio I look forward to some success stories occurring during the year.

One program that has been a success is the BBRC and again I would like to offer our community's gratitude for your Department providing approval for \$4.496 million to assist Council in constructing the Wollongbar Sports Fields as part of the BBRC Program.

I am pleased to report that construction works are underway and the sale of land, to low to moderate income earners will commence on Monday 14 January 2013.

As per my earlier correspondence to you I do wish to again highlight that Ballina has been identified by the NSW State Government as an emerging regional centre for the northern rivers of NSW. I would also like to highlight that due to the attraction of the northern rivers, Ballina has some of the least affordable housing stock in regional Australia, despite our on-going efforts to ensure there is residential land stock available.

With this being the case I again wish to mention that our Council submitted a second application under the BBRC program, which was for \$6 million to assist in constructing a new arterial road, being Ballina Heights Drive. Unfortunately this application was not supported, despite verbal advice from your Department's staff to our General Manager, Mr Paul Hickey, that the application was of a very high standard.

With it now being a number of months since the funding we are still hearing that some of the councils who were originally allocated funding may not be in a position to accept that funding. If this is the case, and if there is any funding still available under the BBRC program, it would be appreciated if your Department could still reconsider our Ballina Heights Drive proposal.

The following information may be of interest to you in considering this review:

- The area surrounding Ballina Heights Drive is one of the major residential land releases planned for the north coast of NSW as supported by the NSW Department of Planning and Infrastructure.

Page 2
Hon Brendan O'Connor MP
4 January 2013

-
- Woolworths Pty. Ltd. wish to construct a medium range supermarket on land in this locality, however that construction, which will provide a significant employment boost for the region, plus provide an incentive for further residential development, cannot proceed until Ballina Heights Drive is completed
 - Council's initial application was for \$6 million in BBRC funding, however I am prepared to propose that Council would proceed immediately with the completion of this project if the BBRC funding was limited to \$5 million. This is a substantial shift in Council's contribution and it does highlight the importance of this project to our region
 - Real estate development, which represents 30% to 40% of our local economy, remains severely depressed and further incentives such as the additional BBRC funding would provide substantial support to our struggling economy
 - Real estate development in northern NSW has been funded and supported significantly over many years by a combination of three local property trusts being the Richmond Mortgage Fund, Mayne Investments and East Coast Mortgage Trust. Unfortunately during the past 12 months East Coast and Mayne have both announced they are winding down with no further deposits or loans to be provided. The closure of these mortgage funds is exacerbating the down turn in the residential property market.

Overall Ballina Shire is somewhat unique in regional Australia due to its combination of a high level of a lack of affordable housing, the impact the closure of the property trusts is having regionally and our level of dependence on the residential property market. On the positive side Ballina Shire is a well managed and financially viable Council and we are in a position to complete the Ballina Heights Drive project, however we need your financial support, through the BBRC program, to make that happen.

I do hope you are in a position to still reconsider our original proposal and I am well aware that your colleague, the Honourable Janelle Saffin, Federal Member for Page, is in a position to verify the information outlined in this correspondence.

Yours faithfully

Cr David Wright
Mayor

cc Janelle Saffin MP
Member for Page
63 Molesworth Street
LISMORE NSW 2480

Matt Dunn
Janelle Saffin's Office
63 Molesworth Street
LISMORE NSW 2480



THE HON MARK BUTLER MP
MINISTER FOR MENTAL HEALTH AND AGEING
MINISTER FOR HOUSING AND HOMELESSNESS
MINISTER FOR SOCIAL INCLUSION
MINISTER ASSISTING THE PRIME MINISTER ON MENTAL HEALTH REFORM

Councillor David Wright
Mayor
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

21 MAR 2013

Dear Councillor Wright

Thank you for your letter of 4 January 2013, about Ballina Shire Council's second application under the Building Better Regional Cities (BBRC) program. As the new Minister for Housing and Homelessness, your letter was referred to me for reply.

I am pleased to advise that Ballina Shire Council's Ballina Heights Drive project has been allocated BBRC funding of up to \$5 million.

The funding amount is subject to further verification and negotiation as part of the Funding Agreement negotiation process. You will need to enter into a Funding Agreement with the Australian Government prior to any payment of funds being made. My Department will be contacting you shortly to commence negotiations on this project.

I seek your support in finalising the Funding Agreement as soon as possible to allow your project to commence. The offer of funding may be withdrawn if a Funding Agreement cannot be finalised in a timely manner or if there are other significant reasons why the project cannot proceed.

If you require further information about the BBRC program, the contact officer for this matter is Ms Li Peng Monroe on (02) 6146 3860.

I am pleased to be able to support more affordable housing in Bunbury through the Building Better Regional Cities program, and look forward to hearing about how the program is benefitting the local community.

Yours sincerely

A handwritten signature in black ink, appearing to be "Mark Butler".

MARK BUTLER

Parliament House Canberra ACT 2600 • Telephone: (02) 6277 7280 Facsimile: (02) 6273 4138

Ballina Shire Roads Contributions Plan 2010

4. Works schedules and maps

No.	Proposed works	Costs	Cost to be met by Development	Council's Liability	Staging from commencement of plan			
					1 to 5 years (2010/11 - 2014/15)	5 to 10 years (2015/16 - 2019/20)	10 to 15 years (2020/21 - 2024/25)	15 to 20 years (2025/26 - 2029/30)
1a	Western Arterial (WAR)	\$42,100,000	\$29,470,000	\$12,630,000				✓
1a	Western Arterial (WAR) (Land Component)	\$250,000	\$175,000	\$75,000				✓
5	River Street - Kerr Street - Additional Signalisation Works (RKI)	\$420,000	\$294,000	\$126,000				✓
6	Fisheries Ck Bridge to Tweed St - Four Laning of Pacific Highway (F-T)	\$3,200,000	\$2,240,000	\$960,000			✓	
7	North Creek Rd to Kerr St - Four Laning of Pacific Highway (NCK)	\$5,900,000	\$4,130,000	\$1,770,000			✓	
8	Upgrade Kerr Street to Four Lanes (KSt)	\$5,000,000	\$3,500,000	\$1,500,000			✓	
9	Upgrade Fisheries Creek Bridge (FCB)	\$4,400,000	\$3,080,000	\$1,320,000			✓	
10	Duplication of North Creek Canal Bridge - Separate Two Lanes (NCB)	\$3,300,000	\$2,310,000	\$990,000			✓	
11	Fisheries Ck Bridge to Stln Interchange of Bypass - Four Laning (PHI)	\$7,890,000	\$5,523,000	\$2,367,000			✓	
11	Other Pacific Hwy Improvements (PHI) (Land Component)	\$110,000	\$77,000	\$33,000			✓	
12-14	Hutley Drive Extension (HDE)	\$12,600,000	\$8,820,000	\$3,780,000	✓			
15	Bangalow Road / Hogan Street - new Left In / Left Out (CLa)	\$550,000	\$385,000	\$165,000		✓		
16	Angels Beach Drive / Sheather Street - new Left In / Left Out (CLb)	\$500,000	\$350,000	\$150,000		✓		
16	Angels Beach Drive / Sheather Street - LILO (CLb) (Land Component)	\$90,000	\$63,000	\$27,000		✓		
17	Skennars Head Road Upgrade (SHR)	\$5,200,000	\$3,640,000	\$1,560,000				✓
18	North Creek Road and Bridge (7aU) (or Skennars Head Distributor)	\$16,000,000	\$11,200,000	\$4,800,000				✓
18	North Creek Road and Bridge (7aU) (Land Component)	\$10,000	\$7,000	\$3,000				✓
20	Ross Lane Improvements - West (RLW)	\$2,900,000	\$2,030,000	\$870,000			✓	
20	Ross Lane Improvements - East (RLE)	\$8,720,000	\$6,104,000	\$2,616,000			✓	
20	Ross Lane Improvements - East (RLE) (Land Component)	\$80,000	\$56,000	\$24,000			✓	

Page 31

5.1 BBRC Funding - Ballina Heights Drive

Ballina Shire Roads Contributions Plan 2010

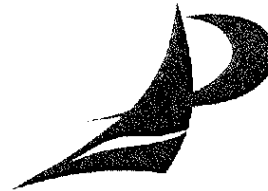
No.	Proposed works	Costs	Cost to be met by Development	Council's Liability	Staging from commencement of plan			
					1 to 5 years (2010/11 - 2014/15)	5 to 10 years (2015/16 - 2019/20)	10 to 15 years (2020/21 - 2024/25)	15 to 20 years (2025/26 - 2029/30)
21	Tintenbar Road / Teven Road - Climbing Lanes (TTa)	\$1,600,000	\$1,120,000	\$480,000		✓		
21	Tintenbar Road / Teven Road - Climbing Lanes (TRb)	\$1,600,000	\$1,120,000	\$480,000		✓		
21	Tintenbar Road / Teven Road - Climbing Lanes (TRb) (Land Component)	\$1,000	\$700	\$300		✓		
23	Pacific Highway to Southern Cross Drive - Right Turn Ban (PSI)	\$130,000	\$91,000	\$39,000		✓		
24	Links Avenue / Angels Beach Drive Roundabout (LAI)	\$900,000	\$630,000	\$270,000	✓			
26	Skennars Head Rd / Coast Rd / Rocky Point Rd Roundabout (SCI)	\$1,280,000	\$896,000	\$384,000	✓			
26	Skennars Head Rd / Coast Rd / Rocky Point Rd (SCI) (Land Component)	\$120,000	\$84,000	\$36,000	✓			
27	Traffic calming - North Creek Road / Reservoir Rd / Hutley Dr	\$2,300,000	\$1,610,000	\$690,000				✓
28a	River Street / Cherry Street Roundabout	\$960,000	\$672,000	\$288,000	✓			
28b	River Street / Moon Street Roundabout	\$960,000	\$672,000	\$288,000	✓			
29	Tamar Street / Cherry Street Roundabout	\$530,000	\$371,000	\$159,000	✓			
30	Angels Beach Dve / Bangalow Rd Signals and Lanes Extensions (30I)	\$3,100,000	\$2,170,000	\$930,000		✓		
31, 33	Cumbalum North-South Link	\$4,000,000	\$2,800,000	\$1,200,000	✓			
34	Cumbalum - Interchange	\$2,600,000	\$1,820,000	\$780,000	✓			
Total		\$139,301,000	\$97,510,700	\$41,790,300				

ARDILL PAYNE & PARTNERS

Civil & Structural Engineers Project Managers & Town Planner

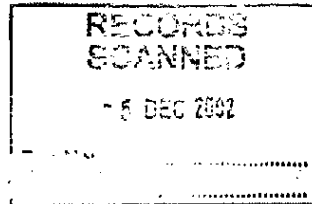
ABN 11 386 152 212

Bill Payne BE, MIE Aust. Graeme McKenzie BE, MIE Aust. Evan Eilford L & ESD



3 December 2002

General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478



BP:LT 5009lt-gc93

ATTENTION: Peter Williams

Dear Sir

**RE: Ballina Heights DA
Credit Entitlement Condition 1.7(c)**

Further to our meeting yesterday morning we write to confirm the following points concerning the agreed form of distribution and adjustment for credit entitlements for the construction of Cumbalum Way.

1. Ardill Payne and Partners, in conjunction with Ballina Shire Council, will commence a revision of the Cumbalum Way component of the Shire Wide Road Levy included in Council's Section 94 Plan for the Cumbalum Ridge Precinct. The Shire Wide Road Levy revision will be applicable to future DA submissions in the Cumbalum Precinct excluding the current DA before Council for stages 5-8. The DA for stages 5-8 was lodged on 17 October 2002 and can be determined using the Road Levy contributions current at the time of determination.

Included in this revision will be adjustments to Sketch No.1 referred to in clauses 1.7a) and b) of the stage 1-4 DA Conditions. These adjustments will be made to reflect the current design philosophy for the Cumbalum Way carriageway and drainage system.

It is proposed to make contribution and design adjustments in this manner so as to avoid delays associated with preparation of Section 94 revisions and associated regulatory processes.

The revision will address the additional expenses associated with the road crossings of swampy ground, the particular treatment of Cumbalum Way's carriageway, landscaping, sound attenuation and the like, and, the likely yield from the Southern and Northern portions of the Cumbalum Precinct.

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2. The credit entitlement for the current proposed bulk earthworks contract plus culverts, grassing and topsoil between chainage 0 and 1740 along Cumbalum Way is to be a maximum 26.5% of the relevant portions of the contract. The direct cost estimate for this work is \$877,757. This cost is based on tender prices received from the preferred Contractor and excludes any contingency allowances. The estimate including design costs and GST amounts to \$1,037,948. Details have previously been supplied to Council and are summarised overleaf.
3. The credit entitlement for the land component of this contract is to be \$127,965 plus GST as per the attachment.
4. The agreed base standard road design for Cumbalum Way to accommodate local traffic is a 20 metre road reserve with 11 metre carriageway. This base standard is to be used when calculating credit entitlements for road construction, including carriageway, roundabouts, kerb and gutter, drainage, lighting, landscaping, miscellaneous services and the like. That is, costs incurred from work beyond the 20 metre / 11 metre standard requirement will constitute credit entitlements.

The 20/11 standard does not apply to the bulk earthworks contribution calculation described in point 2 above.
5. Ballina Shire Council is to buy the road corridor to the north of the round-a-bout on the Cumbalum Way – Road 14 intersection at the rate of \$9/sq. metre. This amounts to \$72,900 plus GST as per the attachment.
6. Credit entitlements will be applied on a stage-by-stage basis until the development is complete or the credit limit is exhausted.

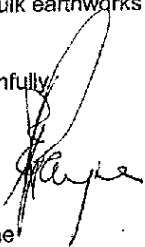
The total estimated credit entitlement along Cumbalum Way between chainage 0 and 1740 for:

- Bulk earthworks, topsoil, grass and culvert extension
- Land acquisition

inclusive of GST and Design costs is summarised overleaf and amounts to \$1,258,900. Additional credit entitlements will be due for roadworks along Cumbalum Way built beyond the base standard design discussed in Item 4 above.

We understand this process will permit Council to issue a Construction Certificate for the current bulk earthworks contract.

Yours faithfully,



W E Payne
ARDILL PAYNE & PARTNERS
Encl.

Cumbalum Way Deadmans Creek Road Council Contributions						
Cost Affect of increasing Status of Collector Road(23m earthworks/20m land)						
Description	Quantity	Unit	Rate	Price	Council % Contribution	Council Price Contribution
Earthworks Contribution						
Trees causeway						
Embankment Fill	7800	m ³	\$22.00	\$171,600.00	26.52%	\$45,508.32
Geotextile	9600	m ²	\$2.89	\$27,744.00	26.52%	\$7,357.71
Geotechnical Investigation		Item		\$20,000.00	26.52%	\$5,304.00
Earthworks Preloading						
Environmental Control		Item		\$35,793.00	26.52%	\$9,492.30
Section 1-Preloading Operation		Item		\$1,580,079	26.52%	\$419,036.95
Geotextile Fabric 2nd layer	28924.8	m ²	\$2.74	\$79,253.95	26.52%	\$21,018.15
Section 2-Road Works		Item		\$152,767	26.52%	\$40,513.81
Section 2-Bulk Earthworks		Item		\$580,773	26.52%	\$154,021.00
Remove Preload (assumes 1m left)	30,000	m ³	\$5.00	\$150,000	26.52%	\$39,780.00
Nett Earthworks						\$742,032.24
Culvert, Topsoil & Grass						
Verge	11520	m ²	\$8.00	\$92,160.00	26.52%	\$24,440.83
Culvert No 1	31.3	m	\$6,200.00	\$194,060.00	26.50%	\$51,425.90
Ch 960 to Ch 1740						
Verge	9360	m ²	\$8.00	\$74,880.00	26.52%	\$19,858.18
Overpass at Commerical Area	4	m	\$10,000.00	\$40,000.00	0.00%	\$40,000.00
Nett Culvert, Topsoil & Grass						\$135,724.91
Nett Works						
Design & Supervision 7.5%						\$877,757.15
Add 10% GST						\$65,831.79
Sub Total Earthworks plus D & S						\$1,037,947.83
Land Contribution						
Road Corridor, Ch 00 to Ch 960						
Land Value	10858	m ²	\$9	\$97,725.73	100.00%	\$97,725.73
Road Corridor, Ch 960 to Ch 1440						
Land Value	3360	m ²	\$9	\$30,240.00	100.00%	\$30,240.00
Road Corridor, Ch 1440 Cumbalum Way North						
Land north of road 14 intersection (300m x 27m reserve)	8100	m ²	\$9	\$72,900.00	100.00%	\$72,900.00
Total Land Contribution						\$200,865.73
Total Land Value incl.10% GST						\$220,952.30
Total Credit Contribution						\$1,258,900.13

5.2 Tender - Construction of Ballina Heights Drive

Delivery Program Engineering Works

Objective To determine whether Council wishes to award a tender for the construction of all, or part of, Ballina Heights Drive.

Background

A major project within Council's capital works program is the construction of Ballina Heights Drive (BHD). BHD is planned to be the main connecting road into Ballina Heights with the road connecting at the Cumbalum Interchange and then traversing the western side of the Estate. The current project is planned to finish at the northern end of the existing residential areas thereby providing access for future expansion. Ultimately BHD will assist in providing direct connection all the way through to Ross Lane.

A tender was previously called for this work. The Council resolved at the time not to accept any tenders as the pricing was significantly greater than the allocated budget. The design, tender specification and risk allocation has since been reviewed to see if savings could be identified. This report examines the outcome of the second tender process.

The first report in this agenda relates to the Building Better Regional Cities (BBRC) Program. That report sets out information in respect of the financial arrangements for this project. The following report has been prepared on the assumption that the recommendation to the BBRC report is accepted by the Council.

If the Council declines the BBRC grant, under the revised tender specification, Council is able to award stages of the Ballina Heights Drive project based on the funds available.

Key Issues

- Award the tender in accordance with the Local Government (General) Regulations (2005)
- Engage suitably qualified and experienced contractors that, having regard to the circumstances, provide the most advantageous tender to Council.

Information

Council decided to call tenders using the open tendering method, in accordance with clause 167 of the Local Government Regulations. A Tender Evaluation Plan (TEP) consistent with the Regulations and the Conditions of Tendering in the Request For Tender (RFT) documents was prepared and endorsed by the Tender Evaluation Committee (TEC).

The evaluation method did not include weighting of non-price criteria. Conforming tenders were evaluated on price only.

5.2 Tender – Construction of Ballina Heights Drive

The latest cost estimate for this work, prepared in January 2013 by Ardill Payne and Partners was \$9,848,116.

Tenders were called on 26 January 2013 and closed at 9.30 am on 7 March 2013. Four tenders were received, for the whole of the works, as follows:

Tenderer	A.B.N.	Tender Amount	Assessed Tender Amount ¹	Recommended Tender Amount ²
Gary Deane Constructions	23 065 240 002	\$7,236,892	\$8,089,094	\$7,960,594
Hazell Bros Group	27 088 345 804	\$8,155,620	\$8,165,120	
SEE Civil Pty Ltd	88 115 963 427	\$8,451,882	Greater than GDC & HBG	
Haslin Constructions Pty Ltd	85 051 102 124	\$9,561,103	Greater than GDC & HBG	

Notes:

1. The 'Assessed Tender Amount' is the Tender Amount plus (or minus) the Assessed Values of qualifications and departures (anomalies) in the tender and any loadings that apply.
2. The 'Recommended Tender Amount' is the Tender Amount plus (or minus) adjustments offered by the Preferred Tenderer to withdraw qualifications and departures.

In addition to the whole of the works, five mandatory alternative tenders were called consisting of discrete packages of whole works, these being:

Tenderer	Mandatory Alternative 1 (All works between chainages 900 & 1800)	Mandatory Alternative 2 (Part works chainage 0 to 900 and all works chainages 940 to 1800)	Mandatory Alternative 3 (All works excluding the bridge)	Mandatory Alternative 4 (Works between chainages 900 & 1540)	Mandatory Alternative 5 (Bridge Only)
Gary Deane Constructions	\$4,621,952	\$5,246,440	\$6,794,082	\$3,681,336	\$1,110,543
Hazell Bros Group	\$4,863,191	\$5,316,929	\$7,120,897	\$3,751,744	\$1,209,909
SEE Civil Pty Ltd	\$4,720,355	5,437,559	\$7,119,758	\$3,795,130	\$1,443,844
Haslin Constructions Pty Ltd	\$6,273,019	\$7,264,464	\$9,018,646	\$4,978,179	\$1,336,394

Individual components of the project can be completed if Council is not in a position to fund the entire project.

Also the tender required separate pricing for noise attenuation fencing. The price submitted for this fencing (Mandatory Alternative 6) by the preferred tender is considered fair and reasonable at \$79,112.30. This work relates to a condition of development consent for which Council is responsible.

Price Evaluation

The extended total of the Schedule of Rates tendered by Gary Deane Constructions, SEE Civil, and Haslin Constructions were incorrect, due to arithmetic errors in the Schedule of Rates. These errors were relatively minor. This does not change the relativity of tenders, and the corrected amounts were used in the evaluation of tenders.

The rates tendered in the Schedule of Rates were compared with the pre-tender estimate. The comparison revealed no differences of concern.

A sensitivity analysis confirmed that the relativity of tenders is not affected by changes in the scheduled quantities, within the expected range.

Assessment of Qualifications and Departures

All the tenders contained qualifications and departures (anomalies) and did not fully meet the requirements in the RFT Documents. Clause 178 of the Local Government Regulations requires Council to accept the most advantageous tender. In order to identify which tender was 'most advantageous' for the specified work, the values of the qualifications and departures were assessed and added to the original Tender Amounts.

The tenders of SEE Civil P/L and Haslin Constructions P/L contained six and eighteen qualifications and departures respectively. These were reviewed, however the TEC determined that there was no reason to fully assess the financial value of these qualifications and departures as it would only increase the value of their assessed tender amount, and would not change the relativity of the tenderers. The qualifications and departures did not raise issues that would affect the other tenders.

Sustainability Considerations

- **Environment**
The construction of these works will be managed by a construction environmental management plan.
- **Social**
This project will provide a transport link for residents and therefore support their social needs.
- **Economic**
This project is critical for the future orderly development of a major planned urban land release area.

Legal / Resource / Financial Implications

This report is provided to assist the Council meet its statutory requirements for tendering and procurement. The report elsewhere in this agenda regarding the BBRC Program reviews the financial arrangements for this project. The recommendation to this report assumes the Council acceptance of the recommendation for the BBRC report.

At the time of writing this report, the assessment of the financial capacity of the preferred tenderer is still being reviewed. Therefore the recommendation to this report to accept a tender is subject to the satisfactory completion of the financial check.

In respect to the preferred budget for this project there are significant concerns regarding the soft soils that will be encountered on this site, along with the need for contract administration. Based on these items the preferred budget for this project is as follows:

Item	Amount (\$'000)
Expenditure to date on specification, design etc	73
Tender	7,961
Noise Attenuation	79
Contract Supervision	80
Contingency (10%)	807
Total	9,000

Overall the preferred budget is \$9 million. The contingency of 10% for the contract is considered appropriate largely due to the soft soil issues on the site. Even though this may seem like a large figure the variations for the recent Plateau Drive project were 20% and for the Teven Bridges 5%. Also a dedicated contract supervisor is considered essential for a project of this magnitude.

Consultation

An open tender was conducted.

Options

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

The Adjusted Tender Amount of Gary Deane Constructions Pty Ltd is less than the Assessed Tender Amounts of the other tenderers, and the tender of Gary Deane Constructions Pty Ltd is therefore confirmed as the most advantageous for the whole of the works and for the combined Mandatory Alternatives 1 to 5. The Recommended Tender Amount for the whole of the works is \$7,960,594.13 with another \$79,112.30 for the noise attenuation works.

The Council also has the option to stage the works, particularly if it is not prepared to accept the BBRC funding. If this is the preferred option, it is suggested that Council resolve to defer this item to allow a further report to be submitted analysing the staging options.

Overall as the recommendation for the earlier report in this agenda is to accept the BBRC funding the recommendation that follows is to accept the tender from Gary Deane Constructions Pty. Ltd. for the entire project.

RECOMMENDATIONS

1. That Council accepts the tender from Gary Deane Constructions Pty Ltd, for the Recommended Tender Amount of \$7,960,594.13 for the whole of the works for Contract No. 1202586 for Ballina Heights Drive – Construction of Road and Associated Works, subject to the satisfactory completion of the contractor financial capacity check.
2. The tender submitted by Gary Deane Constructions Pty Ltd for the whole of the works in Recommendation 1 above be increased by the amount of \$79,112.30 for the provision of Noise Attenuation Fencing.
3. Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil