



Notice of Ordinary Meeting

Notice is hereby given that an Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street, Ballina on **Thursday 27 June 2013 commencing at 9.00 am.**

Business

1. Australian National Anthem
2. Acknowledgement of Country
3. Apologies
4. Confirmation of Minutes
5. Declarations of Interest and Reportable Political Donations
6. Deputations
7. Mayoral Minutes
8. Development and Environmental Health Group Reports
9. Strategic and Community Facilities Group Reports
10. General Manager's Group Reports
11. Civil Services Group Reports
12. Public Question Time
13. Notices of Motion
14. Advisory Committee Minutes
15. Reports from Councillors on Attendance on Council's behalf
16. Questions Without Notice
17. Confidential Session

Paul Hickey
General Manager

A morning tea break is taken at 10.30 a.m. and a lunch break taken at 1.00 p.m.

Deputations to Council – Guidelines

Deputations by members of the public may be made at Council meetings on matters included in the business paper. Deputations are limited to one speaker in the affirmative and one speaker in opposition. Requests to speak must be lodged in writing or by phone with the General Manager by noon on the day preceding the meeting. Deputations are given five minutes to address Council.

Members of the public are advised that any documents tabled or given to Councillors during the meeting become Council documents and access may be given to members of the public in accordance with the requirements of the Government Information (Public Access) Act 2009.

The use of powerpoint presentations and overhead projectors is permitted as part of the deputation, provided that the speaker has made prior arrangements with the General Manager's Office at the time of booking their deputation. The setup time for equipment is to be included in the total time of 5 minutes allocated for the deputation.

Public Question Time – Guidelines

A public question time has been set aside during the Ordinary Meetings of the Council. Public Question Time is held at 12.45 pm but may be held earlier if the meeting does not extend to 12.45 pm.

The period for the public question time is set at a maximum of 15 minutes.

Questions are to be addressed to the Chairperson. The period is set aside for questions not statements.

Questions may be on any topic, not restricted to matters on the agenda for the subject meeting.

The Chairperson will manage the questions from the gallery to give each person with a question, a "turn". People with multiple questions will be able to ask just one before other persons with a question will be invited to ask and so on until single questions are all asked and, time permitting, the multiple questions can then be invited and considered.

Recording of the questions will not be verbatim.

The standard rules of behaviour in the Chamber will apply.

Questions may be asked from the position in the public gallery.

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1. Australian National Anthem

The National Anthem will be performed by Ballina Public School.

2. Acknowledgement of Country

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

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

3. Apologies

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 May 2013 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 May 2013.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2011/105 - Section 96 - Bulk Storage

8. Development and Environmental Health Group Reports

8.1 DA 2011/105 - Section 96 - Bulk Storage

Applicant	Newton Denny Chapelle
Property	Lot 20 DP 1051208 No. 1188 Teven Road Alstonville
Proposal	Section 96 Application Seeking to Amend DA 2011/105 for the Establishment of a Scaffold Business by Increasing the Hardstand Storage Area and provide a new driveway access onto Teven Road.
Effect of Planning Instrument	The land is zoned RU1 under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

Council is in receipt of a Section 96 application seeking to modify the consent for an existing scaffolding storage business. The amendments being sought are:

- to incorporate an external storage yard
- to enlarge the extent of hardstand area for bulk storage of scaffolding equipment and maneuvering and
- to provide an additional driveway access to Teven Road.

The additional storage area is required as a result of the downturn in the building industry. This downturn has resulted in equipment, which would normally be located on building sites, having to be stored on the subject site. The application also seeks to re-open an old vehicular access onto Teven Road.

Council at its meeting of 26 May 2011, resolved to grant consent to the establishment of a *"Bulk Store"* for a scaffold business on the site. The development involved the construction of a shed and vehicular access for the bulk store of trucks and scaffold equipment. Under this consent all equipment and plant was to be stored within the shed (refer to attached Council report dated 26 May 2011).

The existing operation comprises, access to the site being gained from the northern end of the property with an access road through the property to the storage area at the southern end of the property.

The storage area comprises an 834m² hardstand area used for vehicle maneuvering and storage and a 24m x 9m storage shed approved for the purpose of storing scaffold, trucks and ancillary equipment associated with the use.

The additional area of 770m² to be used for maneuvering and storage purposes, is to be located to the north of the existing hard paved area, that is currently land that is fenced off from the remainder of the property.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The application was placed on public exhibition in accordance with Council's Policy. No submissions of objection were received following exhibition. Five adjoining property owners have signed a prepared letter of support for the proposed amendment. The five property owners include those immediately adjoining the subject site to the west and north and on the opposite side of Teven Road.

Report

The application has been assessed under Sections 96(1A) and 79C of the Environmental Planning and Assessment Act 1979.

Environmental Planning and Assessment Act 1979

Section 96(1A) states: *A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent was originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with:*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modifications within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

It is considered that the proposed amendment is substantially the same development as that originally approved given the total area of the land and the relative size of areas allocated to different uses within the site.

The amendment seeks to fill an additional 770m² of land for storage purposes. The additional storage area will almost double the size of the existing hardstand storage area, and is required for the storage of scaffolding equipment.

8.1 DA 2011/105 - Section 96 - Bulk Storage

The additional storage area is required, as the downturn in the building industry has resulted in additional equipment, which would normally be deployed on building sites, being stored on the site.

The increase in the amount of scaffolding stored on the site, is requiring equipment to be stored at a greater height within the confines of the existing shed. This is becoming a safety issue, as the higher the stacks the greater the likelihood of them falling. With the increase in storage area, equipment can be stored at a lower level, thus contributing to a safer work environment.

The proposed change will result in the ability to store additional equipment on site when required.

It is considered the proposed change will be of minimal environmental impact, as it will result in an unused area of the property being filled to a maximum height of 400mm so as to provide a hard stand area for storage purposes.

The main environmental impact will be from an increase in water run off. It is considered that this will have minimal environmental impact as the water will run into a seven metre wide grassed buffer area.

The other aspect to the proposed change, being the storage of equipment on the proposed hardstand area as opposed to being stored within the shed, will have minimal environmental impact as the site is not visible from Teven Road due to the existence of a line of mature trees along the Teven Road frontage of the site.

Ballina Local Environmental Plan 2012

The property is zoned RU1 Primary production. The objectives of the zone are as follows:

To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.

To encourage diversity in primary industry enterprises and systems appropriate for the area.

To minimise the fragmentation and alienation of resource lands.

To minimise conflict between land uses within this zone and land uses within adjoining zones.

To maintain the rural, cultural and landscape character of the locality.

To enable development that is compatible with the rural and environmental nature of the land.

To ensure that there is not unreasonable or uneconomic demands for the provision of public infrastructure.

DA 2011/105 was determined in May 2011 under the provisions of BLEP 1987, which was the planning instrument applicable at the time. BLEP 1987 defined the use as a "Bulk Store".

A "Bulk Store" was permissible within the applicable zone at the time.

There is no definition for a "Bulk Store" in BLEP 2012.

Under the provisions of BLEP 2012 the proposed development would be best defined as a "Depot".

A “Depot” is defined as:

A building or place used for the storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use, but does not include a farm building.

A “Depot” is prohibited within zone RU1.

Consequently, the application is for the amendment of an existing use, and as such, the fact that the zoning prohibits the use is not reason itself for refusing the application.

Section 106 of the EP&A Act 1979 defines existing use as:

The use of a building, work or land for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use.

On 4 February 2013 Ballina Local Environmental Plan 2012 came into effect which prohibited Bulk Stores or similar within the applicable RU1 zone. Thus making the development, a use granted development consent before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use. Therefore the use is an “existing use”.

Section 107 of the EP&A Act provides in part:

- (1) *Except where expressly provided in this Act, nothing in this Act or an environmental planning instrument prevents the continuance of an existing use.*
- (2) *Nothing in subsection (1) authorises:*
 - (a) *any alteration or extension to or rebuilding of a building or work, or*
 - (b) *any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or*
 - (c) *without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use.*

Section 108 provides that the *regulations may make provision for or with respect to existing use and, in particular, for or with respect to:*

- (a) *the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use.*

Environmental Planning and Assessment Regulations 2000

Clause 41 provides in part that an existing use may be enlarged, expanded or intensified.

Clause 42 provides that development consent is required for any enlargement, expansion or intensification of an existing use and must be for the existing use and for no other use, and must be carried out only on the land on which the existing use was carried out immediately before the relevant date.

Clause 43 provides that development consent is required for any alteration or extension of a building or work used for an existing use.

Development consent has been sought for an increase in the area to be used for the approved use and for no other use, and is being carried out on the same land as was originally approved.

It is considered that the application complies with the relevant sections of the EP&A Act 1979 and the EP&A Regulations 2000, as they relate to Existing Uses.

The proposed amendments are therefore permissible by virtue of "existing use rights"

State Environmental Planning Policy (Rural Lands) 2008

The subject land, is zoned RU1 under the provisions of BLEP 2012 and as such is subject to the provisions of SEPP (Rural Lands).

Clause 2 contains the aims of the SEPP which are:

- (a) to facilitate the orderly and economic use and development of rural lands for rural and related purposes,*
- (b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,*
- (c) to implement measures designed to reduce land use conflicts,*
- (d) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,*
- (e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.*

The site is currently used for the purpose of a scaffolding business and this application seeks to extend the area to be used for that purpose. The subject site has an area of 3.742ha with a dwelling located in its centre. The site has limited economically sustainable agricultural potential.

The proposed expansion will have minimal impact on the orderly or economic use of the site for rural and related purposes.

Council has received no complaints regarding the existing use of the site.

The site is not identified as State Significant agricultural land.

The application does not involve concessional lots.

In consideration of the above, the proposed development is considered to be not inconsistent with the aims of the SEPP.

Clause 7 of the SEPP contains the following Rural Planning Principles:

- a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*

- b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*
- c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*
- d) in planning for rural lands, to balance the social, economic and environmental interests of the community,*
- e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*
- f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
- g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*
- h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

The use of the site as a depot is a more productive and sustainable economic activity than using this site for agricultural purposes, as the agricultural potential of the site is limited, as mentioned above.

The extension of this development will have limited impact on the agricultural production of the area, region or State, for reasons mentioned above.

The use of the rural land for this non agricultural purpose would result in a greater social and economic benefit for the property owners and the general community, than if the land was to be used for a agriculture purpose.

Council has set aside, industrial land, for industrial uses such as this and it is considered that a better balance in meeting the social, economic and environmental interests of the community would be achieved if the depot were to be located within an industrial area. However, Council has already granted approval for the site to be used for the purpose of a “Bulk Store” and the increase in the area of hard stand storage area, will have limited impact on the balance of the social, economic and environmental interests of the community.

The use of the site as a depot will have negligible impact on the biodiversity, native vegetation and water resources.

While the applicable planning principles are broad, it can be generally considered that the establishment of a depot for a scaffold business, being essentially a light industrial land use, is not suitable in a rural area and cannot be consistent with the planned development of the area. However, as the industry has been approved by Council, an application for an expansion of that business is not considered to be inconsistent with the provisions of the planning legislation.

Illegal Dumping

A report was presented to the Council meeting of 23 May 2013 which advised that a notice had been issued to the landholders requesting them to “Show Cause” why further legal action should not be taken against them, for the unauthorized use of the subject site as a “*waste or resource management facility*”.

This action resulted, from the applicant accepting delivery of six or seven truck loads of broken up concrete from the big prawn site. It was intended that this fill form part of the hard stand area the subject of this application.

At that meeting Council resolved to commence legal action against the applicant for the acceptance of waste at an unlawful waste facility as a separate matter.

Conclusion

Council at its meeting of 26 May 2011, resolved to grant consent to the establishment of a Bulk Store for a scaffold business on the site.

On 4 February 2013, Ballina Local Environmental Plan 2012 came into effect which prohibited Bulk Stores/Depots or similar within the applicable RU1 Zone. The current approved use is therefore an ‘existing use’ as defined in Section 106 of the EP&A Act 1979. Sections 107 & 108 of the EP&A Act 1979 and Clauses 41, 42 & 43 of the EP&A Regulations 2000, provide conditions under which an existing uses may be expanded. It is considered that this application complies with those requirements.

SEPP (Rural Lands) 2008 provides a series of broad rural planning principles. It is considered, that as the use is an existing use, the use is not inconsistent with the broad rural planning principles.

It is considered that the proposed extension of the hard paved area will have limited adverse impact on the agricultural viability of the subject site. The use of the site for a Bulk Store/Depot is prohibited under the provisions of BLEP 2012. However, as the site is an existing use this is not considered reason in itself for refusing the application.

The use has been operating for approximately two years, with no complaints. It should be noted that five adjoining residents have signed prepared letters of support for the proposed extension. The increase in storage area is requested as a result of the downturn in the building industry, which has seen the need to store material, which would normally be deployed on building sites, to be stored on the subject site.

Whilst a return to better times in the building industry, may mean that the area will no longer be required for the storage of additional scaffolding, approval of the current application will allow the area to be used on an on-going basis.

The applicant has advised that the increase in hard stand storage does not indicate a desire to increase the size of the business but such is largely irrelevant to the determination of the application. The site is not visible from Teven Road and generates no adverse impacts on the environment of the surrounding area.

Options

1. Council grant approval for the additional filled area of land to be used for an expanded storage area associated with the existing scaffolding business. This is the preferred option as per the information contained within this report.
2. Council refuse the application to expand the storage area on the site for the storage of plant and equipment for a purpose prohibited by the provisions of Ballina Local Environmental Plan 2012. If this option were to be adopted the current compliance action will proceed which may require the removal of the unauthorised fill. This option is not recommended for the reasons outlined in the report including that specific legislative provision is made for the expansion of existing uses.

RECOMMENDATION

That the Section 96 1(A) application seeking to amend DA 2011/105 by the creation of an additional hard stand area to be used for the purpose of storage and the establishment of a new vehicular access onto Teven Road on Lot 20 DP 1051208, No 1188 Teven Road, Alstonville be **APPROVED** subject to the following conditions.

1. Condition 1.1 be amended to read
Development being carried out generally in accordance with the plans and associated documentation lodged by, or on behalf of, the applicant, including plans prepared by Amy Campbell, Drawing Nos. A-01 (Site Plan) Revision B, Dated 14 March 2013 and A-02 (Proposed Shed Plan) Revision B, Dated 8 April 2013, and the plan prepared by Wide Span Sheds, Reference No PB 1102061-1 (Building Layout), Dated 8 February 2011, as amended in red, except as modified by any condition in this consent.
2. Condition 1.5 be deleted
All scaffold equipment and associated materials are to be stored within the confines of the approved shed. No approval is granted for the storage of scaffold equipment and/or materials outside the shed either on the approved hard stand area or on any adjacent area.
3. Condition 2.4 be amended to read
The provision of stormwater controls on site shall be in accordance with the requirement of Section 3.9 Stormwater Management, of Chapter 2 General and Environmental Considerations of Ballina Development Control Plan 2012, and in accordance with the Site Stormwater Management Plan prepared by Newton Denny Chapelle, dated 7 March 2011, and amended Shed and Yard Plan dated 8 April 2013. This is to include the shaping of driveways and paved areas to drain to landscaped/vegetated areas.
4. New Condition 2.6A is to be included
Vegetation in the road reserve impairing sight distances to the south of the proposed access driveway is to be pruned. Approval from Council is to be sought in association with the application submitted under the provisions of S138 of the Roads Act 1993.

8.1 DA 2011/105 - Section 96 - Bulk Storage

5. Condition 2.8 be amended to read
A landscape plan, prepared by a person competent in the field is to be submitted to Council for approval prior to the issue of Construction Certificate. The plan shall show the mature height, location, quantity and species of all plantings and should also give details of soil conditions and the planting and maintenance program. The plan is to incorporate a 7m grass buffer around the edge of the proposed hardstand area.

6. New Condition 2.9A is to be included
Prior to issue of a Construction Certificate where building work is proposed, payment to Council of non-refundable monetary contributions shall be made towards the provision of public services, infrastructure and amenities, which are required as a result of the development in accordance with the following contribution plans prepared under Section 94 of the Environmental Planning & Assessment Act, 1979 :

Contribution Plan/Development Servicing Plan	Adopted
Ballina Shire Contributions Plan 2008	23 October 2008
Ballina Shire Roads Contribution Plan 2010	25 February 2010
Ballina CBD Car Parking Contribution Plan	25 November 2004
Lennox Head Village Centre Car Parking Contribution Plan	12 February 2004
Ballina Shire Heavy Haulage Contribution Plan	27 October 2011

The Contribution Plans provide for the indexing of contribution amounts and are also subject to amendment. The contribution rates payable will be the rates that are applicable at the time payment is made. Copies of the Contribution Plans may be viewed at Council's Customer Service Centre, Cherry Street, Ballina or on Council's website www.ballina.nsw.gov.au.

7. Condition 3.6 be amended to read
The applicant shall ensure that any additional fill material imported to the site for the proposed development shall only be obtained from fill sources with approved testing. The supplier of the fill material must certify to Council at the completion of the construction of the development that the material was free of contaminants being natural or otherwise.

8. All other conditions remain applicable and valid.

Attachment(s)

1. DA 2011/105 - Locality Plan
2. DA 2011/105 - Site Plan
3. DA 2011/105 - Submissions
4. DA 2011/105 - Council Meeting Report, May 2011

8.2 Compliance Work Plan 2012/2013

8.2 Compliance Work Plan 2012/2013

Delivery Program Development Services

Objective To advise Council of the outcomes of the Compliance Work Plan 2012/2013

Background

At the June 2012 Ordinary Meeting, Council adopted a Compliance Work Plan for the 2012/13 financial year. A six month update report was presented to Council at the January 2013 Ordinary Meeting. This report provides a final status report following the completion of the current Compliance Work Plan.

Key Issues

- Level of Compliance
- Results achieved

Information

The Compliance Work Plan nominated six areas as the priorities for this financial year as they were considered to be the areas of highest risk or potentially lowest levels of compliance. These priority areas were:

1. *Audit of Major Developments within the Shire (Ongoing Program)*
2. *Audit of Identified Development Consents (Ongoing Program)*
3. *Complete the Audit of all Development Consents issued within the Southern Cross Industrial Estate*
4. *Audit of outstanding Developer Contributions and Water and Sewer Charge Payments*
5. *Review of all Development Consent issued within the Russellton Industrial Estate.*

In addition to these areas of identified priority, Compliance staff respond to customer requests received from members of the general public as well as Council employees and State and Federal Government Agencies. As the general public become more informed in relation to the legislative requirements within the Shire, as well as Council's role in the enforcement of these requirements, an increasing trend of customer requests being received within the Compliance area is continuing.

Council is also aware of legal matters that have previously been reported for major non compliances within the Ballina Shire that are currently the subject of ongoing legal action.

As a general comment, the overall level of compliance is continuing to improve. The vast majority of outstanding issues currently under investigation relate to the certification of work to the required standard following the completion of the work; for example the provision of a Final Occupation Certificate after Interim Occupation Certificate has been issued.

8.2 Compliance Work Plan 2012/2013

Of the nominated priority areas within the Compliance Work Plan, Council is provided with the following updated advice:

1. *Audit of Major Developments within the Shire* (Ongoing Program)

Major developments are defined as developments consisting of five or more commercial/industrial units/parcels of land/dwellings as well as all developments with high environmental significance.

This program originally commenced in the 2008/2009 financial year with an audit of 2006 development applications, which included applications that have been determined or withdrawn. This program has continued on to audit 2007, 2008 and 2009 development applications.

Compliance resources have also been involved in auditing, on an on-going basis, a number of development consents issued prior to 2006 that are known to contain environmentally and culturally sensitive areas. As this program now covers over three separate years, it is intended that each audit year will be reported separately.

Of the 65 major developments from 2006, all developments have been inspected for compliance with the terms and conditions of the development consent. As reported to Council at the January 2013 meeting, 61 of these 65 major developments were in compliance with the issued development consents.

Regarding the remaining four consents, these developments have been inspected and require further follow up inspections, and whilst listed as separate development applications, relate to one rural subdivision in East Wardell, where the landowner has been placed into receivership.

Compliance is working with the receivers and the new landowners to bring the environmental restoration in line with the approved revegetation management plans approved for each development. This process is ongoing and should remain ongoing for the next two to three years, whilst the approved revegetation management plans are progressively implemented.

Of the 89 major developments from 2007, all developments have been inspected for compliance with the terms and conditions of the development consent. As reported to Council at the January 2013 meeting, 85 of these 89 major developments were in compliance with the issued development consents. Regarding the remaining four consents:

- Three have not commenced at the time of the inspection. Of these, two consents will expire within the next month, with the third consent valid until December 2015. Further inspections of these properties during the upcoming financial year will be undertaken to ascertain if the approved developments have physically commenced or have lapsed;
- One development has been inspected and requires further follow up inspections. This development has commenced however works on site have not been completed at the time of the last inspection.

8.2 Compliance Work Plan 2012/2013

Of the 77 major developments from 2008, all developments have been inspected for compliance with the terms and conditions of the development consent. As reported to Council at the January 2012 meeting, 59 of these 77 major developments were in compliance with the issued development consents. Regarding the remaining 18 consents:

- Six have not commenced at the time of the inspection
- Eight developments have been inspected and require further follow up inspections. These developments have all commenced however works on site have not been completed at the time of the last inspection; and
- Four developments have not been activated and have lapsed.

A review of the 2009 development applications identified 43 major developments that required inspection. Of these 43 major developments, all developments have been inspected for compliance, with:

- 11 developments have not commenced at the time of inspection
- Seven developments have been inspected and require further follow up inspections. These developments have all commenced however works on site have not been completed at the time of the last inspection and
- 25 developments have been inspected and all conditions of consent have been complied with.

2. *Audit of Identified Development Consents (Ongoing Program)*

Identified Development Consents are defined as all approvals issued by Ballina Shire Council *EXCEPT* those identified as either (a) Major Developments or (b) Consents that require further approvals from Council or an accredited certifier, (eg Construction Certificates, Occupation Certificates, Subdivision Certificates, Food Inspection Certificates) and therefore have a 'built in' mechanism or stage within the consent where compliance with conditions are checked.

This program originally commenced in the 2008/2009 financial year with an audit of 2006 development applications, which included applications that had been determined or withdrawn. This program has continued on to audit 2007, 2008 and 2009 development applications.

Of the 143 identified developments from 2006, all developments have been inspected for compliance with the terms and conditions of the development consent. As reported to Council at the January 2013 meeting, 142 of these 143 identified developments were in compliance with the issued development consents.

Regarding the remaining consent, this development has been inspected and requires further follow up inspections. This development relates to a business within Newrybar that has recently undertaken civil works to create the carpark and improve Council's road infrastructure. Further inspections are required to bring the On-Site Sewage Management System and business into compliance with the approved development consent.

8.2 Compliance Work Plan 2012/2013

Of the 131 identified developments from 2007, all developments have been inspected for compliance with the terms and conditions of the development consent. As reported to Council at the January 2013 meeting, 130 of these 131 identified developments were in compliance with the issued development consents.

Regarding the remaining consent, this development has been inspected and requires further follow up inspections. This development relates to a business within Wardell that requires reports certifying all building works undertaken to the building.

Of the 131 identified developments from 2008, all developments have been inspected for compliance with the terms and conditions of the development consent. As reported to Council at the January 2013 meeting, 104 of these 131 identified developments were in compliance with the issued development consents. Regarding the remaining 27 consents:

- 14 have not commenced at the time of the inspection
- 13 developments have been inspected and require further follow up inspections. These developments have all commenced however works on site have not been completed at the time of the last inspection.

A review of the 2009 development applications identified 99 identified developments that required inspection. Of these 99 identified developments, all developments have been inspected for compliance, with:

- Three developments have not commenced at the time of inspection;
- One development has been inspected and require further follow up inspections with the development having commenced however works on site have not been completed at the time of the last inspection; and
- 95 developments have been inspected and all conditions of consent have been complied with.

3. *Complete the Audit of all Development Consents issued within the Southern Cross Industrial Estate.*

This program is intended to audit development consents and land uses within the Southern Cross Industrial Estate to ensure ongoing compliance with Council approvals.

Of the 507 identified development consents within the Southern Cross Industrial Estate, all developments have been inspected for compliance with the relevant issued development consent. As reported to Council at the January 2013 meeting, 399 of these 507 developments were in compliance with the issued development consents. Regarding the remaining 108 consents:

- 30 have not commenced at the time of the inspection. These developments will be re-inspected during the first half of next financial year for commencement and if applicable compliance with the issued consents;

8.2 Compliance Work Plan 2012/2013

- 74 developments have been inspected and require further follow up inspections. This is due to works on site not being complete at the time of the inspection, a change in the land use that has not been formally consented to but may be permissible as 'exempt development' under State Policy, or non compliance with conditions of consent being detected. Investigations into these potential 'exempt development' uses will continue in the first half of next financial year; and
- Four developments have been inspected and all conditions have been complied with.

4. *Audit of outstanding Developer Contributions and Water and Sewer Charge Payments.*

This is a new program. An audit of outstanding developer contributions and water and sewer charges has been conducted by Council's Finance Section from 2004 to 2007. This audit has identified 30 DAs where there may have been anomalies in the amount of contributions and/or charges paid to Council in line with development consent conditions.

To date, 26 of the 30 identified anomalies have been investigated. Action is currently underway to address the remaining four items and, should further action, including legal action, be required, these matters will be separately reported to Council for determination.

This program has now been completed.

5. *Review of all Development Consent approvals issued within the Russellton Industrial Estate.*

This is a new program for inclusion in the Compliance Work Plan for 2012/13 and was planned to commence in December 2012 on the completion of the audit of the Southern Cross Industrial Estate.

Given the Southern Cross Industrial Audit has not been completed, along with the other issues previously identified in this report, this program has not commenced as proposed and will be carried forward to the upcoming 2013/2014 Compliance Work Plan.

Sustainability Considerations

- **Environment**
Compliance with issued development consents enhances the protection of the natural and built environment and attainment of Council's strategic planning objectives for the shire.
- **Social**
Compliance can also assist in ensuring social cohesion through the appropriate implementation of Council conditions.
- **Economic**
Not applicable

Legal / Resource / Financial Implications

The role of the Compliance staff is to improve compliance with Council's adopted Local Environmental Plan (LEP), Development Control Plan (DCP) and Development Consents as well as NSW Government legislation, including State Environmental Planning Policies (SEPPs) and the like.

As mentioned there has been an increasing trend of customer requests being received within the Compliance Unit. This trend, amongst other reasons more fully outlined above, has impacted on the service delivery of the adopted Compliance Work Plan.

Consultation

This report has been provided for public information.

Options

This report has been prepared as an update on the Compliance Work Plan therefore the recommendation is to note the contents of the report.

RECOMMENDATION

That Council notes the contents of the final report for the Compliance Work Plan for 2012/13.

Attachment(s)

Nil

8.3 Compliance Work Plan 2013/2014

8.3 Compliance Work Plan 2013/2014

Delivery Program Development Services

Objective To advise Council of the proposed Compliance Work Plan for 2013/2014

Background

Following on from the previous report in this agenda, this report identifies the major areas where it is recommended that Council apply its compliance resources for 2013/2014.

Key Issues

- Proposed areas for investigation and review

Information

To provide Council with a forecast of how Council resources will be directed over the coming 2013/14 financial year, a Compliance Work Plan has been developed. Whilst additional land use complaints will inevitably be received over the coming financial year, all complaints will be prioritised and actioned as appropriate, however it is intended that priority will be given to the items contained within the Compliance Work Plan.

The Compliance Work Plan has nominated the following areas as the priorities for the forthcoming financial year as they are considered the areas of highest risk or potentially lowest levels of compliance.

Programs:

1. *Audit of Major Developments within the Shire.* (Ongoing Program)

It is intended to continue this program to complete the audit of all 2006, 2007, 2008 and 2009 Major Development consents and commence the audit of all 2010 Major Development consents.

2. *Audit of Identified Development Consents* (Ongoing Program)

It is intended to continue this program and complete the audit of the 2006, 2007, 2008 and 2009 Identified Development Consents and commence the audit of the 2010 Identified Development Consents.

3. *Complete the Audit of all Development Consents issued within the Southern Cross Industrial Estate.*

This program first commenced in the 2009/10 Compliance Work Plan and as outlined in the previous report, is planned for finalisation by December 2013.

8.3 Compliance Work Plan 2013/2014

4. *Review of all Development Consent approvals issued within the Russellton Industrial Estate.*

This is a carry over program for the 2012/2013 Compliance Work Plan and will follow the work undertaken within the Southern Cross Industrial Estate scheduled for completion in December 2013. It is intended to:

- identify, record and map all industrial sites and land uses within the area of Russellton Industrial Estate
- review of all industrial sites for current development consents to undertake business activities
- inspection of industrial sites for compliance with the issued Development Consent or other approval
- enforcement action as required for any identified areas of non-compliance with the issued development consent or other approvals
- identify the distribution of land-uses by type within the estate for Strategic Planning purposes.

5. *Review of Arterial Road Signage*

This is a new program for the Compliance Work Plan for 2013/2014. It is proposed that Council match the current data that identifies signage along the main roads of the Shire with the Council's approval records, identify unapproved signage and determine what, if any, action should be taken in each case, and follow through unapproved signage with a view to bringing arterial road signs into a consistent compliance framework.

Sustainability Considerations

- **Environment**
Compliance with issued development consents enhances the protection of the built and natural environments.
- **Social**
Not applicable
- **Economic**
Not applicable

Legal / Resource / Financial Implications

This program is based on utilising existing resources.

Consultation

This report has been provided for public information.

Options

The options are to support the proposed work plan or amend it to other areas where Council believes there may be a higher priority. The recommendation is to endorse the plan.

RECOMMENDATION

That Council endorses the proposed annual Compliance Work Plan for 2013/14 as detailed within this report.

Attachment(s)

Nil

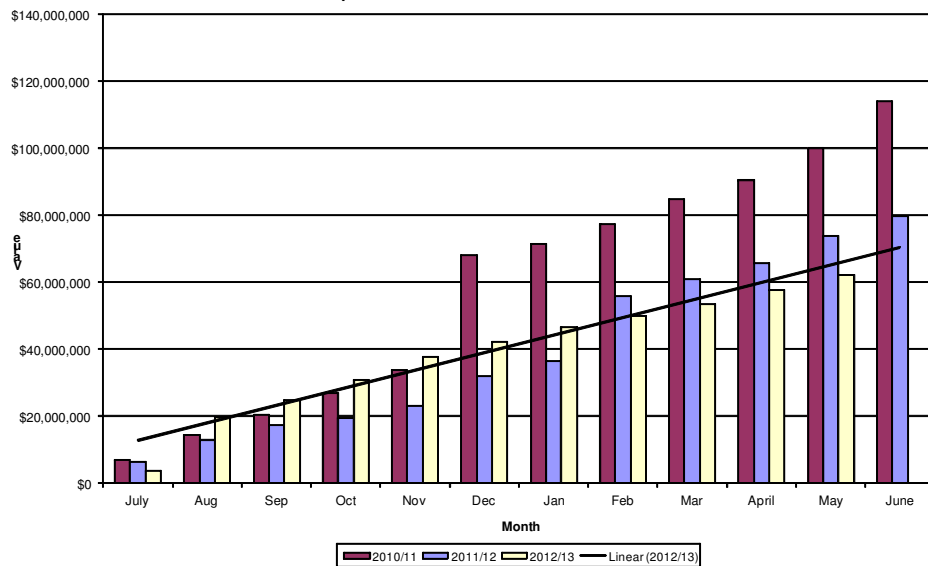
8.4 Development Consent Statistics - May 2013

8.4 Development Consent Statistics - May 2013

During the period of 1 May 2013 to 31 May 2013 the Development and Environmental Health Group issued Development Consent comprising of:

Number of Applications	Value of Work
32 Other Building Related	\$ 1,037,400
11 Dwelling/Duplexes/Residential Flat Buildings	\$ 3,648,000
5 General Developments	\$ 1,000
Total Value	\$ 4,686,400

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



RECOMMENDATIONS

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

Attachment(s)

Nil

8.5 Development Applications - Works in Progress - June 2013

8.5 Development Applications - Works in Progress - June 2013

The following schedule sets out current development applications that have not yet been dealt with for the reasons cited:

Please note that duplex and dual occupancy applications are not included in this report.

DA No.	Date Rec'd	Applicant	Proposal	Status
2011/166	15/04/2011 (Application Amended 8/11/2012 and further amended 19/4/2013)	SJ Connelly CPP Pty Ltd	Eight lot residential subdivision and 15 unit town house development and associated works - Condon Drive, East Ballina (North Angels Beach)	Awaiting Additional Information and referred to Government Departments (OEH)
2011/320	22/07/2011	Ballina Shire Council	To change the method of extraction of an existing extractive industry "Ballina Airport Sandpit" from dry (excavation) to wet (dredging) and to change the end use of the pit from a landfill for dry/inert waste to the retention as a flooded pit as part of the rehabilitation works - (Ballina Airport Sandpit) Southern Cross Drive, Ballina	Awaiting Additional Information
2011/506	23/11/2011	C Lonergan	Regularise and expand existing caravan park from 55 Sites to 178 sites and construct new amenities block and recreation building, 440 South Ballina Beach Road, South Ballina	Being Assessed
2011/515	30/11/2011	Newton Denny	Staged	Being

8.5 Development Applications - Works in Progress - June 2013

DA No.	Date Rec'd	Applicant	Proposal	Status
		Chapelle	development - 5 x lot subdivision for future cluster housing development and construction of public road, No. 565-589 River Street, West Ballina	Assessed
2012/291	23/07/2012	Newton Denny Chapelle	To undertake a staged 47 Lot Community Title residential subdivision with lots ranging in size from 303m ² to 773m ² , associated road, earth and infrastructure servicing works, creation of a public road and one 6.4 hectare Torrens Title residue lot - 565-589 River Street, West Ballina	Being Assessed
2012/481	15/11/2012 (Application Amended 15/4/2013)	RW Edols	Erection of a tourist facility including 8 villas and associated facilities and infrastructure and a dual occupancy dwelling - 259 Keith Hall Lane, Keith Hall	Awaiting Additional Information
2012/522	13/12/2012	Newton Denny Chapelle	Staged consent for a two lot subdivision to create 1 x 0.2 ha allotment (Proposed lot A – special purpose lot) and 1x 7.7 ha residue allotment and associated public road reserve and conceptual approval (subject to a	Awaiting Additional Information

8.5 Development Applications - Works in Progress - June 2013

DA No.	Date Rec'd	Applicant	Proposal	Status
			future development application) for the development of an emergency services facility (NSW Rural Fire Service) and associated access road - Henderson Drive, Lennox Head	
2013/44	14/02/2013	Ardill Payne	To undertake vegetation clearing, site filling and stockpiling of soil – Lot 137 Barlows Rd, West Ballina	Awaiting Additional Information
2013/80	14/03/2013	Ballina Region Community College Inc	To undertake the erection of one business identification sign - 494 Bruxner Highway, Alstonville	Determination Pending
2013/112	11/04/2013	Newton Denny Chapelle	Alterations and additions to the Federal Hotel and Colonial Arcade including construction of a permanent enclosed pavilion between the Hotel building and the Colonial Arcade, conversion of unit 2 of the Colonial Arcade to a café which will also function as the kitchen for the Hotel, modifications to the layout of the car park and boundary adjustment subdivision - 75-77 Main Street, Alstonville	Determination Pending

8.5 Development Applications - Works in Progress - June 2013

DA No.	Date Rec'd	Applicant	Proposal	Status
2013/116	12/4/2013	Newton Denny Chapelle	Change of use of existing restaurant to funeral home with associated function room and alterations and additions, signage and boundary fencing - 21-25 Kalinga Street, West Ballina	Determination Pending
2013/129	22/04/2013	William Brothers Service P/L	Extension to existing industrial building - 10 Robb Street, Alstonville	Determination Pending
2013/145	6/05/2013	KG Buckley	Strata Title Subdivision of an Existing Duplex Development - 27 Plateau Drive, Wollongbar	Being Assessed
2013/161	17/05/2013	TSA Management Pty Ltd	Alterations and additions to an existing residential aged care facility (RSL LifeCare) including demolition of the Remembrance Wing, construction of a two storey building containing 22 services self-care apartments, construction of two separate garage buildings, construction of on-site visitor car parking and driveway access off Hackett Lane and associated works - 60 Owen Street, 11 Hackett Lane,	Being Assessed

8.5 Development Applications - Works in Progress - June 2013

DA No.	Date Rec'd	Applicant	Proposal	Status
			58-63 Owen Street and 17 Hackett Lane, Ballina	
2013/166	20/05/2013	LJ King	Alterations and additions to a dwelling within an existing multi dwelling housing development - 2/44 Stewart Street, Lennox Head	Being Assessed
2013/180	28/05/2013	WJ Townend	Change of Use - Shop to Gymnasium - 275 River Street, Ballina	Being Assessed
2013/194	3/06/2013	Ballina Shire Council	Lennox Head Shared Pathways - Lot 5 DP 241434, The Coast Road, Lennox Head	On Exhibition
2013/195	3/06/2013	Ballina Shire Council	Lennox Head Shared Pathways – Various Roads and Reserves between East Ballina and Lennox Head.	On Exhibition

8.5 Development Applications - Works in Progress - June 2013

Regional Development (Determined by Joint Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
2012/334	17/08/2012	Ballina Shire Council	The construction of Hutley Drive connection to the Pacific Pines Estate via a round-about, connection to Elevation Estate & vegetation clearance in SEPP 14 affected area – North Creek Road, Lennox Head	Awaiting Additional Information
2013/162	17/05/2013	Ardill Payne	Extractive Industry (Sand Quarry) with a total extractable resource amount of 610,000m ³ (in situ) - Lot 32 DP 1151612, Newrybar Swamp Road, Lennox Head	On Exhibition

Major Development (Determined by Minister)

Major Project No./DA No.	Date Rec'd	Applicant	Proposal	Status
None				

RECOMMENDATION

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

Attachment(s)

Nil

9.1 LEP Amendment Request and Planning Proposal Status Report

9. Strategic and Community Facilities Group Reports

9.1 LEP Amendment Request and Planning Proposal Status Report

Delivery Program Strategic Planning

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

Background

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

Key Issues

- Progress of the various rezoning and/or local environmental plan amendment requests.

Information

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

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

Requests are typically referred to as planning proposals once Council has prepared the required planning proposal documentation and the amendment request has been endorsed as a matter that may progress to public exhibition by the NSW State Government's Gateway LEP Panel.

9.1 LEP Amendment Request and Planning Proposal Status Report

Table 1: Status of LEP amendment requests and planning proposals

Item	Name and Status	Summary and Notes	Completion Due
Amdt 090	Stewart Farm Stage N/A – now with JRPP	Proposal for the rezoning of land immediately south of the existing Headlands Estate at Skennars Head for urban purposes. Council resolved to maintain a requirement for dedication of land east of The Coast Road into public ownership. Council was advised in October 2012 by the Minister for Planning and Infrastructure that the Northern Region Joint Regional Planning Panel (JRPP) has been appointed to process this amendment. It is understood that the JRPP is expecting to proceed to public exhibition of the planning proposal. Timing for public exhibition of the proposal is not presently known.	25/11/2013 by the JRPP
Amdt 105	Cumbalum Precinct A (Stage 6)	Proposal for the rezoning of Cumbalum Precinct A (northward of the existing Ballina Heights Estate) for urban purposes. Also includes open space and environmental protection outcomes. Council has resolved to further examine the use of s94 contributions to fund infrastructure delivery. Council has received advice from the Minister for Planning and Infrastructure that arrangements are being made to lift the extent of contributions Council can collect to \$30,000 per lot. This does not meet the full expected cost of infrastructure delivery to the precinct. Contributions and infrastructure planning issues are currently being investigated further by Council's Civil Services Group to inform a report to the Council on the matter.	19/08/2013
Amdt 105	Cumbalum Precinct B (Stage 6)	Proposal for the rezoning of Cumbalum Precinct B (southward of Ross Lane) for urban purposes. Proposal includes a village centre (commercial area), open space and environmental protection outcomes in addition to a substantial residential area. Council has resolved to proceed to request finalisation of this amendment by the Department of Planning and Infrastructure (DP&I) once the voluntary planning agreement applicable to the proposal is registered to the titles of the relevant land parcels. Council is awaiting the receipt of further particulars from the proponents to enable completion of the required registration process.	22/11/2012

9.1 LEP Amendment Request and Planning Proposal Status Report

Item	Name and Status	Summary and Notes	Completion Due
Amdt 108	Water Reservoir Site, Lennox Head Discontinued	<p>Proposal for the rezoning of land in the vicinity of the water reservoir at Lennox Head for residential and open space purposes. Council had been considering this proposal since 2008 with no significant progress made by the original proponent.</p> <p>Council resolved to discontinue processing of the proposal at its February 2013 Ordinary Meeting [Minute No.280213/09]. The proposal was discontinued by the DP&I on 14/03/2013 as requested by Council.</p> <p>There is now a new land owner for the majority of the land the subject of the current proposal. The new owners have indicated an intent to lodge fresh LEP amendment documentation and a new proposal for the development of the site.</p>	Discontinued
12/001	North Creek Road, Lennox Head Complete	This planning proposal is complete. It was implemented as Amendment No.1 to the Ballina LEP 2012 on 08/03/2013.	Complete
12/002	Robb Street, Alstonville (Stage 4)	<p>Proposal for the rezoning of land adjacent to the Russellton Industrial Estate for industrial purposes to enable expansion of the Duraplas manufactured tank business.</p> <p>Preparation for public exhibition of the planning proposal is underway.</p> <p>A voluntary planning agreement has been drafted and Council is awaiting confirmation of the proponent's intent with respect to the execution of the agreement.</p>	25/09/2013
12/003	Bulky Goods Retailing Precinct, Ballina (Stage 7)	<p>Proposal for the rezoning of land in the Southern Cross Industrial Estate to facilitate establishment of a bulky goods retailing precinct.</p> <p>Public exhibition is complete and the Council has resolved to proceed to complete the amendment. Planning proposal has been forwarded to the DP&I for finalisation.</p>	12/10/2013
12/004	Blue Seas Parade, Lennox Head (Stage 7)	<p>Proposal for the rezoning of a small area of land adjacent to the Coastal Grove Estate at Lennox Head for residential purposes.</p> <p>Public exhibition is complete and the Council has resolved to proceed to complete the amendment. Planning proposal has been forwarded to the DP&I for finalisation.</p>	28/11/2013

9.1 LEP Amendment Request and Planning Proposal Status Report

Item	Name and Status	Summary and Notes	Completion Due
12/005	Burns Point Ferry Road, West Ballina (former Ferry Boat Motel site) (Stage 6)	Proposal for the rezoning of land adjacent to Burns Point Ferry Road for residential purposes. Public exhibition is complete. Progress of this matter is the subject of a separate report to the Council elsewhere in this business agenda.	22/12/2013
12/006	Special Events (Exempt Development) (Stage 4)	Proposal for the inclusion of provisions in the LEP to enable special events to be carried out as exempt development in certain circumstances. Council is liaising with the NSW Rural Fire Service to address concerns raised in relation to bushfire management.	22/09/2013
13/001	Subdivision Provisions (Stage 6)	Proposal for the inclusion of provisions in the LEP to facilitate boundary adjustment subdivision, creation of residual lots, split zoned lots and lots for environmental protection purposes in particular circumstances. Public exhibition is complete. Submissions analysis being undertaken and report to the Council being prepared.	02/02/2014
13/002	Dual Occupancy Lots, Lennox Head (Stage 4)	Proposal for the application of R3 Medium Density zoning to several lots of land at Lennox Head that are approved for 'dual occupancy' use. The present R2 Low Density zone does not enable this land use on the lots. Government agency engagement commenced.	20/02/2014
#	Southern Cross Estate Expansion, Ballina (Stage 2)	Proposal for the rezoning of land northward of the Southern Cross Industrial Estate to enable a mixture of business and industrial land uses. The progress of this matter is the subject of a separate report to the Council elsewhere in this business agenda.	#
#	Burns Point Ferry Road, West Ballina (Ballina Waterways) (Stage 1)	Proposal for the rezoning of land adjacent to Burns Point Ferry Road and River Street to enable a mixture of employment and residential land uses. The proposal includes implementation of a biobanking scheme over part of the land. The progress of this matter is the subject of a separate report to the Council elsewhere in this business agenda.	#

9.1 LEP Amendment Request and Planning Proposal Status Report

Item	Name and Status	Summary and Notes	Completion Due
#	River Street, West Ballina (Masters) Discontinued	Proposal for the establishment of a Masters store at the entry to West Ballina. The Council resolved at its February 2013 Ordinary Meeting to affirm its decision not to initiate the LEP amendment request [Minute No.280213/4]. The Council subsequently debated a rescission motion on this matter at its March 2013 Ordinary Meeting, with the rescission motion being unsuccessful.	Discontinued
#	Tara Downs, Lennox Head (Stage 3)	Proposal for the application of a residential zone to allotments in Tara Downs Estate. Proposal also seeks to enable subdivision of the subject land parcels. Proposal has been forwarded to the DP&I for Gateway determination.	#
#	Crane Street (Fire Brigade property), Ballina (Stage 3)	Proposal for the application of a commercial zone to a thin strip of land within the Ballina Fire Brigade property to rectify a zoning anomaly. Proposal has been forwarded to the DP&I for Gateway determination.	#
#	Wollongbar Open Space (Stage 2)	Proposal to change the distribution of open space and residential land use zones over Council-owned land in the Wollongbar Urban Expansion Area. Additional information has been requested from the proponent.	#
#	Bagotville Quarry – Land Reclassification (Stage 2)	Proposal to reclassify the Council-owned Bagotville quarry as operational land for the purpose of the Local Government Act. Additional information has been requested from the proponent.	#

9.1 LEP Amendment Request and Planning Proposal Status Report

Item	Name and Status	Summary and Notes	Completion Due
<p>LEP Amendment Request/Planning Proposal Processing Stages</p> <ol style="list-style-type: none">1. Initial Concept - Proponent submits initial amendment concept for review and reporting to the Council.2. Planning Proposal - Preparation of a planning proposal for Council's consideration (if the initial concept is supported by the Council).3. Gateway Determination - DP&I determination as to whether the planning proposal may proceed (if the Council resolves to submit the planning proposal for determination).4. Study Preparation - Relevant technical information to enable complete assessment compiled and considered. This step may also involve pre-exhibition public authority consultation.5. Community consultation - Planning proposal and associated technical assessment material exhibited for public comment.5a. Public Hearing - Public Hearing held, where required.6. Submissions Assessment and Council Decision - Reporting of community consultation outcomes and Council decision regarding finalisation of the planning proposal.7. DP&I Review and Finalisation - DP&I finalisation of the LEP amendment based on the planning proposal. Note: the Minister for Planning and Infrastructure may finalise, alter or terminate the amendment. <p><i># Denotes proposal number and due date subject to Gateway determination.</i></p> <p><i>The completion due date is a date for completion determined by the Department of Planning and Infrastructure.</i></p>			

RECOMMENDATION

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

Attachment(s)

Nil

9.2 Planning Proposal BSCPP 12/005 - Burns Point Ferry Road

9.2 Planning Proposal BSCPP 12/005 - Burns Point Ferry Road

Delivery Program Strategic Planning

Objective To outline the outcomes of the public exhibition of Planning Proposal BSCPP 12/005 Burns Point Ferry Road, West Ballina and seek direction regarding the finalisation of the proposal.

Background

Planning Proposal BSCPP 12/005 relates to the proposed rezoning of land being Lot 1 DP 522558, No.6 Burns Point Ferry Road, West Ballina (a copy of the planning proposal, including a map showing the location of the land is contained in Attachment 1). The proposal, which involves the application of a medium density residential zone over the entire 4047m² sized allotment, was submitted by Newton Denny Chappelle on behalf of the landowners, CM & JM Elliott and DR & CM Westaway in May 2012.

The subject planning proposal seeks to amend the recently made Ballina Local Environmental Plan (BLEP) 2012 by rezoning the subject lot from RU2 Rural Landscape to R3 Medium Density Residential. It is also proposed that a minimum lot size for subdivision of 600m² be applied to the subject land and the land be removed from designation as a strategic urban growth area under the BLEP 2012 (to reflect the proposed change to an urban zone).

The Council considered the initial LEP amendment request at its September 2012 Ordinary Meeting and resolved as follows (Minute No. 270912/12):

That Council initiate a planning proposal for the application of an R3 Medium Density Residential zone (under the Draft Ballina Local Environmental Plan 2011) over Lot 1 DP 522558, No.6 Burns Point Ferry Road, West Ballina.

In accordance with this decision, a planning proposal was prepared and presented to the Council at its Ordinary Meeting held on 22 November 2012. With respect to the proposal, the Council resolved as follows (Minute No. 221112/11):

1. *That Council submit the planning proposal relating to Lot 1 DP 522558, No. 6 Burns Point Ferry Road, West Ballina to the NSW Department of Planning & Infrastructure for review and Gateway determination.*
2. *That upon an affirmative Gateway determination being received from the Department of Planning & Infrastructure, Council staff will carry out the procedural steps associated with the progress of the planning proposal, including public exhibition.*
3. *That a further report be submitted to Council in relation to this matter following mandatory community consultation.*

Accordingly, the proposal was forwarded to the Department of Planning & Infrastructure (DP&I) for Gateway determination. Following an affirmative Gateway determination dated 14 December 2012, the subject planning proposal was placed on public exhibition between 24 April 2013 and 17 May 2013.

9.2 Planning Proposal BSCPP 12/005 - Burns Point Ferry Road

This report outlines the outcomes of the community consultation process and seeks the Council's direction with respect to the finalisation of the proposed LEP amendment.

Key Issues

- Environmental impacts
- Outcomes of consultation with public authorities and public exhibition
- Progress of the proposed LEP amendment request

Information

Pre Exhibition

In accordance with the requirements of the affirmative Gateway determination, the following additional documentation was required prior to the planning proposal proceeding to public exhibition:

- Sufficient information to demonstrate that the planning proposal satisfied the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land.
- Inclusion of the Ballina Flood Study Update as prepared by BMT WBM Pty Ltd in 2008 and any subsequent updates with the exhibition material.

In response to the above, the proponent provided additional information addressing site contamination. The Ballina Flood Study Update was also included with the public exhibition material as an attachment.

The Gateway determination also required consultation with the Office of Environment and Heritage (OEH) specifically in regard to flooding issues in the vicinity of the site. In accordance with this requirement, the OEH was notified of the planning proposal and feedback was invited prior to public exhibition proceeding. The OEH responded by providing advice on matters relating to biodiversity and flood hazard (Attachment 1). A summary of key issues raised and the associated responses is contained in Attachment 1. The OEH did not raise objection to the proposal subject to Council giving due consideration to the identified matters and particularly that:

- Council has regard for the potential impacts upon the surrounding locality from filling the subject site; and
- The flood mitigation work recommended in the Ballina Flood Study Update for West Ballina is implemented in accordance with the study.

Issues Discussion

SEPP 55 - Remediation of Land

A Preliminary Site Assessment in relation to potential site contamination has been undertaken on behalf of the landowners/proponents by the Melaleuca Group Pty Ltd. Council's Environmental Health Section has reviewed the consultant's report and concluded that the assessment undertaken conforms to the requirements of SEPP 55 -Remediation of Land. The findings of this preliminary assessment indicate that contamination, if present, is below standard residential criteria. Therefore, no further information is required in

9.2 Planning Proposal BSCPP 12/005 - Burns Point Ferry Road

conjunction with this planning proposal in relation to land contamination and the land is considered suitable for the proposed residential zone in relation to potential site contamination.

Biodiversity

Ecologically, the site has minimal features of significance and comprises slashed grassland with occasional introduced landscape tree and shrub species. It is acknowledged, however, that the effects of future development upon the land on the adjoining site will need to be considered, particularly where areas of ecological significance are identified.

Council's Environmental Scientist has concurred with the applicant's view in this regard, indicating that there are no significant matters of concern from an ecological perspective in relation to the rezoning of the land. However, Council's Environmental Scientist has identified a very small area of Freshwater Wetland (an Endangered Ecological Community) along the southern boundary of the Lot, but advises that it represents a very small portion of the community's distribution in the locality. Given the small area involved, this is a matter that can be suitably managed in conjunction with a future development application.

Council's Environmental Scientist has also identified that possible buffering of Endangered Ecological Communities on adjoining land will likely need to be considered with any future development application. An assessment regarding potential adverse impacts from development of the site upon the Eastern Grass Owl, known to roost within the adjoining land, will also be required in conjunction with any future development application.

Flood Hazard

The subject site is identified as being flood prone. However, the site was considered in the modelling undertaken for the purposes of the Ballina Flood Study Update as "future development or infrastructure works" (a copy of this study prepared by BMT WBM in 2008 is available to Councillors on request). The flood impact assessment undertaken indicates that filling of this site would have a negligible effect on flooding in the locality.

Given that the site has been considered based on a scenario of future filling and development in Council's floodplain modelling, and the outcome of the modelling, no further flood assessment is considered to be required to enable the rezoning of the land to proceed.

Infrastructure and Servicing

Council's Civil Services Group has reviewed the planning proposal and made the following comments:

- Stormwater

The site is low lying and marginally higher than the surrounding adjacent land. As this site is higher, drainage has always flowed from this site onto the adjoining rural land. Any development would be required to provide stormwater design & treatment on their site to comply with the respective provisions of Council's Development Control Plan 2012.

9.2 Planning Proposal BSCPP 12/005 - Burns Point Ferry Road

It is considered that stormwater can be satisfactorily dealt with on the site.

- **Site Access**

The site is located at the intersection of River Street & Burns Point Ferry Road at West Ballina. In the interests of road safety, any redevelopment of the site (the land was formerly used as a motel, but is now vacant) would have vehicular access only from Burns Point Ferry Road. This matter would be integrated into any future development assessment process.

- **Water**

The site has access to Council's water reticulation network and can be supplied from that network.

- **Sewer**

The site has been included in the West Ballina low pressure sewer system. An allocation of 8ET for the previous motel use is considered comparable with the possible medium density use. This will be further assessed during any future development application process.

Public Exhibition

Following the receipt of the additional information from the proponent and the response from the OEH, the planning proposal was placed on public exhibition. The exhibition occurred between 24 April 2013 and 17 May 2013. No submissions were received in relation to the planning proposal during this exhibition period.

Sustainability Considerations

- **Environment**

The rezoning of the subject land is not expected to result in significant environmental impacts. Although the land is characterised by slashed grassland with occasional introduced landscape species, it does adjoin a large parcel of land that is identified as containing endangered ecological communities. Any development application for the subject site will be required to address the potential impacts on this adjoining sensitive vegetation.

- **Social**

Social benefits can be expected through the provision of additional residential land in close proximity to the existing urban services and facilities of West Ballina.

Depending on assessment and determination of future proposals, the development of the land has the potential to influence the appearance of the southern road entrance to Ballina, given the site's prominent location.

- **Economic**

The rezoning of the land is likely to result in positive economic benefits through the potential provision of additional residential housing stock in the locality.

Legal / Resource / Financial Implications

The rezoning investigations have been undertaken at the proponent's cost, in accordance with Council's adopted fees and charges schedule. There are no significant legal, resource or financial implications associated with the completion of the proposed LEP amendment.

Consultation

Consultation on this matter has been undertaken with the community and public authorities through the public exhibition process. The Office of Environment and Heritage was consulted prior to the formal public exhibition period. These engagements have been undertaken in accordance with the requirements of the DP&I's Gateway determination, and the terms of the *Environmental Planning and Assessment Act 1979* and attendant Regulation.

Options

1. Proceed to finalise the Planning Proposal.

This option would involve Council endorsing the proposal to rezone Lot 1 DP 522558, No 6 Burns Point Ferry Road, West Ballina, to R3 Medium Density Residential as documented in the planning proposal contained in Attachment 1. The R3 Medium Density Residential zone is considered to be a suitable zone for the land on the basis that:

- The land is presently identified in local and State planning strategies as a potential urban area;
- The R3 zone is consistent with the residential zoning in the locality; and
- The land has been assessed as being capable of supporting residential development in terms of its physical characteristics and infrastructure availability.

This option also involves applying a minimum lot size of 600m² for subdivision of the land and adjusting the Strategic Urban Growth Areas Map to remove the land from the strategic urban growth area categorisation.

The planning proposal contained in Attachment 1 incorporates minor amendments to reflect the outcomes of the consultation phase and to finalise the document for submission to the Department of Planning and Infrastructure. The Council may also make further amendments to the Planning Proposal prior to submission to the Department, if it chooses to do so.

If Council proceeds with this option, it should be noted that the DP&I has issued authority for the Council to exercise plan-making delegations in finalising the LEP amendment. This means Council would liaise directly with Parliamentary Counsel to finalise the drafting of the amendment for implementation. Council has not processed an amendment under the current delegations to date, but it is proposed to utilise the delegation in this instance to trial the applicable process. This should not have any significant implications for the proponent.

Option 1 is the recommended course of action.

9.2 Planning Proposal BSCPP 12/005 - Burns Point Ferry Road

2. Discontinue Consideration of the Planning Proposal.

This is not recommended as the assessment of the subject land has concluded that it is relatively unconstrained and is suitable for the proposed residential land use from a technical perspective. It is also noted that the community consultation undertaken in relation to the planning proposal has not generated any negative sentiment.

3. Defer the Planning Proposal.

This is not recommended for the reasons outlined in relation to option 2. Furthermore, the proponent has provided all of the requested information for assessment through the processing of the proposal.

RECOMMENDATIONS

1. That Council endorse the application of an R3 Medium Density Residential zone and 600m² minimum lot size for subdivision for Lot 1 DP 522558, No. 6 Burns Point Ferry Road, West Ballina under the Ballina Local Environmental Plan 2012.
2. The Council proceed to finalise and implement Planning Proposal BSCPP 12/005, relating to No. 6 Burns Point Ferry Road, West Ballina, directly in liaison with Parliamentary Counsel.

Attachment(s)

1. BSC Planning Proposal 12/005 - Lot 1 DP 522558, 6 Burns Point Ferry Road, West Ballina.

9.3 LEP Amendment Request - Burns Point Ferry Road, West Ballina

9.3 LEP Amendment Request - Burns Point Ferry Road, West Ballina

Delivery Program Strategic Planning

Objective To seek Council's direction in relation to an LEP amendment request to rezone land located adjacent to Burns Point Ferry Road, West Ballina.

Background

In July 2012 a request to amend the *Ballina Local Environmental Plan 1987* was received from SJ Connelly CPP Pty Ltd in relation to a parcel of land in the order of 56 hectares in size, identified as Lot 4 DP 537419, located adjacent to Burns Point Ferry Road and River Street in West Ballina. The subject land is identified in Attachment 1.

This site has an extensive history of rezoning proposals with the most recent series of events detailed in the chronology in Attachment 2 (a summary of recent aspects of the chronology is set out in Table 1). Importantly, this proposal does not relate to a rezoning proposal over the former Ferry Boat Motel site on the adjacent Lot 1 DP 522558. The Ferry Boat Motel site is subject to a separate report elsewhere in this business agenda.

The Council's most recent resolution regarding the subject site was made on 15 December 2011 (Minute No. 151211/12) when the Council adopted its Environmental and Sustainability Committee's recommendations in relation to submissions made in response to the public exhibition of *Draft Ballina Local Environmental Plan 2011* (Draft LEP). Under the exhibited Draft LEP it was proposed to apply an environmental conservation zone over the entire area of Lot 4, based on its identified ecological values.

The proponent submitted an objection to the proposed environmental conservation zone which was considered at the Environmental and Sustainability Committee Meeting on 1 December 2011. In considering the issues raised in the objection, and having regard for the ecological constraints of the site, the endorsed recommendation resulted in the application of a rural zone to the northern portion of the site.

The rural zoning was based on a previous resolution of the Council in December 2008 where progression of a proposal to rezone an area of approximately 4.7 hectares at the northern end of the site was supported by the Council. This area of the site is also identified as having potential for future development under Council's adopted Growth Management Strategy. A copy of the submission assessment and endorsed recommendation submitted to the Environmental and Sustainability Committee on 15 December 2011 is contained in Attachment 3.

9.3 LEP Amendment Request - Burns Point Ferry Road, West Ballina

Under the *Ballina Local Environmental Plan 2012* (BLEP 2012) zone RU2 Rural Landscape has been applied to the 4.7 hectare area identified above. The remainder of the site was proposed in the Draft LEP for an environmental conservation zone. As a result of the decision by the Minister for Planning and Infrastructure to defer the application of the environmental zones from the BLEP 2012, this part of the site retains its zoning under the *Ballina Local Environmental Plan 1987*, being zone 1(d) – Rural (Urban Investigation). A map showing the current applicable zones for the site is contained in Attachment 4.

The recommendation made by the Environmental and Sustainability Committee in December 2011 also included the provision that the land use zone applicable to the site would be reviewed in 12 months. This was to give the proponent additional time to prepare and submit further details in relation to the proposed land use zones for the site in accordance with the Council's resolution.

In response to the above resolution, the proponent submitted the abovementioned LEP amendment request in July 2012. The LEP amendment proposal seeks to rezone an area of approximately 14 hectares to comprise a combination of live/work village, mixed use, recreation, employment and tourist land uses. The proposed rezoning area substantially exceeds that previously endorsed by the Council as being suitable for development and the proponent is seeking to address this through the application of a Biobanking scheme to the site.

A plan illustrating a preliminary development concept is contained in Attachment 5 (this has been revised since the original proposal in July 2012). The proposal seeks the application of a B1 Neighbourhood Centre zone over part of the subject land to facilitate a live work style development outcome (a mixed employment and residential area). As indicated above, the area proposed for the application of an urban zone is larger than the 4.7 hectares area identified as a potential urban area in Council's Growth Management Strategy. The nature of the proposed rezoning and development outcome is discussed further below.

Table 1: Summary of Recent Events – Burns Point Ferry Road LEP Amendment Request

Summary of Recent Events Proposed LEP Amendment Request Lot 4 DP 537419 – Burns Point Ferry Road, West Ballina	
Date	Action/ Event
September 2011	Draft Ballina Local Environmental Plan 2011 (DBLEP 2011) placed on public exhibition proposing entire site to be zoned E2 Environmental Conservation.
December 2011	Submission received from SJ Connelly in relation to proposed environmental conservation zoning for the site under the DBLEP 2011. Council resolved to grant the proponent additional time to prepare a rezoning proposal and to zone approximately 4.7ha in the northern part of the site rural in accordance with its previous December 2008 resolution. This resolution identified the applicable land use zoning for the site would be reviewed in 12 months.

9.3 LEP Amendment Request - Burns Point Ferry Road, West Ballina

July 2012	LEP amendment request received from SJ Connelly to rezone Lot 4 DP 537419 (Ballina Waterways site) to a mix of urban and environmental conservation land uses (including Biobanking).
October 2012	Council request to SJ Connelly for additional information in relation to rezoning proposal for Lot 4, including request for proponent agreement to engage third party ecological consultant to review ecological characteristics of site. <i>A response to this request was received on 11 June 2013 and is discussed below.</i>
February 2013	Ballina Local Environmental Plan 2012 is made and zones the 4.7 hectare area (identified in the December 2008 Council resolution) as RU2 Rural Landscape. The remainder of the site (proposed for E2 Environmental Conservation under the Draft LEP) is deferred and remains zoned 1(d) – Rural (Urban Investigation) as per the Ballina Local Environmental Plan 1987.

The purpose of this report is to inform the Council of the current status of the rezoning proposal for the site having regard for its resolution of 15 December 2011. Direction is also sought in relation to how the Council wishes to proceed in relation to the ongoing assessment of the rezoning proposal and the future uses of the subject site.

Key Issues

- Progress of the LEP amendment request
- Council's preferred direction in relation to the future use and appropriate zoning for the land

Information

Proposed Rezoning and Development Outcomes

The LEP amendment request includes a concept plan (Attachment 5) that identifies a number of proposed land uses for the area of the site proposed for rezoning. The proposed uses include mixed employment and residential development, a community title (presumably residential) precinct, open space, conservation areas and an area for a restaurant and dwelling at the southern end of the site. The area proposed for urban land use (inclusive of open space) is approximately 14.1 hectares.

To facilitate the proposed land uses, the proposal suggests the use of the B1 Neighbourhood Centre zone, RE2 Private Recreation zone, E3 Environmental Management zone and the E2 Environmental Conservation zone. There is approximately 41.2 hectares of the total site set aside for conservation outcomes under this scheme.

The suitability of the proposed zones and land uses has not been evaluated in detail by staff to date. This is because there remain key issues associated with whether the site has capacity to accommodate urban development of any type and if so, to what extent. Further, there is also a need to consider whether provision for urban development in some form can assist in delivering a sound and improved environmental outcome in the long term for the residue of the land.

9.3 LEP Amendment Request - Burns Point Ferry Road, West Ballina

It is suggested there are two key factors to examine in relation to the urban development capacity of the land and the delivery of long term environmental outcomes. These factors are the local urban planning policy framework and the ecological attributes of the land. These matters are discussed in further detail below.

Ballina Shire Growth Management Strategy

The Council adopted the Ballina Shire Growth Management Strategy (GMS) on 26 July 2012 [Minute No. 260712/7]. The GMS provides the framework for managing population and employment growth in the shire and outlines the process for Council's consideration of significant changes to the land use planning regime. Part of this strategy includes the identification of 'strategic urban growth areas' that appear at a broad strategic level to have potential to accommodate future urban growth.

In relation to the subject site, the GMS identifies an area of approximately 4.7 hectares on the northern fringe of the site as a 'strategic urban growth area' and suitable for consideration for urban development. The GMS also identifies the residue of the site as containing high conservation value vegetation communities.

The strategic urban growth area on the site endorsed by the Council in July 2012 is different to the extent of the land zoned 1(d) Rural – Urban Investigation under the Ballina Local Environmental Plan 1987. Specifically, the endorsed potential growth area is now much smaller than it has been under the previous policy of the Council. The identified strategic urban growth area (4.7 hectares) is also smaller than the urban footprint proposed under the current draft scheme (14.1 hectares).

The LEP amendment request addresses the inconsistency between the identified potential urban growth area and the proposed development footprint, in part, by indicating that the development as proposed provides for the capacity to retain and promote the remainder of the site for environmental outcomes. The proposal also specifically identifies environmental benefits associated with a proposed Biobanking scheme over part of the land. Biobanking is discussed in further detail below.

Although there is a clear inconsistency between Council's local urban planning policy and the proposed development footprint, it is considered that there is merit in further examining the potential for the proposal to deliver long term environmental benefits over the larger residual part of the site. The area of land outside Council's nominated strategic urban growth area is also identified in the State Government's Far North Coast Regional Strategy as a potential urban area, consistent with the current 1(d) - Rural (Urban Investigation) zoning that remains applicable whilst the State Government completes its E zone review.

In the subject circumstances, it is recommended that further consideration be given to the potential environmental benefits that could be derived from the proposal before determining whether the inconsistency with the GMS is considered reasonable.

Environmental Outcomes

As outlined above, the LEP amendment proposal incorporates approximately 41.2 hectares of land for conservation outcomes. However, at present, it is difficult to determine the extent to which long term environmental benefits can be achieved and the impact the proposed urban area might have on ecological values. This is because there is uncertainty in three specific areas, being:

Biobanking

Biobanking is essentially a system that allows credits to be purchased in relation to a site set aside for conservation outcomes to offset the loss of ecological attributes elsewhere. The system includes establishment of an improvement and maintenance regime on Biobanking sites to assist in the long term management of such areas to deliver the desired conservation outcomes. The system is administered under NSW State legislation by the Office of Environment and Heritage (OEH).

The current LEP amendment request includes provision for a Biobanking area over part of the land. It is proposed that this area would be used to offset the loss of endangered ecological community vegetation within the urban development footprint (Swamp oak). The area could also be used to offset impacts from other proposed development sites elsewhere, depending on the number of credits that the area generates through the Biobanking scheme.

The difficulty at present is that the OEH has not confirmed that the land is suitable for inclusion in the Biobanking scheme. Further, the OEH has not yet confirmed the number of credits that would need to be purchased by a developer in relation to the proposed urban footprint or the total number of credits that would be available in the proposed conservation area.

The proponents have indicated that they expect advice from the OEH relating to the Biobanking scheme on the land by late July 2013. It is suggested that Council waits for further information addressing the matters identified above to assist in determining whether it supports the proposed rezoning. However, it is also suggested that Council should not wait for an indefinite time period for the required information.

Ecological Attributes

There are discrepancies in the information available to Council in relation to the ecological attributes of the land. This is particularly relevant in relation to the presence of endangered ecological communities (EECs) on the northern part of the site, and specifically, whether Freshwater Wetland (defined as a EEC) is present.

The information submitted with the current proposal includes an assessment of the site's ecological values and emphasises the ecological importance of the eastern and southern portions of the site. A copy of the proponent's submitted vegetation mapping is contained in Attachment 6. The proponent has conveyed a view that the EEC Freshwater Wetland is not present within the proposed urban footprint.

9.3 LEP Amendment Request - Burns Point Ferry Road, West Ballina

Council's previous considerations of the ecological attributes of the site included information supplied by Aspect North in 2008 (at a time when that firm was acting for the land owner) in relation to a previous rezoning proposal. That information indicates the presence of EEC Freshwater Wetlands over significant areas of the site, including within the proposed urban footprint (Attachment 7). Council's Environmental Scientist has previously concurred with the information submitted by Aspect North in relation to the presence of EEC vegetation on the land.

Given the key nature of the ecological attributes of the land to determining the balance associated with the proposed urban development and environmental outcomes, it is suggested that this difference must be addressed before the planning proposal progresses.

To facilitate this, Council has suggested to the proponent that an independent ecologist be engaged to examine the land in order to try and resolve this issue. The proponent has agreed to support such an assessment following receipt of the OEH's response in relation to the proposed Biobanking scheme referred to above.

This report recommends commissioning this independent study (at the proponent's cost) as soon as possible following confirmation of the OEH's advice regarding the Biobanking proposal (assuming the proponent wishes to proceed based on the OEH advice).

Environmental Protection Zones

A central aspect of the rezoning as proposed is the use of environmental protection zoning to recognise areas set aside for environmental and conservation purposes.

Unfortunately, the environmental protection zones have been deferred from application under the BLEP 2012, pending a review of these zones in five Far North Coast local government areas. This means that there is not presently any certainty or direction in relation to availability or potential for use of environmental protection zones in relation to the proposed rezoning.

The ability for Council's local planning instrument to recognise the proposed environmental outcomes is considered to be critical to determining the balance between the proposed development outcomes and environmental considerations. As such, this report recommends that Council awaits information on the availability and future use of environmental protection zones from the Government's current E zone review process before considering the proposed LEP amendment further.

Sustainability Considerations

- **Environment**

Further information is considered necessary to enable complete examination and better understanding of the ecological attributes of the land in relation to the proposed rezoning. This is considered to be a core issue in determining the potential urban capability of the land and the balance between built and environmental outcomes.

9.3 LEP Amendment Request - Burns Point Ferry Road, West Ballina

Other environmental matters would be the subject of further analysis and investigation following the address of the ecological considerations, should the proposal continue to proceed.

- **Social**

There are potential social benefits associated with the proposed rezoning. However, at this time, it is difficult to determine the extent of such benefits and the potential associated implications in relation to the environmental attributes of the land.

- **Economic**

There are potential economic benefits associated with the proposed rezoning. However, at this time, it is difficult to determine the extent of such benefits and the potential associated implications in relation to the environmental attributes of the land.

Legal / Resource / Financial Implications

Council is processing this matter in accordance with the terms of the *Environmental Planning and Assessment Act 1979* and the associated Regulation.

As outlined above, it is suggested that further information is required in relation to three key aspects associated with environmental matters to enable a comprehensive consideration of the proposal and urban potential of the land.

The consideration of future planning over this site has consumed very substantial Council and proponent resources over many years. As such, it is strongly suggested that Council only apply further resources to processing where there is clear benefit to the resolution of identified issues and there is continued evidence of an effort on behalf of the proponent to progress the matter. The recommendation of this report is consistent with this approach.

Consultation

As the current LEP amendment request is at the first stage of seeking Council support, no public consultation has been undertaken on this specific proposal to date. Should the Council resolve to support the progress of the LEP amendment, community consultation would be required at a later stage under the statutory requirements of the *Environmental Planning and Assessment Act 1979*, and in accordance with any direction given by the Department of Planning and Infrastructure through its Gateway determination.

Options

1. Defer Consideration

This option involves deferring a decision on the progress of the proposed rezoning until the identified environmental considerations, as set out in this report, are addressed further. More specifically, this would mean:

- Confirmation from the OEH regarding the suitability of the land for the implementation of a Biobanking scheme;

9.3 LEP Amendment Request - Burns Point Ferry Road, West Ballina

- Completion of an independent ecological assessment of the ecology within the proposed urban footprint; and
- Receipt of advice from the NSW Department of Planning and Infrastructure in relation to the availability and potential for use of environmental protection zones in the BLEP 2012.

This information is considered critical in assisting the Council to fully assess the planning outcome envisaged in terms of the proposed environmental outcomes (essentially to determine if there is a reasonable balance between urban development and environmental outcomes).

Given that it is very difficult to determine the overall merit of the proposal in the absence of the above information, but that this information appears to be attainable, deferral is the recommended approach. However, it is also suggested that such a deferral is not open-ended. As such, it is recommended that this matter be revisited by the Council within six months (regardless of whether the three items are addressed or not). This coincides with the current informal advice from the Department of Planning and Infrastructure that the E zone review will be complete by the end of 2013. Further, the proponent understands the advice from OEH should be available within this period.

2. Proceed to Prepare a Planning Proposal

This approach involves proceeding to prepare a planning proposal in the absence of further information. This approach would indicate that the Council is generally comfortable with the proposed rezoning, subject to provision and analysis of suitable technical assessments. The Council would, however, have a further opportunity to consider its view before the matter advances to the Gateway determination stage with the Department of Planning and Infrastructure.

This approach is not recommended given the identified limitations associated with the consideration of ecological and environmental matters at present.

3. Discontinue Consideration of the LEP Amendment Request

Council may resolve to discontinue its consideration of the subject LEP amendment request and advise the proponent that it does not support the proposal as submitted. Frankly, this response from the Council would be quite understandable, given the length of time that the matter has been under consideration and the level of public and private resources that have been applied.

Despite this, option three is not recommended at this time as there appears to be an opportunity to further examine key ecological and environmental matters before determining the fate of the proposed rezoning. It is suggested that further information in relation to these matters will greatly assist in determining the overall merit of the proposal.

9.3 LEP Amendment Request - Burns Point Ferry Road, West Ballina

However, where it becomes evident the ecological and environmental issues identified are not able to be addressed in a reasonable timeframe, or Council does not agree with the proposal in light of additional information that becomes available, it is open to the Council to discontinue its consideration of the matter. This approach would be reconsidered within six months if Council adopts the recommendation of this report.

If the Council decides to discontinue consideration of the matter, it should be noted that the northern portion of the subject site will remain identified within Council's Growth Management Strategy as a 'strategic urban growth area'.

Further, should the Council resolve to cease the processing of this LEP amendment request, the proponent may choose to exercise the review rights enabled by the Department of Planning and Infrastructure. This involves review and consideration of the matter by the Department or its alternative nominee. Should this occur, the proposal may proceed without further input from Council if the Department determines to support the proposal.

RECOMMENDATIONS

1. That Council defer for up to six months its further consideration of the LEP amendment request relating to Lot 4 DP 537419, Burns Point Ferry Road, West Ballina as submitted by SJ Connelly CPP Pty Ltd on 18 July 2012.
2. That Council awaits confirmation from the NSW Office of Environment and Heritage of the nature and suitability of the proposed Biobanking scheme over part of Lot 4 DP 537419, Burns Point Ferry Road, West Ballina.
3. That, based on the agreement of the proponent in correspondence dated 7 June 2013, Council engage an independent ecologist to undertake a review of the ecology of the land within the proposed urban footprint on Lot 4 DP 537419, Burns Point Ferry Road, West Ballina, with the cost of such engagement to be borne by the proponent.
4. That Council awaits advice from the NSW Department of Planning and Infrastructure in relation to the availability and potential for use of environmental protection zones in the BLEP 2012.

Attachment(s)

1. Locality Map - Lot 4 DP 537419
2. Chronology of Council Resolutions & Activity - Ballina Waterways, Burns Point Ferry Road, West Ballina
3. Assessment & Recommendation Submitted to Environmental & Sustainability Committee, 15 December 2011
4. Zoning Map
5. Burns Point Ferry Road (Ballina Waterways) - Concept Plan
6. Endangered Ecological Communities Map - Peter Parker, June 2012
7. Endangered Ecological Communities Map - Landpartners, April 2008

9.4 LEP Amendment Request - Southern Cross Precinct Expansion

9.4 LEP Amendment Request - Southern Cross Precinct Expansion

Delivery Program Strategic Planning

Objective To invite the Council to consider the progress of a planning proposal with respect to the Southern Cross Industrial Precinct.

Background

The Council, at its Ordinary Meeting held on 26 July 2012, received and considered a report regarding a request from Ardill Payne & Partners, acting on behalf of the Commercial Services Section of this Council, seeking the commencement of a rezoning process to provide for the expansion of the Southern Cross Industrial Estate in Ballina. In relation to this matter, the Council resolved as follows [Minute No. 260712/22]:

- 1. That Council proceed to prepare a planning proposal to enable urban land uses focused on employment based activities on land between the existing extent of the Southern Cross Industrial Estate, Corks Lane and the Ballina Byron Gateway Airport.*
- 2. That the type and extent of land use zoning under the planning proposal be determined having regard for both employment and environmental outcomes and following the provision and consideration of further information from the applicant in relation to the land uses proposed and the characteristics of the site.*
- 3. That the planning proposal be reported to Council for consideration prior to referral to the Department of Planning & Infrastructure for Gateway determination.*

The applicant (Council's Commercial Services Section) has now provided additional information, as requested, to support the rezoning request.

The purpose of this report is to present information relating to the proposed zoning to the Council, and to invite it to endorse a planning proposal for referral to the Department of Planning & Infrastructure for 'Gateway' determination.

Key Issues

- Strategic urban growth
- Employment land
- Progress of planning proposal

Information

This planning proposal relates to land located to the north of the existing Southern Cross Industrial Estate, comprising a number of lots and part lots as described below:

- Part of Lots 3-6 DP 123781 (owned by Ballina Shire Council)
- Lot 3 DP 872303 (owned by Mr B.R. Field)
- Lot 4 DP 872303 (owned by Mr D.M. King)
- Lot 2 DP 833513 (owned by Mr B.R. Field)
- Lot 8 DP 793980 (owned by Ballina Shire Council)
- Part of Lot 7 DP 1043261 (owned by Ballina Shire Council) and
- adjoining Council road reserve (Corks Lane).

The location of the subject land is shown in Figure 1 in Attachment 1.

The subject land is identified in Council's Ballina Shire Growth Management Strategy (endorsed by the Council in 2012) and Southern Cross Precinct Master Plan (endorsed by the Council in 2008) as having potential to accommodate commercial and industrial development.

The planning proposal has arisen in response to a request from Council's Commercial Services Section to rezone land to accommodate demand for employment land in a manner consistent with the Ballina Shire Growth Management Strategy.

A planning proposal has been prepared in accordance with the Council's resolution of July 2012, following the provision and review of additional information from the applicant. A copy of the planning proposal is provided as Attachment 1 to this report. The additional information provided by the applicant included the following:

- Information regarding the range of permissible land uses being sought by the planning proposal
- Identification of key environmental constraints and an outline of additional information to be provided to support the planning proposal prior to the community engagement phase and
- Justification for the land use planning outcomes sought by the planning proposal.

It is noted that a separate planning proposal (BSCPP 12/003 Southern Cross Industrial Estate Bulky Goods Precinct) relates to a proposal to rezone industrial zoned land within the existing Southern Cross Industrial Estate to permit development for bulky goods purposes. That amendment to the Local Environmental Plan is currently pending finalisation by the Department of Planning and Infrastructure. Importantly, Ballina Shire Council is the majority owner of the subject land, with the Council holding designated as "operational land" under the provisions of the Local Government Act 1993. This aspect of the planning proposal is discussed further below.

9.4 LEP Amendment Request - Southern Cross Precinct Expansion

Ballina Shire Growth Management Strategy 2012

The Ballina Shire Growth Management Strategy (GMS) provides the strategic planning context for urban development in Ballina Shire. An excerpt of the Ballina Shire Growth Management Strategy, comprising the local strategy table for the North Ballina locality and the North Ballina strategy map, is provided in Appendix 1 of the planning proposal.

The GMS includes the following 'Strategic Actions' in relation to the North Ballina locality:

- *Investigate, through the rezoning process, land development opportunities and the provision of public infrastructure identified in the Southern Cross Precinct Master Plan and the West Ballina Structure Plan*
- *Enhance entry treatment including associated with the Ballina/Byron Gateway Airport*
- *Establish a clustered bulky goods retailing precinct.*

The rezoning of the land as proposed is generally consistent with Council's local planning framework under the Ballina Shire Growth Management Strategy.

The Ballina Shire Growth Management Strategy was approved by the Director General of the Department of Planning & Infrastructure in correspondence dated 7 May 2013.

Southern Cross Precinct Master Plan

The Southern Cross Precinct Master Plan, which informed Council's GMS, (excerpt provided in Appendix 2 of the planning proposal) identifies the following possible land use components with respect to the subject land:

- Future industrial area with conventional 50m x 25m lots
- New airport link road
- Realigned road to facilitate the design of the North Creek Road intersection
- Live/work precinct
- Existing and expanded environmental protection areas and open space corridors
- Existing and expanded bicycle track network and
- Existing and expanded drainage network.

The planning proposal (which provides for employment-based land use outcomes) is generally consistent with the strategic planning for the locality, as provided for by the Ballina Shire Growth Management Strategy and the Southern Cross Precinct Master Plan.

However, it is important to note that the employment outcomes proposed are not limited to conventional industrial land uses.

9.4 LEP Amendment Request - Southern Cross Precinct Expansion

Nevertheless, the provision for employment based outcomes is considered to be generally consistent with the local planning framework.

The composition of land use outcomes is subject to further investigation associated with more detailed site analysis. This work will be required post Gateway determination, but before community engagement commences.

Additional assessments

In broad terms, the environmental characteristics (opportunities and constraints) of the majority of the subject land have been previously assessed in the preparation of the Southern Cross Precinct Master Plan. The master plan identified that the land was generally cleared grazing land that has been subject to considerable disturbance associated with previous activities.

As a consequence the land, as a whole, is not considered to have significant environmental values.

Despite this broad conclusion, a number of more detailed environmental assessments will be required to support the planning proposal, should it receive an affirmative Gateway determination. These environmental assessments include the following:

- Ecological / flora & fauna assessment
- Acid sulfate soils assessment
- Land contamination assessment
- Geotechnical assessment
- Stormwater impact assessment
- Entomological assessment (mosquitoes)
- Bushfire hazard assessment and
- Archaeological / cultural heritage assessment.

The potential impacts associated with filling the site, for the purpose of flood mitigation, has previously been assessed as part of Council's floodplain management planning process, undertaken in accordance with the NSW Government's floodplain management manual. This broader assessment will support the planning proposal, should the rezoning receive affirmative Gateway determination. Further flood assessment may be required, depending on the outcomes of more detailed consideration of the land.

Further to the above, additional information will be required to support the planning proposal to enable consideration to be given to the potential impact of providing additional commercial development opportunities on the subject land on the viability of the Ballina CBD, particularly with respect to proposed office and retail land uses. Consequently, it is proposed that further consideration of issues regarding the range of proposed permissible uses within the proposed B7 zone be the subject of further assessment by the Council following the completion of the above studies and prior to the community engagement phase of the planning proposal.

Managing conflict of interest

As noted above, Ballina Shire Council is the majority owner of the subject land. In order to manage any potential or perceived conflicts of interest in relation to the Council's dealing with the matter, it is proposed that the following process be implemented, should the planning proposal receive affirmative Gateway determination:

- The applicant (Council's Commercial Services Section) will be invited to provide additional information, outlined above, to support the planning proposal
- Council's Strategic and Community Facilities Group will engage, at the applicant's cost, the services of an independent planning consultant to review the additional information submitted by or on behalf of the applicant, and provide recommendations regarding the appropriate range of permissible uses on the land and allocation of land use zones
- The independent consultant report will form the basis of a report to the elected Council for further deliberation, prior to the community engagement phase of the planning proposal.

Further, where Council proceeds to submit a planning proposal for Gateway determination, Council has the option of requesting delegation of certain plan-making functions from the Department of Planning and Infrastructure. Under these delegations, Council would perform some of the plan making functions that are otherwise completed by the Department.

Due to the financial interests of the Council in the subject land (being the major owner), it is recommended that Council not submit a request to the Department to allow the Council to exercise delegations in this instance.

Sustainability Considerations

- **Environment**
Broad-based environmental assessments previously undertaken for the Council-owned land, prepared in relation to the Southern Cross Precinct Master Plan, concluded that the land is not so environmentally constrained as to render it unsuitable for the type of future development envisaged. However, the potential environmental impacts associated with the rezoning need to be better understood, and mitigation methods clarified, prior to further consideration by the Council, and the community engagement phase of the planning proposal.
- **Social**
It is anticipated that the provision of additional employment lands will deliver positive social benefits to the community through opportunities for employment growth.

- **Economic**

The planning proposal seeks to provide additional employment lands to facilitate ongoing economic development opportunities in Ballina Shire. The implications of the proposal for Ballina Shire's established commercial hierarchy will be subject to further consideration by the Council, prior to the community engagement phase of the planning proposal.

Legal / Resource / Financial Implications

The approach recommended in this report is consistent with Council's legal responsibilities as a local planning authority. The matters arising from this report can be attended to within existing resources.

The proponent will be required to meet various processing costs in accordance with Council's adopted schedule of fees and charges, as well as providing the necessary additional technical information, as outlined above.

Consultation

No community or agency engagement has occurred to date in relation to this planning proposal. However, the previous preparation of the Southern Cross Precinct Master Plan and the Ballina Shire Growth Management Strategy were each founded on community consultation and input from relevant public authorities.

It is envisaged that, following referral to the Department of Planning and Infrastructure's Gateway Panel, the planning proposal (if allowed to advance) will be subject to community and agency engagement in accordance with the Gateway determination.

Options

1. That Council advance the proposed rezoning and submit the planning proposal to the Department of Planning and Infrastructure for Gateway determination
2. That Council not commence the rezoning process or
3. That Council defer its decision on the progress of the rezoning.

Option one is the preferred course of action on the basis that it is consistent with the State and local strategic planning framework for this locality, and there is sufficient information to indicate that the proposal warrants further consideration through the LEP amendment process. This approach will progress the planning proposal to the next step in the rezoning process which is to enable a review 'in principle' by the NSW Department of Planning and Infrastructure and Gateway determination to proceed. The Gateway Panel would then determine whether the planning proposal may continue.

9.4 LEP Amendment Request - Southern Cross Precinct Expansion

Importantly, if this approach is pursued and the planning proposal is allowed to proceed by the Gateway Panel, it is recommended that the proposal not proceed to community engagement until detailed site analysis has been undertaken and reviewed by a suitably qualified independent third party. It is also recommended that Council not submit a request to the Department to allow the Council to exercise delegations, in this instance, for the reasons outlined in the body of this report.

The primary disadvantage of the planning proposal not proceeding is that additional commercial and industrial development opportunities would not be provided for in the Southern Cross Industrial Estate area at this time. Therefore, discontinuation of the proposal is not recommended.

The deferral of the proposal is not recommended on the basis that the proposal is generally consistent with the strategic planning framework for the area and the proponent has provided sufficient information to enable an initial review of the matter through the Gateway determination process. Council will have further opportunities to examine the proposal in greater depth before it progresses to public exhibition.

RECOMMENDATIONS

1. That the Council endorses the application of a B6 Enterprise Corridor zone and B7 Business Park zone as the basis for a planning proposal for Gateway determination, applying to Part of Lots 3-6 DP 123781; Lots 3-4 DP 872303; Lot 2 DP 833513; Lot 8 DP 793980; Part of Lot 7 DP 1043261 and adjoining Council road reserve (Corks Lane) in Ballina, as shown in Map 3 of the planning proposal contained in Attachment 1.
2. That the Council submit the planning proposal contained in Attachment 1 to the NSW Department of Planning & Infrastructure for review and Gateway determination.
3. That upon an affirmative Gateway determination being received from the Department of Planning & Infrastructure, the procedural steps associated with progression of the planning proposal be undertaken.
4. That the Council engage a suitably qualified independent planning consultant (at the proponent's cost) to review the site assessment information submitted, and to provide Council with an associated report and recommendations.
5. That a further report be presented to the Council in relation to this matter prior to the commencement of community engagement for the planning proposal.

Attachment(s)

1. Planning Proposal - Southern Cross Precinct Expansion - Gateway

9.5 Ballina LEP 2012 - Rural Tourism and Eco-tourist Facilities

9.5 Ballina LEP 2012 - Rural Tourism and Eco-tourist Facilities

Delivery Program Strategic Planning

Objective To outline the current approach to rural tourism land uses and eco-tourist facilities under the Ballina LEP 2012.

Background

The Council, at its Ordinary Meeting held on 28 March 2013, resolved to receive a report on the possible inclusion of the eco-tourist facility land use under the Ballina Local Environmental Plan (BLEP) 2012 [Minute No. 280313/9].

This report provides an overview of the current approach to planning for eco-tourist facilities in the BLEP and identifies options with respect to this land use for the consideration of the Council.

Key Issues

- Planning provisions for rural and nature based tourism

Information

'Eco-tourist facility' is a land use term under the Standard Instrument LEP that is defined as follows:

eco-tourist facility means a building or place that:

- provides temporary or short-term accommodation to visitors on a commercial basis, and*
- is located in or adjacent to an area with special ecological or cultural features, and*
- is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact.*

It may include facilities that are used to provide information or education to visitors and to exhibit or display items.

In summary, for a tourist development to be categorised as an eco-tourist facility under the above definition, it must provide accommodation on a short term basis for visitors, be associated with a notable ecological or cultural attribute in the landscape and be sensitively designed to minimise ecological and visual impacts.

Eco-tourist facilities are also subject to a specific Standard Instrument LEP clause that must be adopted where eco-tourist facilities are permitted by an LEP.

This clause provides as follows:

- 5.13 *Eco-tourist facilities [compulsory if eco-tourist facilities permitted with consent]*
- (1) *The objectives of this clause are as follows:*
- (a) *to maintain the environmental and cultural values of land on which development for the purposes of eco-tourist facilities is carried out,*
 - (b) *to provide for sensitively designed and managed eco-tourist facilities that have minimal impact on the environment both on and off-site.*
- (2) *This clause applies if development for the purposes of an eco-tourist facility is permitted with development consent under this Plan.*
- (3) *The consent authority must not grant consent under this Plan to carry out development for the purposes of an eco-tourist facility unless the consent authority is satisfied that:*
- (a) *there is a demonstrated connection between the development and the ecological, environmental and cultural values of the site or area, and*
 - (b) *the development will be located, constructed, managed and maintained so as to minimise any impact on, and to conserve, the natural environment, and*
 - (c) *the development will enhance an appreciation of the environmental and cultural values of the site or area, and*
 - (d) *the development will promote positive environmental outcomes and any impact on watercourses, soil quality, heritage and indigenous flora and fauna will be minimal, and*
 - (e) *the site will be maintained (or regenerated where necessary) to ensure the continued protection of natural resources and enhancement of the natural environment, and*
 - (f) *waste generation during construction and operation will be avoided and that any waste will be appropriately removed, and*
 - (g) *the development will be located to avoid visibility above ridgelines and against escarpments and from watercourses and that any visual intrusion will be minimised through the choice of design, colours materials and landscaping with local indigenous flora, and*
 - (h) *any infrastructure services to the site will be provided without significant modification to the environment, and*
 - (i) *any power and water to the site will, where possible, be provided through the use of passive heating and cooling, renewable energy sources and water efficient design, and*
 - (j) *the development will not adversely affect the agricultural productivity of adjoining land, and*
 - (k) *the following matters are addressed or provided for in a management strategy for minimising any impact on the natural environment:*
 - (i) *measures to remove any threat of serious or irreversible environmental damage,*
 - (ii) *the maintenance (or regeneration where necessary) of habitats,*
 - (iii) *efficient and minimal energy and water use and waste output,*
 - (iv) *mechanisms for monitoring and reviewing the effect of the development on the natural environment,*
 - (v) *maintaining improvements on an on-going basis in accordance with relevant ISO 14000 standards relating to management and quality control.*

9.5 Ballina LEP 2012 - Rural Tourism and Eco-tourist Facilities

The clause essentially extends the eco-tourist facility definition, setting requirements for the address of environmental considerations for proposed eco-tourist facilities.

The BLEP 2012, as made, has not adopted the above clause and eco-tourist facility (specifically as defined above) is not a permissible use in any zone within Ballina Shire. Importantly, this does not mean that 'eco' or nature based tourism cannot be undertaken in the shire. The rationale for this approach is outlined below.

Ballina Local Environmental Plan (BLEP) 2012

The BLEP 2012, as made, provides for rural and nature-based tourism within the rural areas of the shire through the permissibility of a number of tourism land uses including 'tourist and visitor accommodation'. Various tourism land uses and activities are also permitted in urban areas. Tourist and visitor accommodation is defined as:

tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following:

- (a) *backpackers' accommodation,*
- (b) *bed and breakfast accommodation,*
- (c) *farm stay accommodation,*
- (d) *hotel or motel accommodation,*
- (e) *serviced apartments,*

but does not include:

- (f) *camping grounds, or*
- (g) *caravan parks, or*
- (h) *eco-tourist facilities.*

The definition of tourist and visitor accommodation is more general than the definition for eco-tourist facilities. As such, eco-tourist based activities are not precluded under the definition and are therefore permitted in the rural areas of the shire, with consent (even in the absence of the listing of eco-tourist facilities in the land use table because of the extent of development that tourist and visitor accommodation encompasses). Other forms of nature based tourism are also permitted in rural areas (e.g. information and education facilities) subject to development consent being obtained.

Rural and nature based tourism outcomes are also supported and directed by clause 7.9 of the BLEP 2012 - Rural and nature-based tourism development, which outlines specific consideration for this type of development in rural areas. Clause 7.9 is as follows (note that the clause only applies to RU1 and RU2 zoned land – this is because the environmental protection 'E' zones have been deferred by the Minister for Planning and Infrastructure from the LEP at this time):

Clause 7.9 Rural and nature-based tourism development

- (1) *The objective of this clause is to ensure that services and facilities provided for tourists in rural and natural areas do not adversely impact on the agricultural production, scenic or environmental values of the land.*
- (2) *This clause applies to land in the following zones:*
 - (a) *Zone RU1 Primary Production,*
 - (b) *Zone RU2 Rural Landscape.*

9.5 Ballina LEP 2012 - Rural Tourism and Eco-tourist Facilities

- (3) *Development consent must not be granted to tourism development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *there is, or will be, adequate vehicular access to and from a road, other than a classified road, taking into account the scale of the development proposed, and*
 - (b) *the development is small scale and low impact, and*
 - (c) *the development is complementary to the rural or environmental attributes of the land and its surrounds, and*
 - (d) *the development will not have a significant adverse impact on agricultural production, amenity or significant features of the natural environment.*
- (4) *Development consent must not be granted to development for the purpose of tourist and visitor accommodation on a lot that is land to which this clause applies unless:*
- (a) *a lawfully erected dwelling house or dual occupancy (attached) is situated on the lot, or*
 - (b) *a dwelling house may be erected on the lot under this Plan.*
- (5) *Development consent must not be granted to development under subclause (4) if the development:*
- (a) *includes an ancillary caretaker's or manager's residence, or*
 - (b) *is for the purpose of more than 1 bed and breakfast accommodation.*
- (6) *In this clause:*
- small scale** *means a scale that corresponds to that of residential uses in a rural or environmental locality.*
- tourism development** *means development for any of the following purposes:*
- (a) *caravan parks,*
 - (b) *cellar door premises,*
 - (c) *charter and tourism boating facilities,*
 - (d) *home industries that provide services, or the sale of goods, on site to visitors,*
 - (e) *information and education facilities,*
 - (f) *kiosks,*
 - (g) *markets,*
 - (h) *recreation facilities (major),*
 - (i) *recreation facilities (outdoor),*
 - (j) *rural industries that provide services, or the sale of goods, on site to visitors,*
 - (k) *tourist and visitor accommodation.*

Clause 7.9 seeks to ensure that tourist and visitor accommodation in rural areas has regard for its surrounds, is of an appropriate scale and is for a legitimate tourism purpose.

Clause 7.9 applies to tourist and visitor accommodation as well as a number of other land uses that may relate to tourism or nature based activities or development.

9.5 Ballina LEP 2012 - Rural Tourism and Eco-tourist Facilities

The philosophy behind the approach to rural and nature based tourism activity was to permit a wide range of tourism and nature based activities within the rural areas of the shire to support tourism outcomes and also provide an opportunity for diversification for rural land holders. Clause 7.9 supports this approach by seeking to ensure that proposals for tourism uses in rural areas are compatible with the character and attributes of the rural landscape and environment.

Importantly, the permissibility of tourism uses in the rural areas is more extensive than it was previously under the Ballina LEP 1987. This permissibility includes rural, nature based and eco-tourist type activities and development by virtue of the broad approach applied in the LEP.

Ballina Local Environmental Plan 1987

Prior to the commencement of the BLEP 2012, the BLEP 1987 was the applicable instrument throughout the Ballina Shire (parts of the shire remain subject to the BLEP 1987 due to the Minister's decision to defer inclusion of the 'E' zones in the BLEP 2012). The equivalent land use for the majority of eco-tourist style development in rural areas (including accommodation) is a 'tourist facility' within this instrument. Tourist facilities under the 1987 Plan are defined as:

"an establishment providing for holiday accommodation or recreation and may include a bed and breakfast establishment, boat shed, boat landing facilities, camping ground, caravan park, holiday cabins, hotel, house boat, marina, motel, playground, refreshment room, water sport facilities or a club used in conjunction with any such activities."

Tourist facilities, under the BLEP 1987 are listed as prohibited on land within the 1(a1) Rural (Plateau Lands Agriculture) zone, the 1(a2) Rural (Coastal Lands Agricultural) zone and all environmental protection zones except the 7(d) Environmental Protection (Scenic/Escarpment) zone and the 7(d1) Environmental Protection (Newrybar Scenic/Escarpment) zone.

These zones that prohibited tourist facilities under the BLEP 1987 covered a significant portion of the rural areas in the shire.

Having regard for the above, opportunities for eco-tourist type development that included accommodation were limited under the BLEP 1987 in rural zones. Given this, the BLEP 2012 provides increased opportunities for rural and nature based tourist facilities to be established in the shire (without the introduction of the eco-tourist facility land use into the LEP), subject to development consent being obtained.

Eco-tourist Facilities History

Council has previously examined the benefits of permitting eco-tourist facilities within Ballina Shire as part of the implementation of the Standard Instrument LEP. Specifically, in conjunction with the preparation of the BLEP 2012, Council's Environmental and Sustainability Committee received a report in May 2011 regarding amendments to the Standard Instrument (Local Environmental Plans) Amendment Order 2011.

The specific eco-tourist facility definition and clause 5.13 relating to eco-tourist facilities was introduced into the Standard Instrument LEP with the 2011 amendment order. The May 2011 report to Council's Environmental and Sustainability Committee included an analysis and recommendation relating to eco-tourist facilities, amongst other matters, having regard for the 2011 amendment order.

Significantly, Council was already well progressed with its approach to the permissibility of tourist development in the shire at this time, having first exhibited its draft LEP in 2010.

Staff evaluated the eco-tourist facility related amendments to the Standard Instrument LEP within the context of Council's existing approach to tourist development under the then draft BLEP 2010. The evaluation sought to determine whether the introduction of the eco-tourist provisions would be beneficial to the BLEP. The following extract from the May 2011 report outlines the approach recommended at that time, and the associated rationale.

While it is considered that the introduction of additional definitions under the group term "tourist and visitor accommodation" would be beneficial, particularly in relation to defining the desired forms of accommodation in the rural zones, the proposed definition is not considered helpful for the draft LEP.

The definition of an eco-tourist facility is identified in the notes as not being linked to tourist and visitor accommodation despite both land use definitions including the provision of "...temporary or short-term accommodation...on a commercial basis". The reason for the separation of eco-tourist facilities from the group term is not clear to staff.

The definition of eco-tourist facilities is considered to be problematic given the inclusion of merit-based criteria within the definition itself. That is, the definition refers to a building or place that "is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact". The inclusion of these merit-based considerations in determining whether a proposal is defined as an eco-tourist facility is considered highly undesirable and may potentially result in circumstances where Council faces legal arguments regarding whether a land use is permitted or prohibited within a particular zone. The inclusion of merit-based considerations within this land use definition may also set an undesirable precedent.

The draft LEP as exhibited includes a local provision drafted by Council. Clause 7.9 – Rural and nature based tourism development applies to land within the rural and environment protection zones. This clause requires tourism development to satisfy a number of requirements including adequate access from a road other than a classified road. It also requires tourism development to be of a "small scale" which is complementary to the rural or environmental attributes of the land and its surrounds. The local clause also contains controls regarding the erection of permanent residential accommodation for the owners or managers of the facility.

The local clause for rural and nature-based tourism as exhibited in the draft LEP contains a number of provisions that are considered to respond to tourism in the particular circumstances of the local area, and is preferable to the optional clause for eco-tourist facilities.

On the basis of the above, it is recommended that Council not adopt the optional clause for eco-tourist facilities.

9.5 Ballina LEP 2012 - Rural Tourism and Eco-tourist Facilities

The recommendation not to include Clause 5.13 Eco-tourist facilities into the draft LEP was endorsed by the Environmental and Sustainability Committee at its May 2011 meeting, and the Council subsequently adopted the recommendations of the Committee at its Ordinary Meeting held on 26 May 2011 [Minute No.260511/23]. The approach adopted by the Council meant that the re-exhibited draft BLEP 2011 and the ultimately adopted BLEP 2012 did not incorporate specific provisions relating to eco-tourist facilities.

This approach did not preclude eco-style tourist development in the shire as other avenues to pursue this type of land use are available under the BLEP 2012. These avenues were purposely designed to enable a wide variety of tourism land use opportunities in the shire's rural areas.

Ballina Development Control Plan 2012

During the BLEP 2012 process, a concurrent review of the Ballina Combined Development Control Plan (BDCP) was undertaken. In response to the exhibition of the Draft BDCP 2012, a submission was received requesting further consideration of eco-tourist provisions in Chapter 7 – Rural Living and Activity.

This request related to the way in which eco-tourist facilities are considered by the Rural Fire Service in relation to bushfire risk hazard management responses.

With respect to the submission, it was the recommendation of staff as part of the report on the draft DCP to the Council's Ordinary Meeting held on 20 December 2012 that Clause 3.3 of Chapter 7 relating to Rural Tourist and Visitor Accommodation be amended to address 'eco-tourism'.

This recommendation indicated that information was to be added to the DCP in relation to eco-tourism following further review of definition-related matters. The recommendation was adopted by the Council [Minute No.201212/13].

Following this review of the regulatory implications of this amendment, this matter was addressed in a report to the Council at its Ordinary Meeting held on 28 March 2013 relating to Amendment No.1 to the Ballina Shire DCP 2012. Council adopted the staff recommendation that a 'Note' be included within BDCP 2012 Chapter 7 - Rural Living and Activity identifying the way in which eco-tourist facilities are addressed in the local planning framework.

The approach outlined in the notation is based on the way in which Council has formed the Ballina LEP 2012 as outlined in the sections above.

Amendment No.1 to the DCP has recently been exhibited for community comment and is subject to a separate report elsewhere in this business agenda.

The submission to the DCP has been the catalyst for the provision of this report on eco-tourist facilities to the Council. However, no change to the Council's current planning framework as it relates to rural and nature based tourism or eco-tourism is recommended as an outcome of the submission evaluation.

9.5 Ballina LEP 2012 - Rural Tourism and Eco-tourist Facilities

As outlined above, the recommended approach has been to consolidate Council's already adopted approach to rural and nature based tourism.

The primary reason for the request to include provisions for eco-tourist facilities in the DCP relates to bush fire protection requirements. Section 100B of the *Rural Fires Act 1997* specifies certain development proposals that must be issued with a bush fire safety authority by the NSW Rural Fire Service (RFS).

These developments include those defined as a 'special fire protection purpose' under the *Rural Fires Act 1997*. Hotel, motel or other tourist accommodation' are identified as a 'special fire protection purpose' and, for the purposes of the *Rural Fires Act 1997*, 'eco-tourist facilities' are included as a form of tourist development, within this definition.

The RFS document *Planning for Bush Fire Protection* contains the guidelines and standards for the issue of a bush fire safety authority and specifies a number of concessions for developments identified as 'eco-tourist facilities'.

For a development proposal to be eligible for these concessions, the RFS has advised that it is the responsibility of the consent authority (Council) to determine whether or not a development constitutes eco-tourism prior to any proposal being submitted to the RFS for a bush fire safety authority.

However, as the specific land use 'eco-tourist facilities' is not a permissible land use under the current provisions of the BLEP 2012, any definition-based recognition of a development as an eco-tourist facility, even if only for the purposes of obtaining a bush fire safety authority, is considered to be in conflict with the provisions of the BLEP 2012.

As outlined above, eco-tourist based activity can still be undertaken under the BLEP 2012 regardless of Council's approach to the above. However, such development would not be subject to the special bushfire related concessions that are attributable to eco-tourist development at present.

This is considered to be a reasonable position given that bushfire risk is likely to be the same for a development regardless of whether the development is labelled an eco-tourist facility or another type of tourist accommodation or facility.

Further, it is considered appropriate that the Rural Fire Service, as the State Government agency responsible for bushfire management in NSW, be the authority that determines the risk level and management measures applicable to proposed development the subject of bushfire hazards.

Conclusions

The current BLEP 2012 addresses rural and nature based tourism through a broad permissibility for such uses in the rural areas of the shire and the application of clause 7.9 to ensure the attributes of the land and function of proposed tourist developments are adequately considered in the development assessment process.

The BLEP 2012 has significantly improved opportunities for tourism development in the rural areas of Ballina Shire.

The permissibility of nature based (eco) tourism development in the shire has not been restricted as a result of the exclusion of the optional clause relating to eco-tourist facilities. As outlined above, tourist and visitor accommodation and other tourist related facilities, which can include nature-based tourism, are permitted widely in the shire under the BLEP 2012, subject to the grant of development consent.

Clause 7.9 is considered to provide both Council and applicants with clear parameters regarding the requirements of rural and nature based tourism. This clause has been prepared by Council to reflect the particular circumstances of Ballina Shire and is designed to minimise ambiguity when considering tourism activities in rural areas.

The present structure of the Standard Instrument LEP eco-tourist facility definition and associated clause 5.13 is considered to be more open to misinterpretation and ambiguity than the approach that Council has adopted in its new LEP.

Notwithstanding the above, Council has the option of preparing a planning proposal to amend the current BLEP 2012 to include specific reference to eco-tourist facilities. This planning proposal would be subject to the standard procedures necessary to undertake an LEP amendment. This approach is not recommended given the rationale for not including specific reference to eco-tourist facilities in the BLEP 2012 as outlined in this report.

Sustainability Considerations

- **Environment**

The provisions of the BLEP 2012 have been prepared to reflect the type of development considered suitable for the rural areas of the shire, having regard for the environmental attributes of land. Clause 7.9 includes provisions to ensure the protection of the environment and agricultural land in relation to rural tourism land uses.

- **Social**

The BLEP 2012 incorporates consideration of social issues in relation to rural tourism uses through clause 7.9 via requirements associated with development scale and amenity. The current planning framework also reinforces the requirement for tourism proposals to be for legitimate tourism purposes (rather than a way to achieve other outcomes such as another dwelling house on a land parcel).

- **Economic**

The current framework for tourism in rural areas enables a wide variety of rural and nature based tourist uses, providing options and choice for landholders considering this type of development.

Legal / Resource / Financial Implications

Council has undertaken the renewal of the Ballina Local Environmental Plan in accordance with the requirements set out in the *Environmental Planning and Assessment Act 1979*, and the associated Regulation. The LEP renewal program has involved a substantial resource commitment from Council in terms of time and financial inputs.

The matter of eco-tourist facilities was specifically considered during the LEP renewal program and the Council has previously resolved to omit specific reference to this use from the LEP in favour of a broader approach to rural and nature based tourism.

The recommendation of this report is to retain the existing planning framework and as such, there would be no further resource, legal or financial implications for Council.

However, should the Council wish to pursue an amendment to the LEP in relation to eco-tourist facilities, a planning proposal would need to be prepared and processed. This would require application of both staff time and financial resources. The processing of a planning proposal could be accommodated within existing available resources but the timing for completion will depend on the extent to which this matter is a priority for Council having regard for current workloads and the work program identified in Council's Operational Plan for the forthcoming year.

Consultation

The manner in which eco-tourist facilities has been addressed in the BLEP 2012 has been the subject of specific consideration by the Council and community consultation via the re-exhibition of the draft Ballina Standard Instrument LEP in September and October 2011.

Options

1. No change.

This option would result in the retention of the existing approach to rural and nature based tourism under the BLEP 2012. The current approach enables tourist and visitor accommodation and other tourism uses (including nature and 'eco' based establishments) in the rural areas of the shire, subject to the grant of development consent. Given this, there is no need for the inclusion of specific reference to the eco-tourism land use in the LEP at this time.

This is the recommended approach.

2. Prepare a planning proposal to incorporate specific reference to eco-tourism in the BLEP 2012.

Having regard for the rationale outlined in this report, it is considered that there is no clear benefit arising from the inclusion of specific reference to eco-tourist facilities in the LEP. The current definition of eco-tourist facility is considered to be ambiguous and the existing planning framework enables nature and environmental-based tourist development under the terms of other land use definitions such as tourist and visitor accommodation.

The only foreseen advantage of including specific reference to eco-tourist facilities relates to RFS bushfire safety authority provisions. It is considered the potential advantage gained by applicants in terms of bushfire management concessions would come at considerable cost, being a more complex and ambiguous planning framework.

In the event that additional matters arise in relation to the approach to eco-tourist facilities, the Council can reconsider its approach at any time. In this regard, staff propose to undertake a formal review of the operation of the BLEP 2012 in early 2014.

Alteration of the current planning framework in relation to eco-tourist facilities is not recommended at this time.

3. Councillor Workshop

Given the extent to which this issue has been canvassed previously and the enabling of a variety of tourism uses under the existing LEP framework, a workshop is not recommended.

RECOMMENDATIONS

1. That Council notes the contents of this report relating to the operation of the Ballina Local Environmental Plan 2012 insofar as it applies to tourist oriented development.
2. That Council maintains the existing approach to rural, nature based and eco tourism under the Ballina Local Environmental Plan 2012 as it is considered satisfactory to address the issue of eco-tourism and rural tourism.

Attachment(s)

Nil

9.6 Development Control Plan 2012 - Amendment No. 1

9.6 Development Control Plan 2012 - Amendment No. 1

Delivery Program Strategic Planning

Objective To inform Council of the outcomes of the public exhibition of Draft Amendment No. 1 to the Ballina Shire Development Control Plan 2012 and seek direction in relation to the adoption of the recommended amendments.

Background

Draft Amendment No. 1 to the Ballina Shire Development Control Plan 2012 (the DCP) was considered by the Council at its Ordinary Meeting held on 28 March 2013. At that meeting it was resolved to undertake the public exhibition of Draft Amendment No. 1 [Minute No. 280313/9]. In accordance with the above resolution, Draft Amendment No. 1 was placed on public exhibition from 1 May 2013 to 3 June 2013, with two submissions received. Following the exhibition, a Councillor briefing was held on 5 June 2013 to discuss the proposed amendments.

The purpose of this report is to inform the Council of the issues raised in the submissions and to seek direction in relation to the adoption of Draft Amendment No. 1 to the DCP.

Key Issues

- Ensuring the DCP provides for intended and consistent planning outcomes
- Addressing matters raised in submissions

Information

The details of Draft Amendment No. 1 to the DCP were reported to the Council at its Ordinary Meeting held on 28 March 2013. In summary, the proposed amendments involve the following:

- **Tourist and Visitor Accommodation**

A number of changes are proposed to the objectives and controls applicable to various building elements in DCP Chapter 4 Residential and Tourist Development.

These changes will enable the clarification and confirmation of the various design requirements that are applicable to buildings containing residential accommodation and/or tourist and visitor accommodation.

- **Residential Development with Lane Frontage**

Draft Amendment No. 1 proposes inclusion of additional requirements for residential or tourist development with a lane frontage to ensure these development types are provided with adequate access to essential services such as waste collection and postal delivery.

- **Dwelling Density in Residential Zones**

Draft Amendment No. 1 proposes the removal of the residential density ratio (number of dwellings per site area) applying to newly established and expanding residential areas.

This will have the effect of causing the minimum lot size provisions for different types of housing to apply to development in these areas and will enable greater weight to be applied to lot sizes and subdivision form in urban expansion areas when considering the suitability of proposed development.

The dwelling density ratio will be retained in established urban areas (to medium density precincts in the urban areas where a residential density ratio was previously applied under the former DCP). This is primarily to preserve historical standards for medium density residential development in these areas.

This aspect of the amendments seeks to remove unintended overlaps between provisions applying to established/built urban areas (where a residential density ratio historically applied under the previous DCP) and planned/new areas.

Post exhibition, a mapping error relating to the dwelling density ratio applied at Skennars Head has been identified. The current mapping indicates an applicable ratio of 1 dwelling per 250m² for medium density zoned sites in the locality. The historic ratio has been 1 dwelling per 300m². Given that this is a mapping error and the intent of the ratio is to reflect historic standards, it is recommended that this error be corrected, and a 1 dwelling per 300m² ratio be applied to medium density zoned land at Skennars Head (A copy of the revised map is contained in Attachment 1).

Council is not required to re-exhibit the correction of the above mapping error, nor is re-exhibition recommended, given the historic policy associated with the adjustment proposed.

- **Building Lines in Residential Areas**

This amendment proposes additional details to clarify the application of building lines in urban residential areas. This includes the establishment of a default front building line of 6.0m in areas that do not otherwise have a building line specified on the Building Line Map.

- **Eco-tourist Facilities**

Draft Amendment No. 1 proposes the addition of a note in Chapter 7 Rural Living to clarify the current regulatory situation regarding bushfire protection and eco-tourist facilities in the shire. Currently, under the provisions of the *Ballina Local Environmental Plan 2012*, eco-tourist facilities (as per the specific definition in the Standard Instrument LEP) are not a permissible land use in the shire. Eco-tourist facilities are subject to a separate report elsewhere in this business agenda.

- **Planning Provisions for Zone B5 Business Development**

Council has recently endorsed the application of a new Zone B5 Business Development to an area of land in the Southern Cross Industrial Estate (the bulky goods retail precinct). The amendment proposes to apply Council's established provisions for industrial development to the bulky goods precinct. This will provide direction as to the relevant development objectives and controls applicable in this zone, if and when it is adopted into the LEP.

The LEP amendment introducing the B5 Business Development zone over the bulky goods precinct at the Southern Cross Industrial Estate is currently pending implementation by the Department of Planning and Infrastructure.

- **Savings Provisions**

It is proposed to incorporate provisions into Chapter 1 of the DCP that clarify the relevance of the DCP to development applications lodged with Council prior to the commencement date of the 2012 DCP, and which currently remain undetermined. The proposed amendment clearly indicates that such applications would remain subject to the previous DCP provisions.

At the time of preparing this report, it is understood there are approximately six undetermined development applications before Council that would fall into this category.

- **Miscellaneous Minor Corrections**

Since the commencement of the DCP in February 2013, a number of minor typographical and composition errors have been identified. It is proposed to correct these as part of Draft Amendment No. 1. It is intended that these errors, as well as the addition of minor notations to assist in the interpretation of the DCP will be corrected and added as part of Amendment No. 1.

In addition to the above, since the reporting and subsequent public exhibition of Draft Amendment No. 1 to the DCP, the matter of the specified parking requirements for shop top housing has been raised by Council's Development and Environmental Health Group. Shop top housing is a defined land use in the *Ballina Local Environmental Plan 2012* which means "one or more dwellings located above ground floor retail premises or business premises".

9.6 Development Control Plan 2012 - Amendment No. 1

The current DCP provisions are open to different interpretations in relation to how car parking rates are to be calculated for shop top housing. It is proposed as part of Amendment No. 1 to incorporate an interpretive note in association with the car parking requirements in DCP Chapter 4 Residential and Tourist Development to clarify the requirements for shop top housing.

This clarifies the application of existing provisions and does not change Council's current policy. As such, exhibition of this adjustment is not recommended, nor is it required.

Chapter 4 Residential and Tourist Development is the subject of the majority of the proposed changes. A copy of this chapter, incorporating the proposed amendments, is contained in Attachment 2.

Further details of the exhibited amendments, extracted from the public exhibition materials, are contained in Attachment 3, for the benefit of Councillors.

Sustainability Considerations

- **Environment**

The DCP establishes local planning policy in relation to a variety of environmental, social and economic considerations. Specifically, it establishes direction for development outcomes within the shire. As such, the DCP provides an opportunity for Council to address a wide range of matters in relation to development. The implementation of Draft Amendment No. 1 to the DCP will clarify and improve the application of the DCP.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

The preparation of Draft Amendment No. 1 to the Ballina Shire Development Control Plan 2012 has been undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and the associated Regulation. The amendment can be completed and implemented within existing available staff and financial resources.

Consultation

Draft Amendment No. 1 to the Ballina Shire Development Control Plan 2012 was publicly exhibited between 1 May 2013 and 3 June 2013 in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*. Two submissions were received from the consulting firm, Newton Denny Chapelle and are summarised as follows.

9.6 Development Control Plan 2012 - Amendment No. 1

The first submission (Attachment 4) has been made in relation to a number of issues, several of which are unrelated to Draft Amendment No. 1. The submission is in support of the proposed amendments in relation to residential and tourist development fronting laneways but requests the provision of a map identifying those lanes where services may not be available.

This request has been considered by Council staff and the inclusion of mapping in the DCP identifying serviced/unserviced lanes is not recommended given the varying degree of servicing to lanes by multiple service providers (eg Australia Post). It is the intent of the proposed amendment that the onus of demonstrating service provision be borne by proponents and submitted with the supporting information with a development application. This is the preferred response to this issue.

The first submission also raises a number of issues unrelated to Draft Amendment No. 1. These issues relate to the DCP's current requirements for stormwater attenuation and management, the provision of vehicular turning circles, waste management plans and details relating to aircraft noise. Given the flexibility afforded to the DCP provisions under the *Environmental Planning and Assessment Act 1979*, the Council and staff are able to take a flexible approach to the assessment and enforcement of the provisions of the DCP on merit, and where the circumstances are appropriate.

In this regard, it is not considered that the particular additional matters raised in the submission warrant immediate attention at this time, although they do require careful and more detailed consideration. The issues have been noted by Council staff and will be incorporated into the 12 monthly review of the DCP expected to take place early in 2014.

The second submission (Attachment 5) from the same firm is made in relation to the matter of eco-tourism and Council's resolution at its Ordinary Meeting on 28 March 2013. This matter is addressed in a separate report in this Business Agenda.

Options

1. Adopt and implement DCP Amendment No. 1

The Council may resolve to adopt Draft Amendment No. 1 to the Ballina Shire Development Control Plan 2012 as exhibited, or with changes.

This approach would involve the adoption of Draft Amendment No.1 as exhibited, but with the following additional amendments:

- The correction of the identified residential dwelling ratio at Skennars Head from 1 dwelling per 250m² to 1 dwelling per 300m² to rectify an identified mapping error and to reflect the historic housing density applied to this locality.
- The inclusion of a notation to clarify car parking requirements for shop top housing.

This is the recommended course of action and will support the provision of intended and consistent land use planning outcomes in the shire.

9.6 Development Control Plan 2012 - Amendment No. 1

If this is the approach adopted by the Council, it is proposed that the amendment will take effect on 8 July 2013. This allows a suitable time period for the required public notification of the adoption of the amendment to be undertaken.

2. Decline the adoption of DCP Amendment No. 1

The Council may resolve to decline to adopt Draft Amendment No. 1 to the Ballina Shire Development Control Plan 2012. This is not the recommended course of action as it will result in the identified corrections and interpretive improvements not being incorporated into the DCP which will impact on its efficiency in providing intended and consistent land use planning outcomes.

3. Defer adoption of DCP Amendment No. 1

The Council may resolve to defer the adoption of Draft Amendment No. 1 to the Ballina Shire Development Control Plan 2012 and seek additional information and/or further consideration of the identified issues, including those raised in the submissions.

As detailed in this report, it is the intent of Draft Amendment No. 1 to provide better function and clarity to the DCP and as such, this option is not recommended. Further, the matters raised in the submissions that are not specifically related to Amendment No.1 can be addressed via an alternate approach.

It is also noted that the work program for Council's Strategic and Community Facilities Group includes the monitoring of Council's key strategic land use planning documents, and their regular reporting to the Council. This assists in ensuring that the DCP remains relevant in achieving the desired development outcomes in the shire.

RECOMMENDATIONS

1. That Council adopts Draft Amendment No.1 to the Ballina Shire Development Control Plan 2012 as exhibited for public comment, inclusive of the following additional amendments:
 - The correction of the identified residential dwelling ratio at Skennars Head from 1 dwelling per 250m² to 1 dwelling per 300m² of site area to reflect the historic ratio applied to this locality.
 - The inclusion of a notation to clarify car parking requirements for shop top housing.
2. That Ballina Shire Development Control Plan 2012 Amendment No.1 takes effect on 8 July 2013.

Attachment(s)

1. Revised Dwelling Density Map - Skennars Head
2. Proposed Amendments - Chapter 4 Residential and Tourist Development
3. Details of Proposed Amendments as Exhibited
4. Submission No. 1 - Newton Denny Chapelle
5. Submission No. 2 - Newton Denny Chapelle

9.7 NSW Planning Reforms - White Paper

9.7 NSW Planning Reforms - White Paper

Delivery Program Strategic Planning

Objective To outline key aspects of the NSW planning reforms as contained in the NSW Government's White Paper and seek direction from Council regarding the making of a submission on the paper.

Background

In April 2013, the NSW Government published its White Paper (*A New Planning System for NSW*) and exposure drafts of the *Planning Bill 2013* and *Planning Administration Bill 2013* outlining the proposed framework for the reformed planning system in NSW.

The Council has previously considered the planning reform process on several occasions. In particular, Council made a submission to the Government's Green Paper in October 2012 [Minute No.251012/12]. Councillors also received a briefing on the White Paper from staff on 29 May 2013.

This report provides a general overview of the key aspects of the White Paper based on an analysis of the paper and exposure bills by staff, for the information of the Council. This report also seeks direction from the Council on the making of a submission on the planning reforms to the Department of Planning and Infrastructure.

Key Issues

- Implications of the proposed planning reforms for Council's operations

Information

The White Paper identifies six primary areas of change that underpin the planning reform process. The White Paper summarises each of these elements as outlined in Table 1.

Table 1. Summary of Key Planning Reform Elements

Reform Element	Summary
<i>Delivery Culture</i>	Establishment of a new planning culture for NSW which provides a framework for the implementation and operation of the new planning system.
<i>Community Participation</i>	Provision of opportunity for the community to participate at the start of planning processes to help establish the planning framework for local areas.
<i>Strategic Planning</i>	Delivery of whole of government strategic planning, inclusive of community and stakeholder engagement. Provision of up front strategic planning is a central aspect of the planning reforms proposed.

9.7 NSW Planning Reforms - White Paper

Reform Element	Summary
<i>Development Assessment</i>	Establishment of a faster performance based system, including use of code assessment and online tools. The reforms are based on five development assessment tracks.
<i>Provision of Infrastructure</i>	Establishment of a framework that provides for integrated delivery of infrastructure with development.
<i>Building Regulation and Certification</i>	Provision of a more consistent and transparent building regulation and certification system.

The fundamental aspirations of the reforms outlined are considered to be positive and have the potential to deliver substantial improvements to both planning practice and outcomes. However, there is substantial detail that needs to be provided and considered in order to fully appreciate the implications of the proposed reform policy agenda for local government and local communities.

This report and the associated submission to the NSW Government that is proposed (Attachment 1) does not attempt to canvass all aspects of the White Paper. Rather, the report and submission focus on several matters considered to be of very high importance from Council's perspective. These matters are discussed briefly below.

Economic and Environmental Balance

The White Paper and associated policy material has a strong focus on delivery of economic development. Although there are various references to environmental considerations in the White Paper, it appears that there is a shift in the fundamental platform underpinning the planning system, away from environmental factors.

Whilst economic outcomes are acknowledged as very important for the State and its local communities, these outcomes should not be realised at any cost. The legacy of the balance afforded to environmental, economic and social considerations under the operation of the *Environmental Planning and Assessment Act* is worthy of retention in future planning frameworks in NSW.

Community Engagement and Strategic Planning

Extensive and early community engagement is a common theme in the White Paper. Basically, the White Paper proposes that communities focus their efforts in establishing planning rules and requirements through strategic planning. The opportunity for community involvement up front in planning processes comes with the implication that, having set the 'rules', communities will have less opportunity for direct input or objection in relation to development when proposed.

The idea of engaging communities up front to guide establishment of planning frameworks is positive, but it is not new. Local Government has been involved in this type of process for a long period of time and in the case of Ballina Shire, such processes have been successfully translated into local planning policy on many occasions. For example, the Lennox Head Community Aspirations Strategic Plan and Lennox Head Structure Plan have underpinned development control policy and urban planning policy for Lennox Head for over ten years.

Preparation of a structure plan for the future urbanization of the Cumbalum Ridge, the Wardell Strategic and Landuse Plan, the Southern Cross Precinct Master Plan and the West Ballina Planning Study and Structure Plan are other examples of strategic planning exercises conducted by Council in recent years, each underpinned by comprehensive community engagement. Importantly, Council's investment in this work has been complementary to the existing development assessment framework where the community also engages in the consideration of development proposals at the development application stage.

The core challenge with the approach promoted by the White Paper is the establishment of understanding in the community about the shift in the places in planning where the public has a genuine influence and impact on decisions. It is likely that this will be extremely difficult to achieve and, as a consequence, there could be considerable confusion and concern. Local government will likely carry the majority of the challenges associated with this change due to councils being the key interface with local communities.

In this regard, the State Government must provide sufficient resources and clear policy guidance to enable proper and comprehensive community engagement programs to be implemented. Sufficient time must also be allowed as 'half' engagements have the potential to cause long lasting problems given that the initial engagement will underpin any new system that is developed.

State, Regional and Local Planning

Regional Planning is a centerpiece on the proposed planning reforms, with the State Government indicating that it will develop integrated regional plans throughout the State. The State Government has also indicated that it will establish State policies to replace current State Environmental Planning Policies and provide overarching direction.

The State and regional planning elements proposed are considered to be commendable initiatives, particularly if integration with infrastructure delivery can be achieved. Again though, it should be recognised that these are not new initiatives. Under the *Environmental Planning and Assessment Act*, the State has always had the ability to direct planning policy for the State and regional planning has commonly been undertaken (eg, North Coast Regional Environmental Plan and Far North Coast Regional Strategy).

An important consideration here is the relationship between State and regional planning and local community engagement outcomes. As outlined above, the White Paper indicates that local communities will be engaged to set the local planning 'rules'. This is a central aspect of the State Government's suggestion that planning powers will be given back to local communities.

However, it is unclear in the White Paper as to what happens where there is inconsistency between State or regional directions and local engagement outcomes. For example, it is conceivable that State developed regional policy will require accommodation of additional population growth in greenfield areas, but that a local community may disagree with this on the basis that it is not consistent with their preferred outcomes for their place.

It is important that the State Government is absolutely clear and consistent about what aspects of the system local communities are able to have meaningful input into and that this is not left to local government alone to communicate.

Council has experienced a lack of clarity and consistency in State policy when engaging the community through the Standard Instrument LEP process and unfortunately, this experience shows that this adds a layer of complexity and uncertainty to planning that is counter to the objectives of the White Paper.

Infrastructure Planning

Credibly, the White Paper identifies the current lack of integration between planning and infrastructure policy in the State. The White Paper proposes an improved system where these matters are fully integrated. This initiative, if achieved, would be highly beneficial in ensuring that communities have access to full and proper infrastructure and services and in setting community expectations for infrastructure delivery early in the planning process.

One challenge however is that this has been discussed as a desired outcome on numerous occasions over many years and inevitably, infrastructure considerations are subject to difficult financing considerations. As such, there is sometimes reluctance to commit to comprehensive infrastructure delivery over long time frames. This commitment is what is needed to achieve true integration with planning outcomes because planning typically operates on 10-20 year time horizons.

More specifically in relation to infrastructure delivery, the reform documentation implies that local government will be required to expend contributions collected for infrastructure projects within three years of their collection. This appears to relate to a State Government policy to accelerate the expenditure of monies on infrastructure projects. This timeframe, however, is unrealistic given that it can take much longer than three years to collect funds sufficient to enable construction of roads and infrastructure and facilities.

Department of Planning and Infrastructure staff have indicated that the reference to a three year time period may have been poorly drafted. That is, it has been suggested that the intent is more to require expenditure of funds within three years once a sufficient amount for the required infrastructure has been collected. This requires clarification as a matter of priority as the approach currently implied will not support the delivery of large or quality

infrastructure projects, but rather encourages piecemeal spending of a limited financial resource. This is an example of a “one size fits all” approach that is not necessarily the most effective way of addressing an issue.

The approach to determining the amount of funds to be collected from development for infrastructure delivery is also addressed in the White Paper. A key aspect of this is the idea that IPART will provide cost benchmarks for infrastructure which will guide how much money can be collected. Again, the details are important here, with construction costs being highly variable in different areas across the State. If the detail is not adequately examined and variation between areas acknowledged, there could be substantial shortfalls in contributions collected in some places, further exacerbating difficulties in provision of infrastructure.

Development Assessment

The White Paper establishes a policy framework that promotes a target of 80% of development being assessed via a faster process; namely via exempt and complying development and code assessable development. In considering this, it is important to acknowledge that the exempt and complying development concept has been operating in NSW for some time and Council has extensive experience in managing development of this type.

The introduction of a ‘code’ assessment track would appear to have merit in that it provides a clear link to strategic planning and development of local plans where core uses within zones are identified for a more straightforward and certain assessment path. However, if the introduction of a ‘code’ assessment track is to help in the delivery of the Government’s target of 80% of all DAs to be complying or code assessment within five years, then lessons need to be learnt as to why ‘complying development’ has not effectively delivered to the extent the government had hoped.

The White Paper’s analysis on why there has not been a much higher take up of complying development is considered to be flawed. Councils, like Ballina Shire, have invested considerable resources in implementing the Codes SEPP provisions through their mapping and land information data base systems (eg. S.149 certificates), on-going staff training and education, and engagement with the local community.

The reality is that the ‘one size fits all’ state-wide approach (Codes SEPP), having a metropolitan focus is far too complex and attempts to cover all circumstances for all situations. The land based eligibility criteria excludes a large number of land holdings and even when a property is not subject to exclusion, there are numerous standards to assess against to determine if the particular development can proceed through the complying assessment path.

Consequently, the level of complexity just to determine an assessment path before lodging a proposal for approval has proven to be a significant deterrent to proponents entering into the existing streamlined approval pathways. In local government areas, such as Ballina, where these routine, minor types of development are processed within reasonable timeframes, there is no or minimal incentive to lodge an application for a Complying Development Certificate.

Therefore, whilst the Government's 80% target is commendable, for it be a reality, there needs to be an overhaul of the Codes SEPP and together with developing the 'Code' assessment track a more local focus needs to be re-introduced. Performing councils, like Ballina Shire, need to have more autonomy in developing the local based criteria for these various assessment tracks. This will ensure the local community is genuinely engaged and the setting of 'rules' more applicable to the local circumstance will ensure greater simplicity, relevance and ultimately a better take up of faster tracks for approval.

In relation to merit assessment, it would appear from the White Paper that there has been insufficient emphasis on how the complexity and layers in the current planning system can be reduced. The relationship between the *Environmental Planning & Assessment Act*, *Threatened Species Conservation Act*, *National Parks & Wildlife Act* (for example), the separate government agencies responsible for administering these Acts, the large number of State Environmental Planning Policies which often contain inconsistencies and the broad range of matters for consideration in relation to a development proposal has made the current system very cumbersome.

For many local governments, like Ballina, the reality is that 80% of Development Applications (DAs) are determined within reasonable/statutory timeframes. It is the 10-20% of DAs that consume significant time and resources for all involved. The 'amber light' approach is not a new idea and one which Council has adopted for many years. This approach, whilst maintaining open communication, does not assist in timely determinations.

The detail on how the complexity in the merit assessment track is going to be overcome in the new legislation is not apparent in the White Paper and should be given more attention on the basis that it is these applications that consume a disproportionate amount of time and resources in regional circumstances.

Electronic Planning Framework

The White Paper states that the new planning system will move away from manual and paper based transactions to an electronic planning service. This inevitably is the way forward for any new planning system. Whilst numerical planning controls and electronic certification of planning spatial datasets can readily be adapted for eplanning interrogation, planning provisions relating to investigating land contamination, Aboriginal cultural heritage and threatened species, for example, are more problematic as they require detailed site-based examination, often with specific regard to particular types of development that may be proposed.

In establishing a consistent platform in NSW, extensive consultation will need to be had with all councils across the State and with software providers to ensure time and money is well spent on compatible software and data bases. Consideration needs to be given to current commitments that councils have made to advancing electronic planning in their communities. Considerable financial and specialist resources will need to be provided by the State Government to all councils in a coordinated and well managed way to enable effective eplanning services to be delivered to local communities.

Delivery Timeframe

The White Paper sets out a vision for delivery of the reforms, but the delivery timeframes outlined are unrealistic. The 'delivering code assessment' timeframe for councils having to adopt development guides within 18 months of legislation commencing is one example.

There needs to be a greater level of clarity about how the new system will look and operate to enable councils to genuinely engage with their communities in preparing the Community Participation Plan. There also needs to be recognition of the significant amount of time involved in designing community engagement programs, executing their delivery and translating outcomes into planning policies.

More specifically, determining the types of development for code assessment in each zone and the accompanying development guides will involve significant time and community consultation to prepare. This level of detail will need to be understood for the community to feel they have been genuinely consulted, particularly when they will no longer have an opportunity to comment on these types of DAs under the new planning system.

Realistic timeframes to implement the new system need to be set after extensive consultation with councils. The effectiveness of any new planning system will largely hinge on councils delivering these changes to their local communities and the time and resources required to do so should not be overlooked.

Transition

There is presently limited detail available in relation to the proposed transitional arrangement associated with moving from the present planning system to a new one. These arrangements need to be made clear promptly as significant resources will be required to both maintain existing systems and commence work towards new plans and processes. There will also likely be significant lead time involved in developing processes to manage the existing and new systems whilst in transition.

Clear and consistent transitional arrangements are critical to avoiding ambiguity and ensuring that both time and financial resources are directed in the best possible way. The transitional arrangements should also acknowledge that both the State and local government have invested extensive resources in the Standard Instrument LEP program, including significant community engagement initiatives.

Overall Summary

The White Paper proposes a vision for a less complex, more efficient, integrated and transparent planning system built on community engagement and strategic planning. In a text book sense, this is a classically sound planning approach and one which has the potential to deliver excellent outcomes in the longer term.

However, the way in which this aspiration is achieved is central to the implications for local government and local communities. In particular, the detail and intricacies of the function of the system, and transition to it, are important to understand and at present, many of these details are not apparent. This is unfortunate given the rapid pace at which this reform process is being undertaken, particularly given the extent of change envisaged.

For the proposed reforms to truly deliver community-based outcomes and a more efficient and effective planning system, the State Government needs to work in partnership with local government. The State Government needs to provide clear leadership and policy direction, along with financial resources and expertise. There must also be acknowledgement that local government has extensive knowledge and skill in relation to local planning, and indeed, has been doing many of the things promoted in the White Paper for a long period of time.

Finally, local government needs to monitor the implementation of the reforms carefully to ensure that planning in NSW continues to have a local element embedded within its core. Whilst the White Paper talks about community-based planning, there are also many elements that address the homogenisation of planning in the State. The ultimate outcome is dependent on the detail of the system and the way in which successive State Government's implement policy over time.

Submission to the White Paper Exhibition

A draft submission in response to the White Paper exhibition which essentially replicates the discussion on the above matters has been prepared (Attachment 1). This report seeks direction from the Council as to whether this submission (as drafted or with amendments) is to be lodged with the Department of Planning and Infrastructure. In considering the submission, it is important to note that submissions close on 28 June 2013.

Sustainability Considerations

- **Environment**
The NSW planning reform process will direct the way in which environmental, social and economic matters are considered in planning decisions into the future. As such, this is a key matter for consideration in relation to the achievement of sustainability outcomes for the Ballina Shire community.
- **Social**
As above.
- **Economic**
As above.

Legal / Resource / Financial Implications

There are a variety of potential legal, resource and financial implications associated with the planning reform process. Some of these matters are discussed above. However, at this time, the specific detail and implications are not known.

Consultation

This report outlines key issues relating to the planning reform process in NSW from Council's perspective. In this regard, the report draws on Council's extensive corporate experience in planning processes and decision making. However, no specific community engagement has been undertaken in relation to the content of the report or the draft submission (Attachment 1).

Options

The purpose of this report is to provide the Council with an outline of some of the key issues pertaining to the NSW planning reform process as discussed in the NSW Government's planning reform White Paper. In this regard, a draft submission in response to the public exhibition of the White Paper has been prepared (Attachment 1). In terms of the submission, Council has the following options.

1. Make a submission in response to the NSW Government's planning reform White Paper.

This would involve making a submission as per the draft contained in Attachment 1 or otherwise as determined by Council.

Given that the issues identified in this report are considered to be of importance in relation to the implications of the reforms for Council and the local community, the making of a submission is the recommended approach.

2. Decline to make a submission to the NSW Government's planning reform White Paper.

Council may elect not to make a submission in response to the current White Paper exhibition. This approach is not recommended.

RECOMMENDATIONS

1. That Council notes the content of this report in relation to the NSW planning reform process as outlined in the *A New Planning System for NSW* White Paper.
2. That the Council endorses the submission in response to the planning reform White Paper as contained in Attachment One to this report.

Attachment(s)

1. Draft Submission to White Paper Exhibition - Ballina Shire Council

9.8 Policy (Review) - Commercial Use of Footpaths

9.8 Policy (Review) - Commercial Use of Footpaths

Delivery Program Commercial Services

Objective To undertake a review of the Commercial Use of Footpaths Policy

Background

The Council adopted its Commercial Use of Footpaths Policy at the Ordinary Meeting held on 26 August 2010. The policy incorporates an exemption from certain requirements of the *Local Government Act* 1993. This exemption is approved by the Division of Local Government and is due to expire in September 2013.

Given the pending expiry of the current exemption, it is necessary for Council to determine whether it wishes to apply to renew the exemption or amend the current policy to exclude the exemption, as detailed in this report. For the reasons outlined in this report, it is recommended that the current Commercial Use of Footpaths Policy be amended to remove the exemption from approvals under the *Local Government Act* 1993. A copy of the draft amended Commercial Use of Footpaths Policy reflecting the recommended approach is contained in Attachment 1.

Key Issues

- Removal or renewal of current *Local Government Act* exemptions
- Streamlining of administration

Information

The use of public roads for commercial activities such as alfresco (footway) dining and street vending generally requires council approval under the requirements of the *Environmental Planning and Assessment Act* 1979, the *Local Government Act* 1993 (LG Act) and the *Roads Act* 1993.

Environmental Planning and Assessment Act 1979

Certain commercial use of footpaths is exempt from development consent requirements under the *Environmental Planning and Assessment Act* 1979. This is because commercial use of footpaths is specified as 'exempt development' in Schedule 2 of the *Ballina Local Environmental Plan* 2012 in the following circumstances:

- Must be located on the footpath within a road reserve for which the Council is the roads authority under the *Roads Act* 1993.
- Must hold any relevant approval issued under the *Roads Act* 1993 or the *Local Government Act* 1993 (or both).
- Must not occupy an area greater than 30m² per operator.

9.8 Policy (Review) - Commercial Use of Footpaths

The exempt development provision means that most commercial activities conducted on public footpath areas, such as alfresco dining and street vending, do not require the submission, assessment and determination of a development application.

The inclusion of commercial use of footpaths as exempt development under the Ballina LEP 2012 significantly reduces the extent of the regulatory process associated with the use of public footpath areas and removes duplication in approval's processes.

Local Government Act 1993 (LG Act)

Commercial activities such as the selling or placing of articles in or on a road are activities that require approval under section 68 of the LG Act. These activities include the placement of tables, chairs and other furniture for the purposes of alfresco dining as well as the placement of stands or racks on the footpath by a retailer for the purposes of the display and sale of merchandise. Council's current Commercial Use of Footpaths Policy, adopted on 26 August 2010, incorporates an exemption from the activity approval requirements under the LG Act for the commercial use of footpaths.

This exemption from section 68 approval is identified in the LG Act as a 'Local Approvals Policy'. A 'Local Approvals Policy' under the LG Act must be approved by the Chief Executive of the Division of Local Government and, under the provisions of the LG Act, automatically expires 12 months after the date of a general election of the Council.

In this case, the current 'Local Approvals Policy' issued by the Division of Local Government will automatically expire in September 2013. Because this exemption is due to expire, action must be taken to either renew the exemption or to amend the current policy to remove the exemption.

The grant of a renewal request for the exemption means the policy can continue to operate in its current form. Under the requirements of the LG Act, the renewal of this policy will require a resolution of Council, followed by the public notification of the proposal for 28 days. Submissions must be received for a period of 42 days, following which the consent of the Chief Executive of the Division of Local Government must be obtained. This renewal process must be followed every four years. Alternatively, Council has the option to amend the current policy to remove the LG Act approval exemption for the reasons detailed in this report.

It will be recommended that Council's Commercial Use of Footpaths Policy be amended to remove the exemption from LG Act approvals and thus eliminate the necessity of renewing the exemption every four years (and for the reasons associated with compliance outlined below).

Roads Act 1993

Under the provisions of the *Roads Act 1993* (Roads Act), Council is the roads authority for public roads in Ballina Shire. The Roads Act regulates activities such as "footway restaurants" (section 138) and "street vending" (section 139A) and requires these activities to have Council approval, as the roads authority. The current Commercial Use of Footpaths Policy approvals are issued in accordance with the provisions of the Roads Act.

9.8 Policy (Review) - Commercial Use of Footpaths

Compliance and Enforcement

Since the adoption of the Commercial Use of Footpaths Policy, Council has issued a number of approvals for both alfresco dining and footpath display of merchandise in the central business areas of Ballina, Alstonville and Lennox Head. These approvals are issued based on the payment of a specified administration fee and are subject to the terms and conditions outlined in the policy.

Compliance and enforcement actions are currently undertaken by Council's Rangers in relation to the Commercial Use of Footpaths Policy. To ensure operators are in compliance with approvals made under the policy, and to enable the issue of infringement notices where necessary, the Council rangers rely on the various enforcement provisions in the legislation detailed above.

The LG Act and Roads Act each have a differing range of enforcement options in relation to activities on public roads. In general, the provisions of the LG Act are more broad and flexible and allow the issuing of penalty infringement notices (fines) and orders. The provisions of the Roads Act generally offer fewer enforcement options. Where enforcement action is required, the Roads Act necessitates the gathering and submission of evidence to the local court. This is an onerous process and a disincentive for action to be taken.

Given the flexibility provided for under the LG in terms of compliance action options, it is considered beneficial to remove the current exemption from approval under the LG Act applying to commercial use of footpaths. This course of action will result in future approvals for commercial activities on footpaths being issued jointly under the LG Act and Roads Act.

The resulting regulatory burden is expected to be minimal, as a single approval document will still be issued, but with reference to both Acts. The removal of the LG Act exemption will eliminate the need to renew the existing exemption every four years and will increase the scope and options for compliance and enforcement action, as and when required. The draft amended policy, as attached, addresses these changes, as well as introducing a number of minor "housekeeping matters" which are intended to clarify the policy provisions.

Sustainability Considerations

- **Environment**
Not applicable.
- **Social**
The proposed amendments to the Council's Commercial Use of Footpaths Policy, as detailed in this report, will result in improved public and social equity in relation to the application of the policy and any applicable compliance and enforcement actions.
- **Economic**
The proposed amendments to the Council's Commercial Use of Footpaths Policy, as detailed in this report, will result in improved economic equity in relation to the compliance and enforcement of commercial activities on public roads in the shire.

Legal / Resource / Financial Implications

Commercial activities on public roads and footpaths are subject to a number of regulatory and legislative requirements as detailed in this report. The current Commercial Use of Footpaths Policy allows Council to facilitate and regulate the use of public spaces by commercial operators. The proposed amendments to the policy will allow Council greater flexibility and regulatory scope in the enforcement of the policy and management of its risk.

The ongoing administration and implementation of the policy is expected to continue as per the current established processes within Council's Commercial Services Unit. The draft amended policy will provide staff within Council's Development and Environmental Health Group greater flexibility and scope in relation to the compliance and enforcement of activities authorised under the policy. If endorsed by Council, the amended policy will result in minor changes to legislative references on application documents.

There is no proposal to amend the existing application and fee structure established under the current policy. This review occurs annually, as part of the Council's budgetary process.

Consultation

In the preparation of the draft amended Commercial Use of Footpaths Policy, internal consultation has been undertaken between Council's Strategic and Community Facilities Group, Commercial Services Section and Development and Environmental Health Group.

Should Council resolve to endorse the draft amended policy, it will be placed on exhibition for community comment in accordance with Council's standard procedures.

Options

On the understanding that the Council wishes to continue to facilitate the appropriate commercial use of footpath areas, particularly as a way of supporting and activating established business areas, the Council has two options in relation to the review and operation of its Commercial Use of Footpaths Policy:

1. Maintain the Existing Local Government Act Exemption

Under this approach, Council would seek approval to renew the existing exemption from Local Government Act 1993 approvals. This will involve the public notification of the proposal to renew the exemption and will require consent from the Chief Executive of the Division of Local Government. This option is not recommended as it does not address the issue of the ongoing exemption renewal and limits the scope and options for Council's regulatory staff in relation to the compliance and enforcement of the policy. The processes associated with this option are administratively cumbersome.

9.8 Policy (Review) - Commercial Use of Footpaths

If however, the Council prefers to retain the current arrangement, it is suggested that it would be beneficial to include the general “housekeeping” amendments to the policy in order to complete the review process. This would necessitate public exhibition of the revised draft policy.

This option is not preferred.

2. Remove the Existing Local Government Act Exemption

This approach would involve amending the Commercial Use of Footpaths Policy as contained in Attachment 1. The draft amended policy would be placed on exhibition for community comment in accordance with Council’s standard procedure. Arrangements would also be made to directly notify business proprietors who currently operate under the terms of the policy, to provide feedback on the suggested changes. It is proposed that where no submissions by way of objection are received, the amended policy would be adopted at the conclusion of the consultation period.

This is the recommended course of action. The amended policy removes the exemption from *Local Government Act* 1993 approvals for commercial activities on footpaths and will allow Council to issue a single approval under both the LG and Roads Acts. It will eliminate the need to renew the *Local Government Act* 1993 exemption every four years and will provide Council’s authorised staff greater scope and options for compliance and enforcement action, when required.

This course of action improves the governance arrangements associated with commercial use of footpaths without increasing the application requirements for business proprietors.

RECOMMENDATIONS

1. That Council endorses the revised draft Commercial Use of Footpaths Policy, as attached to this report and approves the exhibition of the draft document for public exhibition.
2. That if no submissions by way of objection are received, the revised policy is taken to be adopted at the conclusion of the exhibition period.
3. That upon its adoption, the revised policy supersedes the Commercial Use of Footpaths Policy adopted by the Council on 26 August 2010.

Attachment(s)

1. Draft Amended Commercial Use of Footpaths Policy

9.9 Aboriginal Community Advisory Committee

9.9 Aboriginal Community Advisory Committee

Delivery Program Community Facilities and Services

Objective To invite the Council's consideration of nominations for membership of Council's Aboriginal Community Advisory Committee.

Background

The Council, at its Ordinary Meeting held on 28 March 2013, received and considered a report which proposed the establishment of an Aboriginal Community Advisory Committee.

The purpose of establishing the Advisory Committee, as outlined in that report, was "to provide constructive advice to Council on matters that involve or potentially impact the shire's Aboriginal residents, to assist the Council in its decision making function and/or delivery of services. The Committee would also work toward fostering a positive working relationship between the Shire's Aboriginal community, the Council itself and Council staff, and within Council's existing resource capacity and strategic goals and policies". The Council subsequently resolved as follows:

- 1. That Council supports the establishment of a Ballina Shire Aboriginal Community Advisory Committee;*
- 2. That the draft Terms and Reference, as attached to this report, be used as a basis for the operation of the Committee;*
- 3. That the General Manager consults with Aboriginal organizations operating within Ballina Shire to assess the level of support for this initiative.*

The following report provides the Council with an update in relation to actions taken concerning this decision and the responses received from the community.

Key Issues

- Appointment of Committee members.

Information

Subsequent to the Council's March decision, letters were forwarded to key Aboriginal service organizations operating within Ballina Shire. Firstly, the letters invited the respective organizations to provide feedback concerning the Council's desire to establish the Committee. Secondly, the letters invited the organizations to nominate potential members of the Committee, in the event that it proceeded to establishment.

9.9 Aboriginal Community Advisory Committee

In addition to the direct contact with the service organizations, notices were displayed on Council's website and in local newspapers, including the Koori Mail, inviting community-based nominations for Committee membership. To strive for broad representation, the notices sought to actively encourage nominations from Aboriginal Elders and young people.

In relation to the invitation for feedback concerning the Council's initiative to establish the Committee, no comments or submissions were received.

In relation to the invitation for nominations for membership of the Committee, the following were received:

<u>Name</u>	<u>Representation</u>
Ms Carmel Kapeen	Community Member (Elder)
Mr Troy Anderson	John Bappa Cook Foundation
Ms Susan Anderson	John Bappa Cook Foundation
Ms Samantha Anderson	Community Member (Young person, 18-25yrs)
Ms Dianne Creighton	Community Member (Elder)
Ms Sandra Bolt	JALI Local Aboriginal Land Council (Elder)
Ms Kim Vincent	Envite Employment Ballina (Elder)
Mr Marcus Ferguson	Community Member
Ms Lois Cook	Community Member (Elder)
Ms Lenkunar Hickling	Yarrabee CACPS
Ms Kylie Coldwell	Community Member

The number of nominations is very encouraging and suggests there is a level of support within the community for the establishment of the Committee and a sharing of the Council's desire for more comprehensive and effective engagement measures to be put in place.

The draft Terms of Reference provide for Committee membership by the Mayor and two other Councillors. The Council is therefore asked to nominate its two preferred members to accompany the Mayor. All Councillors would be welcome to attend the Committee meetings.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The establishment of the Committee, and active and genuine participation by its membership, has potential to improve social cohesion within our community, and increase the community's understanding of the shire's Aboriginal cultural heritage. Similarly, the roles and functions of the Council may be better understood.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The administration of the proposed Committee will be absorbed into Council's existing operations without the need for additional resources.

Consultation

As stated earlier the community was invited to provide feedback concerning the proposed new mechanism for participatory engagement.

Options

As the Council has already affirmed its commitment to establishing the Ballina Shire Aboriginal Community Advisory Committee, it only remains necessary to approve the Committee membership.

The Council may approve each of the nominees identified earlier in this report, or determine an alternative arrangement for selection of Committee members.

Given the level of interest that has been shown by the nominations received, the staff recommendation is that each of the nominees be appointed to the Committee.

It is noted that the draft Terms of Reference provide for alternate delegates for each of the members. No nominations from groups or individuals for alternate members were received. It is suggested that this can be discussed further by the Committee in due course, and can be the subject of a further report to the Council, if this is found to be necessary.

RECOMMENDATIONS

1. That Council approves the following nominees for inaugural membership of the Ballina Shire Aboriginal Community Advisory Committee:

<u>Name</u>	<u>Representation</u>
Ms Carmel Kapeen	Community Member (Elder)
Mr Troy Anderson	John Bappa Cook Foundation
Ms Susan Anderson	John Bappa Cook Foundation
Ms Samantha Anderson	Community Member (Young person, 18-25yrs)
Ms Dianne Creighton	Community Member (Elder)
Ms Sandra Bolt	JALI Local Aboriginal Land Council (Elder)
Ms Kim Vincent	Envite Employment Ballina (Elder)
Mr Marcus Ferguson	Community Member
Ms Lois Cook	Community Member (Elder)
Ms Lenkunar Hickling	Yarrabee CACPS
Ms Kylie Coldwell	Community Member

2. That two Councillors be appointed as members of the Aboriginal Community Advisory Committee, together with the Mayor Councillor Wright, with such appointments being for the remaining term of this Council.

Attachment(s)

Nil

9.10 Alstonville Leisure & Entertainment Centre - Management Committee

9.10 Alstonville Leisure & Entertainment Centre - Management Committee

Delivery Program Community Facilities and Services

Objective To consider a nomination received for a community member position on the Alstonville Leisure and Entertainment Centre Management Committee.

Background

The Management Committee of the Alstonville Leisure and Entertainment Centre (ALEC) was established to manage and control the facility. This Committee is also required by the deed based on which this land was transferred to Council.

The Committee is reconstituted after local government elections are held and Councillor Representatives are appointed for the duration of the Council term. The matter of the Council (elected) delegates to the Committee was resolved at the September 2012 Ordinary Meeting of Council (Crs K Johnson and Smith, with Cr Worth as alternate member).

The purpose of this report is to advise the Council of a community nomination received for the ALEC Management Committee vacancies and to seek Council's endorsement of a new Committee member.

Key Issues

- Appointment of a new Committee member

Information

Membership of the Management Committee is set by a Deed established at the time Council acquired the land on which the ALEC operates. In addition to the Councillor membership, the Council is entitled to appoint up to three community members to the Committee. All three of these positions are currently vacant. The vacancies for the community members were advertised in the local media on 10 November 2012, however no responses were received.

At the first Committee meeting following the commencement of the new management contract, and the transfer of contract management to the Council's Strategic and Community Facilities Group, it was determined that the call for nominations should be re-advertised. This was done during May this year. The following sole nomination was received by the due date to fill one of the vacancies:

9.10 Alstonville Leisure & Entertainment Centre - Management Committee

Mr Damon Moloney

Mr Moloney has been a resident of the Ballina Shire for some 10 years, and has had extensive experience in the management of recreational, sporting and cultural facilities, having been the Venue Manager of several facilities, including the Bondi Pavilion, Brisbane City Hall, Chandler Sports Complex and a wide variety of community halls in both Sydney and Brisbane.

Mr Moloney's application letter and Curriculum Vitae is **attached** to this report.

Legal / Resource / Financial Implications

There are no financial implications as appointments as local community members of the ALEC Management Committee are made on a honorary basis.

Consultation

The call for nominations from local residents for Committee membership was advertised in local media on two separate occasions.

Options

Council can resolve to accept or not accept the nomination. It is recommended that the nomination be accepted, as Mr Moloney's professional skills and extensive experience are highly relevant to the advertised position.

In light of the poor community response to the advertisements for the remaining vacant positions on the Committee, it is proposed to take no further action to fill these, for the time being.

RECOMMENDATION

That the nomination received from Mr Damon Moloney as a Council-appointed member of the Alstonville Leisure and Entertainment Centre Management Committee be accepted, and apply for the remainder of the current Council term.

Attachment(s)

1. Mr D Moloney - Application letter and Curriculum Vitae.

10.1 Use of Council Seal

10. General Manager's Group Reports

10.1 Use of Council Seal

RECOMMENDATIONS

That Council affix the Common Seal to the following documents.

US13/10	<p>Contracts for Sale of Land and Transfers - Council operational land to adjoining land owners as 'land swap' for new road dedication at Teven.</p> <ol style="list-style-type: none">1. Lot 16 DP 1180023 (7,097m²) to Hilton Paul Parry, Helen Maria Parry and Mark Andrew Parry; and2. Lot 17 DP 1180023 (392.5m²) to Daryl John Spencer and Julie May Spencer. <p>Explanation: An unformed road reserve through a rural land parcel provided access to Maguires Creek and an adjoining land parcel. Due to farming operations, access along this unformed road reserve was impractical and an alternative route was proposed. It was agreed to open a new road and then close the old road to facilitate access. The sections of closed road would then be transferred to the relevant land owners as a land swap for land given as new road.</p> <p>A road opening by subdivision (see approval for DA 2005/788) and a subsequent road closing was initiated to accommodate this new route. The necessary road openings and closings have been affected. The sections of closed road are now to be transferred to the relevant adjoining land owners as listed above.</p> <p>The names for the Parry transfer may change as Mr H P Parry has advised that he is currently in the process of selling his share in the farm to his brother and it is not clear as to whether the sale will occur before or after the transfer of Lot 16 DP 1180023.</p>
US13/11	<p>Lease Agreement between Ballina Shire Council and Elmia Air Pty Ltd as Trustee of the Baker Family Trust, ACN 162 294 395 – Lease of Ballina Byron Gateway Airport Café premises (currently trading as 'Café Horizon'). Five Year term 1 July 2013 to 30 June 2018.</p> <p>Explanation: At the Ordinary Meeting of Council held 28 February 2013, consent was granted to affix the Common Seal upon the Licence Agreement between Ballina Shire Council and H & A Aristou, Café Horizon at Ballina Byron Gateway Airport for the 5 year Option Period from 1 April 2013 to 31 March 2018, and upon the Deed of Consent and Assignment of Licence: Arianna Pty Ltd (H & A Aristou) to Elmia Air Pty Ltd as Trustee of the Baker Family Trust, ACN 162 294 395.</p> <p>On legal advice and after consultation, the decision has now been made to forego the previously intended process, and, upon the transfer of the business from Arianna Pty Ltd (H & A Aristou) to Elmia Air Pty Ltd, enter into a new lease (i.e. not licence)</p>

10.1 Use of Council Seal

	<p>agreement with Elmia Air Pty Ltd as Trustee of the Baker Family Trust, ACN 162 294 395 for the 5 year term commencing 1 July 2013. Current rent is \$33,000 p.a. including GST, however the café lease area is being expanded from 118.5m² to 127m² and a rental review to market is being undertaken for the proposed new lease term and to account for the increased floorspace.</p>
US13/12	<p>Deed of Surrender of Lease and Termination Agreement between Ballina Shire Council and The Salvation Army (New South Wales) Property Trust for their lease of Units 1, 2, 2A, 3 and 4 of the Centre Arcade at 78 Tamar Street, Ballina.</p> <p>Explanation: The property located at 78 Tamar Street, Ballina, and known as The Centre Arcade was purchased in October 2012 for the purpose of future demolition and creation of additional public car parking spaces in the central core of the Ballina CBD. Development Consent 2013/69 issued on 10 May, 2013, to undertake the demolition of an existing commercial building and the expansion of the adjoining public car park including the construction of an amenities building and relocation of the access and egress of the existing car park. All existing tenants and casual occupiers of 78 Tamar Street, Ballina are required to vacate their premises by 31 July, 2013. Subject to acceptance of tenders for the demolition of the building, and the programming of car park construction by Council's Civil Services Group, works should commence August/September 2013.</p>
US13/13	<p>Deed of Surrender of Lease and Termination Agreement between Ballina Shire Council and Bridgett Kay Currey (trading as 'Hairmoods'), tenant of Units 10 and 11 of the Centre Arcade at 78 Tamar Street, Ballina.</p> <p>Explanation: The property located at 78 Tamar Street, Ballina, and known as The Centre Arcade was purchased in October 2012 for the purpose of future demolition and creation of additional public car parking spaces in the central core of the Ballina CBD. Development Consent 2013/69 issued on 10 May, 2013, to undertake the demolition of an existing commercial building and the expansion of the adjoining public car park including the construction of an amenities building and relocation of the access and egress of the existing car park. All existing tenants and casual occupiers of 78 Tamar Street, Ballina, are required to vacate their premises by 31 July, 2013. Subject to acceptance of tenders for the demolition of the building, and the programming of car park construction by Council's Civil Services Group, works should commence August/September 2013.</p>
US13/14	<p>Use of Seal: Plan of Consolidation of Lots 1 and 2 in DP 1061771, and Section 88B Instrument – Fawcett Park Café lease area (formerly trading as Pelican 181).</p> <p>Explanation: The Fawcett Park Café is presently situated upon two allotments, Lots 1 and 2 DP 1061771, and the Plan of Consolidation for the two allotments into one allotment has been prepared prior to the proposed new lease agreement.</p>

Attachment(s)

Nil

10.2 Investment Summary - May 2013

10.2 Investment Summary - May 2013

Delivery Program Financial Management

Objective To provide Council and the community with details of how Council's surplus funds are invested.

Background

In accordance with the Local Government Financial Regulations, the responsible accounting officer of a council must provide a monthly report (setting out all money Council has invested), to be presented at the Ordinary Meeting of Council, immediately following the end of the respective month. This report has been prepared for the month of May 2013.

Council's investments are all in accordance with the Act, the Regulations and Council's Investments Policy. The balance of investments as at 31 May 2013 was \$85,655,000. This represents an increase from April of \$1,172,000.

The balance of the cheque account at the Commonwealth Bank, Ballina as at 31 May 2013, was \$4,486,420. It is pointed out that this account is actively managed and the balance on hand was abnormally large due to the receipt of rate income that day and the expiry of another investment. The previous day the balance of the account was approximately \$400,000.

Council's investments as at 31 May are at an average (weighted) rate of 4.24% which is 1.42% above the 90 Day Bank Bill Index of 2.82%.

The majority of the approximately \$86 million of investments held by Council are restricted by legislation (external) and Council (internal) uses for the following purposes:

Reserve Name	Internal/External Restriction	Approx % of Portfolio*
Water Fund (incl developer contributions)	External	14
Wastewater Fund (incl developer contributions)	External	14
Wastewater Fund (unexpended loan)	External	24
Section 94 Developer Contributions	External	9
Bonds and Deposits	External	2
Other External Restrictions	External	6
Land Development	Internal	9
Employee Leave Entitlements	Internal	2
Carry Forward Works	Internal	8
Miscellaneous Internal Reserves	Internal	11
Unrestricted		1
Total		100%

* Based on reserves held as at 30 June 2012

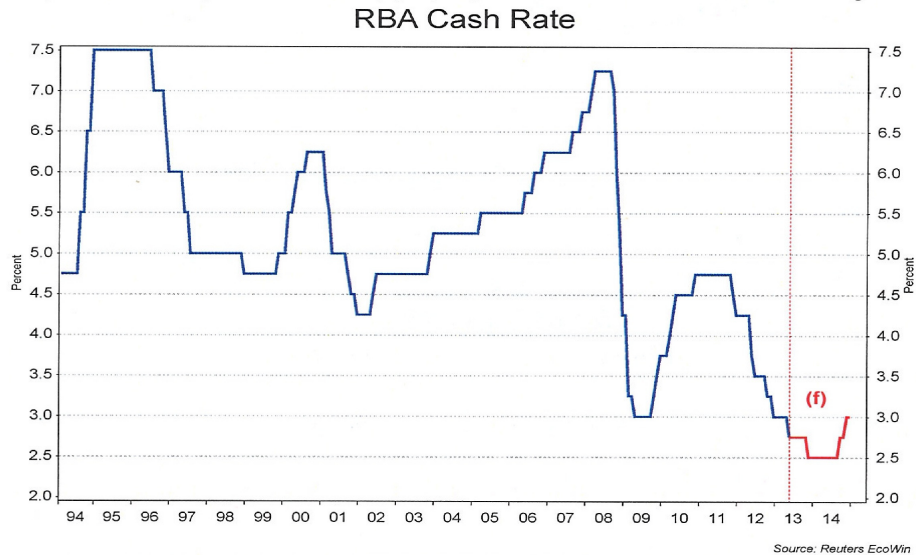
Key Issues

- Investment return
- Compliance with Investment Policy

10.2 Investment Summary - May 2013

Information

The RBA Board left the cash rate unchanged at 2.75% at its June meeting as widely expected. The commentary accompanying the decision gave the impression that the RBA is a bit more confident that the low interest rate setting is doing its job. However, they maintained their easing bias and continued to keep open the possibility for another rate cut. They remain concerned about the level of the Australian dollar, despite falling sharply since the last meeting. Most commentators, but not all, are predicting one more cut of 0.25% before year end. The graph reproduced below, with permission of NAB, shows the movements in the cash rate over the last nineteen years and the NAB's forecast for the next eighteen months or so.



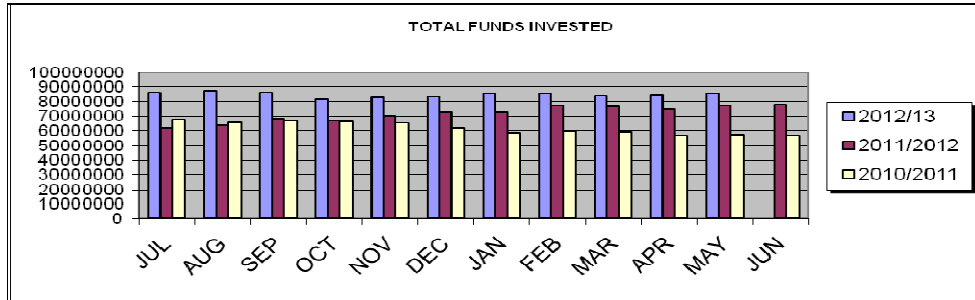
A. Summary of investments by institution

Funds Invested With	ADI Rating	Previous Month (\$'000)	Current Month (\$'000)	Quota %	% of Total	Total
Grandfathered Investments						
Deutsche Bank	A+	4,000	4,000	0	4.7	
Goldman Sachs	AA-	1,000	1,000	0	1.2	
Longreach Capital Markets 28*	AA+	1,000	1,000	0	1.2	
National Australia Bank	AA-	1,788	1,788	0	2.1	
National Wealth M'ment Holding	A	2,000	2,000	0	2.3	11%
Rated Institutions						
ANZ Bank	AA-	58	24	20	0.1	
Bank of Queensland	BBB+	7,000	7,000	10	8.2	
Bank of Western Australia	AA-	3,000	1,000	20	1.2	
Bendigo & Adelaide Bank	A-	0	2,000	10	2.3	
Commonwealth Bank of Aust	AA-	5,797	6,003	20	7.0	
Defence Bank Ltd	BBB+	1,000	1,000	10	1.2	
Heritage Bank	BBB+	2,000	3,000	10	3.5	
Illawarra Mutual Bld Soc	BBB	4,000	2,000	10	2.3	
ING Bank Ltd	A	14,000	14,000	20	16.3	
Members Equity Bank	BBB	7,000	7,000	10	8.2	
National Australia Bank	AA-	13,000	13,000	20	15.2	
Newcastle Perm Bld Society	BBB+	2,000	2,000	10	2.3	
Rural Bank Ltd	A-	2,000	4,000	10	4.7	
Suncorp Metway Bank	A+	12,850	12,850	20	15.0	
Westpac Banking Corporation	AA-	1,000	1,000	20	1.2	89%
Unrated ADI's						
Total		84,493	85,665			100%

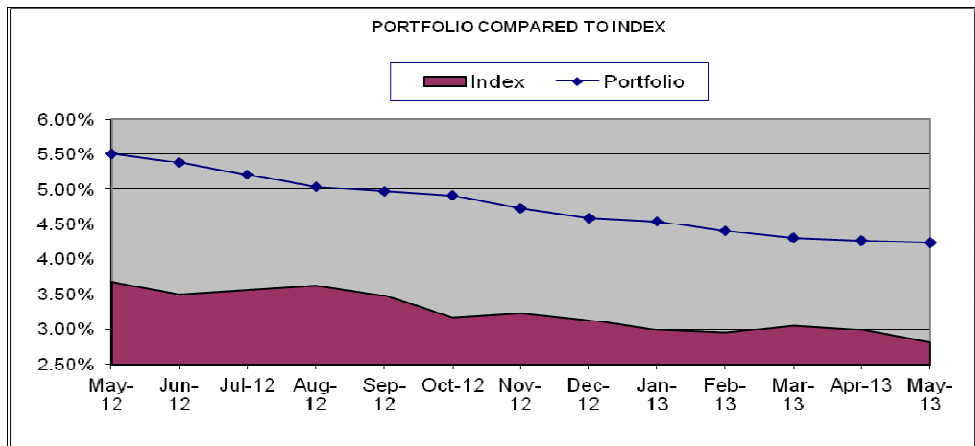
* Rating is on Capital only by Citigroup Pty Ltd

10.2 Investment Summary - May 2013

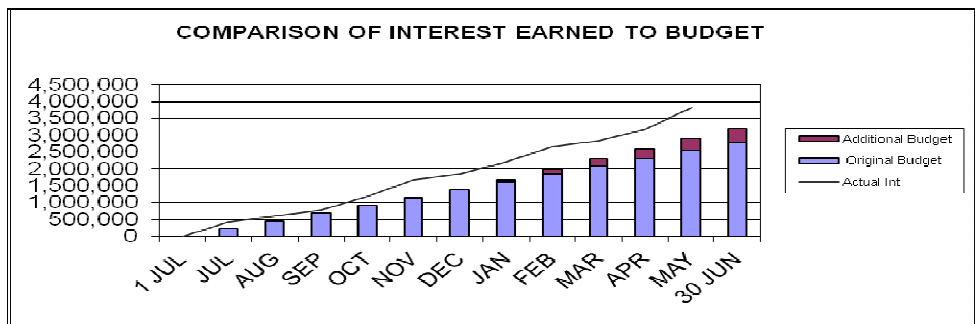
B. Monthly Comparison of Total Funds Invested



C. Comparison of Portfolio Investment Rate to 90 Day BBSW



D. Progressive Total of Interest Earned to Budget



10.2 Investment Summary - May 2013

E. Investments held as at 31 May 2013

Purchase Date	Issuer	Type	Rate%	Call or Maturity Date	Purchase Value \$'000	
23/04/04	Deutsche Bank	FRN	3.99	23/04/14	2,000	
23/04/04	Deutsche Bank	FRN	3.99	23/04/14	2,000	
20/09/04	National Australia Bank	FRN	4.06	Perpetual	1,788	
12/04/06	Goldman Sachs	FRN	3.57	12/04/16	1,000	
16/06/06	National Wealth M'tment Holdings	FRN	3.66	16/06/16	2,000	
28/06/07	Longreach Series 28	FND	0.00	27/06/14	1,000	
17/12/08	Commonwealth Bank of Australia	FRTD	4.23	17/12/13	1,000	
17/12/08	Commonwealth Bank of Australia	TD	5.93	17/12/13	998	
	at call	Commonwealth Bank of Australia	FND	2.95	At Call	2,014
	at call	ANZ Bank	FND	2.50	At call	24
24/01/12	ING Bank Ltd	FRTD	4.92	24/01/17	1,000	
06/02/12	Westpac Bank	FRN	4.55	06/02/17	1,000	
18/12/12	ING Bank Ltd	TD	4.75	18/06/13	3,000	
21/01/13	Suncorp-Metway Bank	TD	4.40	22/07/13	4,000	
25/01/13	Commonwealth Bank of Australia	TD	4.36	25/01/18	1,991	
25/01/13	ING Bank Ltd	TD	4.44	24/07/13	2,000	
29/01/13	Suncorp-Metway Bank	TD	4.40	29/07/13	2,000	
05/02/13	Members Equity Bank	TD	4.40	05/08/13	2,000	
11/02/13	ING Bank Ltd	TD	4.39	12/08/13	2,000	
18/02/13	Members Equity Bank	TD	4.40	19/08/13	2,000	
20/02/13	ING Bank Ltd	TD	4.29	20/06/13	1,000	
25/02/13	Bank of Queensland	TD	4.40	25/07/13	3,000	
28/02/13	Bank of Queensland	TD	4.40	28/08/13	1,000	
06/03/13	Suncorp-Metway Bank	TD	4.20	02/09/13	2,000	
06/03/13	ING Bank Ltd	TD	4.29	04/07/13	2,000	
18/03/13	ING Bank Ltd	TD	4.40	16/09/13	1,000	
02/04/13	Members Equity Bank	TD	4.45	01/07/13	1,000	
03/04/13	Bankwest	TD	4.15	02/07/13	1,000	
10/04/13	National Australia Bank	TD	4.35	09/07/13	2,000	
10/04/13	National Australia Bank	TD	4.42	10/10/13	2,000	
17/04/13	National Australia Bank	TD	4.37	14/10/13	4,000	
17/04/13	National Australia Bank	TD	4.25	15/08/13	1,000	
24/04/13	Rural Bank Ltd	TD	4.40	21/10/13	2,000	
29/04/13	National Australia Bank	TD	4.25	29/10/13	2,000	
29/04/13	Suncorp-Metway Bank	TD	4.20	29/07/13	850	
01/05/13	National Australia Bank	TD	4.20	01/11/13	2,000	
01/05/13	Bendigo & Adelaide Bank	TD	4.50	30/07/13	2,000	
02/05/13	Bank of Queensland	TD	4.45	31/07/13	1,000	
02/05/13	Illawarra Mutual Bld Society	TD	4.20	29/10/13	2,000	
07/05/13	ING Bank Ltd	TD	4.32	07/11/13	1,000	
07/05/13	Heritage Bank	TD	4.30	07/05/14	3,000	
08/05/13	Bank of Queensland	TD	4.35	08/08/13	2,000	
10/05/13	Suncorp-Metway Bank	TD	4.10	08/05/13	2,000	
14/05/13	Newcastle Permanent Bld Society	TD	4.10	12/08/13	2,000	
20/05/13	Defence Bank	TD	4.45	20/05/14	1,000	
21/05/13	Members Equity Bank	TD	4.35	19/08/13	2,000	
28/05/13	Rural Bank Ltd	TD	4.18	25/09/13	2,000	
28/05/13	Suncorp-Metway Bank	TD	4.15	25/11/13	2,000	
30/05/13	ING Bank Ltd	TD	4.27	26/11/13	1,000	
Totals:					85,665	
TD=Term Deposit		FRN=Floating Rate Note		FND=Managed		
ELN= Equity Linked Note		FRTD= Floating Rate Term Deposit		Fund		

RECOMMENDATION

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

Attachment(s)

Nil

10.3 Redistribution of Electoral Districts - State Electorate of Ballina

10.3 Redistribution of Electoral Districts - State Electorate of Ballina

Delivery Program Governance and Finance

Objective To advise Council of proposed changes to the electoral boundaries of the State seat of Ballina.

Background

The State Electoral Office has advised of proposed changes to the electoral boundaries of the State seat of Ballina. A copy of the NSW Electoral Commission Fact Sheet and a map of the proposed changes are attached. Submissions close on 17 July 2013.

Key Issues

- Proposed boundary adjustments.

Information

The purpose of this report is to provide Councillors with an opportunity to determine whether they wish to make a submission.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The changes reflect growth along the coast for the seat of Ballina.
- **Economic**
Not Applicable

Consultation

The NSW Electoral Commission is undertaking an extensive consultation process, including public hearings for those who make submissions.

Options

The options are to make a submission or not. The proposed changes appear logical and there does not appear to be the need for a submission. Therefore the recommendation is to note the contents of this report.

RECOMMENDATION

That Council notes the contents of this report relating to the proposed boundary changes for the State Electorate of Ballina.

Attachment(s)

1. NSW Electoral Commission Fact Sheet
2. Map of proposed boundary changes

10.4 Legal Costs - Request for Assistance

10.4 Legal Costs - Request for Assistance

Delivery Program Administration

Objective To seek Council's views on contributing towards legal costs incurred by Mid-Western Regional Council.

Background

Local Government NSW (LGNSW) has requested that Council voluntarily contribute to the legal costs of Mid-Western Regional Council in respect to a matter before the Land & Environment Court challenging that council's categorisation of land for rating purposes. In summary the case involves that Council determining land, which is used for mining purposes to be appropriately categorised, notwithstanding that the land is not located within the boundaries of a mining lease.

The relevant land is owned by a mining company and may be used for such purposes as a passive buffer for the attenuation of noise, for the disposal of excess mine water, for environmental offset and other purposes relating to the mining of coal.

Mid-Western Council argues that if they are able to defend their categorisation in Court that it will have major benefits for all councils. Copies of the requests from LGNSW are attached. The amount requested is \$3,777.51.

Key Issues

- Implications of legal case
- Cost of Council's contribution

Information

As per the attachments from LGNSW, the Board has approved an application for legal assistance by Mid-Western Regional Council and is therefore asking Council to make a voluntary contribution to assist in offsetting the costs of the case for Mid-Western Regional Council.

This request is a practice used in NSW where councils can assist each other for legal cases that may have State wide ramifications. The practice followed is that the Council incurring the legal costs writes to LGNSW asking for support from member councils.

LGNSW then assess whether the legal matter has State wide ramifications and if it is determined that it has, invoices are sent to all councils in NSW to recoup some of the costs incurred. It is then voluntary as to whether or not a member council agrees to pay the invoice (i.e. as a contribution to the other council's legal costs).

Ballina Shire Council has been the beneficiary of this system in 2010/11 when we were able to recoup approximately \$44,000 out of \$66,000 expended on a stockpiling of fill case at West Ballina.

10.4 Legal Costs - Request for Assistance

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable
- **Economic**
The legal case relates to the categorization of land for rating purposes and could have financial implications for properties that are subject to the mining category.

Legal / Resource / Financial Implications

Council has no specific budget for this item and if approved the funds would result in an increase in the operating deficit.

Consultation

LGNSW is consulting with all member councils.

Options

The options are to approve or not approve the payment or make a partial contribution. As LGNSW has endorsed this request it is standard practice to approve the contribution.

As to the merits of the case there does appear to be some logic in applying a mining category to land that is used for mining buffer and related purposes, albeit that rating categorisation is always based on the dominant use of the land. Therefore one would think that the defendant also has a reasonable case in arguing that the buffer land is only used for grazing or similar purposes.

RECOMMENDATION

That Council approves the request from LGNSW for a contribution towards Mid-Western Regional Council's legal costs of \$3,777.51.

Attachment(s)

1. First request from LGNSW
2. Second request from LGNSW

10.5 Water Charges Write Off - Water Leak

10.5 Water Charges Write Off - Water Leak

Delivery Program Governance

Objective To obtain Council approval to write off \$1,278.21 in water consumption charges in accordance with our Concealed Water Leaks Policy for 38B Smith Drive West Ballina - Rates Assessment 115588

Background

This report describes a water leak event that we are satisfied falls within our Concealed Water Leaks Policy. The amount proposed to be written off in this case exceeds the General Manager's authority and requires Council approval. Other amounts are written off under the General Manager's delegated authority, however a list of all write offs are reported to Council annually.

Clause 131 of the Local Government (General) Regulation 2005 (LGGR) and section 607 of the Local Government Act 1993 (LGA), outline procedures that councils must follow to write off certain rates, charges, and interest.

Essentially, write offs not covered by specific sections of the LGA must be carried out by Council resolution, unless the General Manager has been provided with delegated authority by the council.

The existing delegated authority for the General Manager provides authority to write off debts to a maximum of \$1,000 per debt.

The General Manager has also provided the Rating and Customer Service Co-ordinator delegated authority to write off interest amounts, pursuant to section 567 of the LGA, up to the value of \$100 per assessment.

Key Issues

- Merits of the write off
- Compliance with the Concealed Water Leaks Policy.

Information

On 21 March 2013 we read water meter number 04W722923 located at 38B Smith Drive West Ballina.

Our auditing process revealed that the meter had registered around ten times more water consumption during the December 2012 to March 2013 quarterly billing period than it had during any previous water billing quarter.

This water leak was difficult to detect as the service line break was located under material from the scrap metal business at the property, and the water was running underground into Emigrant Creek.

Under the policy guidelines, the water consumption charges adjustment is calculated in two parts as follows:

10.5 Water Charges Write Off - Water Leak

Part One adjustment – *The increase in consumption determined by Council to be above normal consumption will be adjusted to the lower step rate per kilolitre.*

In this case we assessed the water used by the leak event to be 1,069 kilolitres (kl) and of this amount 939 kl had been charged at the higher tariff. So part one of the adjustment is 939 kl multiplied by the difference between Step one \$1.77 per kilolitre and Step two \$2.66 per kilolitre, being \$835.71

Part Two adjustment – *The water consumption charges are adjusted to 50% of the increase in consumption determined to be above normal consumption to a maximum of 250 kilolitres.*

In this case, the water leak consumption is above the maximum adjustment so the adjustment is 250 kilolitres at \$1.77 per kilolitre, being \$442.50.

This means the total proposed water consumption charges write off is \$1,278.21.

It should also be noted that volumetric based wastewater charges have also been adjusted as a result of this water leak event.

Volumetric wastewater charges are based on the estimated percentage of water consumed at a property that is returned to our wastewater system. In the case of a water leak where the water is not returned to our wastewater system, volumetric sewer charges are processed as an account adjustment rather than a write off. In this case, \$1,763.59 in volumetric wastewater charges was cancelled.

Sustainability Considerations

- **Environment**

Our Concealed Water Leaks Policy requires us to provide specific educational material to the property owner. The owner is only allowed one claim against this policy and the material provided advises the customer how to check for leaks, in an attempt to reduce water resource wastage.

- **Social**

Not Applicable

- **Economic**

In this instance 1,069 kl is the quantity of water deemed to be attributable to a concealed water leak. In regard to this leakage amount Council will retain income of \$1,450 (i.e. 1,069 kl less maximum 250kl at \$1.77). In terms of economic outcomes it is relevant to point out that Council pays Rous \$1.54/kl for the bulk supply so our direct costs to Rous in respect to the 1,069 leak will be \$1,646, being \$196 more than the income that we will retain.

10.5 Water Charges Write Off - Water Leak

Legal / Resource / Financial Implications

As above.

Consultation

Significant communication engaged between Council and the property owner.

Options

Council may decide whether to approve the write off or not. The recommendation is to approve the write off as the account adjustment falls within the guidelines of Council's Concealed Water Leaks Policy.

RECOMMENDATION

That Council approves the total write off of \$1,278.21 in water consumption charges in accordance with our Concealed Water Leaks Policy and pursuant to clause 131 of the Local Government (General) Regulation 2005 and section 607 of the Local Government Act 1993 (LGA), as outlined within this report.

Attachment(s)

Nil

10.6 Local Government NSW - Annual Conference

10.6 Local Government NSW - Annual Conference

Delivery Program Governance

Objective To determine Council's delegates to the Annual Conference.

Background

The inaugural conference of Local Government NSW will be held at Sydney Town Hall from 1 – 3 October 2013. This is the first conference of the newly formed organisation following the amalgamation of the former Shires Association and Local Government Association (now LGNSW).

LGNSW is seeking input from councils to guide the content of the business sessions. Councils are requested to identify the most important, three to five issues, which they believe are causing concern to the Council and / or the local community. The Association will review the responses received and then identify the top three to five issues as identified overall by member councils. These issues will then be put to the conference for debate as part of the business sessions. In identifying an issue, councils are encouraged to suggest an appropriate solution by including either a motion which could be considered by the Conference or notes which might guide delegates to an agreed position.

Councillor interest is also sought in attending the conference.

Key Issues

- Benefit of the conferences and cost
- Any issues/motions to be submitted

Information

The registration fee for the conference is \$880 (before 19 August). Airfares, accommodation, cab fares and some meals would be in addition to this cost. Council is entitled to one voting delegate (normally the Mayor). A copy of the draft conference program is attached.

In respect to issues facing Ballina Shire, items that could be identified in a response to LGNSW include:

1. Planning review and white paper
2. Independent Review of Local Government
3. Review of the Local Government Act
4. Overall financial sustainability of Local Government
5. Asset management practices
6. Coastal Management – Erosion / Dredging / Marine Infrastructure
7. The modern retailing environment and impacts on town centres
8. Impact of an Ageing Population

10.6 Local Government NSW - Annual Conference

This is not an exhaustive list but provides a quick snapshot of issues that could be raised in the business sessions. LGNSW is actually seeking formal resolutions on any topics identified and due to the broad nature of these items this is not entirely practical.

As this is the first conference of the newly amalgamated association there will be a large audience in attendance, which in turn will most likely mean that the opportunities for debate on motions will be limited. This being the case the preference is not to forward any formal motions at this point, unless Councillors can identify a key local issue that could be potentially supported at a State level by all member councils.

Sustainability Considerations

- **Environment**
Environmental, social and economic issues are likely to be considered at the conference.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

Funds are available within the Council's professional development budget to finance this travel.

Consultation

Provided for public information.

Options

The primary purpose of this report is to confirm the delegates to the first LGNSW conference. Adequate funding is available for any Councillor to nominate.

RECOMMENDATION

That Council approves the attendance of its nominated delegates to the Local Government NSW Annual Conference to be held in Sydney from 1 – 3 October 2013.

Attachment(s)

1. Draft Conference Program

10.7 Policy (Review) - Investments

10.7 Policy (Review) - Investments

Delivery Program Financial Management

Objective To review the Council policy for the investment of surplus funds.

Background

The Division of Local Government (DLG) issued Investment Policy guidelines together with a sample investment policy in late May 2010. Council last adopted a Policy that conforms to the guidelines on 22 March 2012.

Clause 12 of our Policy requires a review of the Investment Policy at least once a year. The last review was in March 2012, with the only change made to the policy being reference to a revised Minister's Investment Order (MIO) and some minor housekeeping changes.

This current review was held over pending the release of a report into Local Government Investments conducted by the Division of Local Government. This report was released in May 2012.

The report that follows provides the latest review of this policy.

Key Issues

- Proposed amendments

Information

The DLG conducted a 'Review of NSW Local Government Investments' early this year and this report was issued in May 2013 (copy attached). The review was mainly concerned with how councils were situated regarding CDO's (collateralised debt obligations) and other structured products. They found that the total exposure had dropped from \$1,000m to \$395m as the products either matured or were sold. Ballina Shire Council has one investment of \$1m which was included in the review (Longreach Series 28, Equity Linked Note, maturing 27 June 2014).

The reviews (both the DLG and Council's internal review) have led to one minor change to our Investment Policy (see comment on Risk 2 below).

The recommendations from the DLG review are:

Risk 1: Lack of experienced staff and the potential for investment decisions that do not provide an appropriate risk based return.

Mitigation strategy: In the medium/long term, consider options for centralising councils' investment and borrowing functions, which is consistent with the Cole Report's initial conclusions. The benefits of centralising the investment and borrowing functions of councils include:

10.7 Policy (Review) - Investments

- A body of expertise
- Providing for better balance between risk and return for councils
- A governance model overseen by independent experts; and
- The ability to diversify investments managed by qualified and expert investors.

Comment: Council has three staff authorised to make investments, each with over 10 years experience in dealing with investments and borrowings. Two of these staff must sign off on every new investment and any investments proposed for a term over twelve months are made in consultation and a full review of the total portfolio. Due to our size the investment and borrowing functions have always been centralised.

Risk 2: Ongoing consistency or lack of clarity of investment information between councils' audited financial information and the information included in councils' monthly investment reports.

Mitigation strategy: The Division develops further compliance and monitoring techniques in the areas of financial management for councils. The review found that the Division should maintain greater oversight when reviewing councils' financial statements to ensure consistency and compliance. This can be achieved by integrating the Division's current activities of oversight and compliance with the audit process, making for a more efficient and effective use of resources.

Comment: The strategy is mainly proposing that the DLG provide greater oversight. However, one area of discrepancy between the statements and our monthly reporting is that the monthly reporting has not included the 'Fair Value' of the investment. Our Policy has been amended so that an extra column in the list of investments provided to Council on a monthly basis will show the 'Fair Value' of investments as shown in the Annual Statements.

Risk 3: Inconsistency in auditors' assessment of councils' investment information.

Mitigation strategy: In collaboration with Local Government Auditors Association, the NSW Auditor General and the NSW Treasury Corporation, the Division develops a set of strategies to improve the consistency of audits.

Comment: No reference to Council, concerning audit procedures only.

Council's Investment Policy, which deals with cash investments only, has now operated in the current form for over 32 months. This has given staff ample opportunity to work through the limit and risk thresholds contained within the Policy and they seem to be working quite well.

Apart from governance and housekeeping issues, the focus of the Policy is twofold:

- Allowable (and disallowable) types of investments and
- Threshold limits regarding time risk (term to maturity of investments) and institution risk (who the investment is with and what is their risk rating).

10.7 Policy (Review) - Investments

Clause 6 of the Policy deals with permitted (and disallowed) types of investments and is governed by the MIO. The MIO only allows investments in Local, State and Federal Government Bonds and deposits with Institutions authorised by the Australian Prudential Regulation Authority (APRA).

The MIO specifically excludes subordinated debt obligations. Council's policy concurs with the MIO and all deposits placed since July 2010 have complied.

Investments made before July 2010 that do not comply with the current MIO are permitted to be held to maturity – “Grandfathered” - by both the MIO and Council's Policy. Council currently has \$9,788,000 (face value) of Grandfathered Investments.

Clause 8.3 of our Policy deals with time risk thresholds. This clause states that no more than 40% of our total portfolio can be placed with a maturity greater than 12 months and not more than 20% with a maturity greater than three years.

This has a twofold purpose, firstly to prevent Council being forced to break long term investments for cash flow purposes. Secondly it ensures that Council does not have too large a proportion of our investments locked into long term rates, which contain inherent risks in terms of movements in the market and are limited to nominated maximums.

Council has \$13,989,000 invested at a term greater than three years, representing 15.6% of the total portfolio. The amount of investments held with terms greater than 12 months is also \$13,989,000 i.e. there are no investments between 12 months and 3 years at this stage.

Clause 9.3 sets out threshold limits to apply to both the total portfolio and to individual institutions. This clause spreads our risk across institutions with different ratings.

Council's current exposure, apart from the Grandfathered Investments, is:

- Rated A or Higher: \$51.88m - 58% of portfolio (permitted 100%)
- Rated BBB to –A: \$28m - 31% of portfolio (permitted 60%); and
- Unrated: Nil - 0% of portfolio (permitted 10%).

Council's two largest exposures to individual institutions are \$14.8m (16.5%) with National Australia Bank, rated AA- and \$14m (13.2%) with ING Bank, rated A+.

No threshold limit breaches have occurred since March 2012. A threshold breach typically occurs when a nominated percentage is at or close to the maximum nominated in the policy and then the total value of the portfolio falls as reserve funds are applied to a project. This results in a temporary breach of the policy.

Legal / Resource / Financial Implications

The Minister periodically issues new MIO's, and the DLG Review is now complete. This report reviews our existing policy against the current MIO, those guidelines, the latest DLG Review and past experiences.

10.7 Policy (Review) - Investments

Consultation

The DLG issued comprehensive guidelines and a sample policy which was the basis for our policy. Council's Auditors, Thomas, Noble and Russell also provided information and additional guidelines. The Minister issued the latest MIO in January 2011.

Options

Council is required to have an Investment Policy therefore Council's options are to amend the policy or not to amend the policy. The preferred recommendation is to adopt the amended policy as presented.

It is also recommended that the revised policy be placed on exhibition for public comment. If no submissions are received from the exhibition process, the policy shall be adopted with no further actions required.

RECOMMENDATIONS

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

Attachment(s)

1. Investments Policy

10.8 Policy (Review) - EEO Management Policy and Plan

10.8 Policy (Review) - EEO Management Policy and Plan

Delivery Program Human Resources and Risk Management

Objective To review Council's EEO Management Policy and Plan

Background

In 1977 the NSW Government passed the Anti Discrimination Act. Subsequent amendments of the Act have outlawed discrimination on the grounds of sex, disability, race, homosexuality, marital status, age, transgender and carers responsibilities.

To comply with the requirements of the Anti Discrimination Act 1977 and Section 345 of the Local Government Act 1993, Council is required to develop and adopt an Equal Employment Opportunity (EEO) Management Plan.

The purpose of this report is to review Council's existing EEO Management Policy and Plan.

Key Issues

- Contents of policy and plan

Information

Council has an existing EEO Management Policy and Plan. To reinforce Council's commitment to EEO, Council's EEO Policy identifies Council's commitment to the principles of EEO. This policy makes reference to the EEO Management Plan. This Plan is an operational document that identifies strategies, specific actions and targets to support EEO goals and objectives.

Council's Risk and Human Resources section reviews and updates the EEO Management Plan in consultation with the staff Consultative Committee (this Committee is made up of staff and union representatives from a cross section of all occupational groups) and other members of the workforce.

The current EEO Management Policy (refer attachment one) and EEO Management Plan (refer attachment two) were endorsed by Council's staff Consultative Committee.

The changes to the existing Management Policy have been marked in yellow in attachment one. The changes are largely fine tuning.

The Management Plan is more an operational document and attachment two provides the latest version of that document.

Sustainability Considerations

- **Environment**
Not Applicable

10.8 Policy (Review) - EEO Management Policy and Plan

- **Social**

Elimination of discrimination will assist in creating a skilled and diverse workforce and improve the well being and morale of Council employees whilst ensuring Council maintains a reputation as an EEO compliant employer.

- **Economic**

Not Applicable

Legal / Resource / Financial Implications

Council is required to comply with Anti Discrimination Act and Local Government Act requirements.

Consultation

The EEO Management Policy and Plan has been reviewed by the staff Consultative Committee and Council's senior management team. It is also recommended that Council place the Policy on exhibition for public comment.

Options

The options are to approve or not approve the exhibition of the amended policy and plan. The documents have been reviewed by the staff Consultative Committee therefore the recommendation is to approve the exhibition of the policy and plan for public comment. If no submissions are received it is also recommended that Council endorse the policy and plan as adopted.

RECOMMENDATION

That Council endorse the exhibition of the amended EEO Management Policy and Plan, as attached to this report, for public comment. If no submissions are received, the policy and plan are considered to be adopted.

Attachment(s)

1. EEO Management Policy
2. EEO Management Plan

10.9 Town Centre Management - Options

10.9 Town Centre Management - Options

Delivery Program Tourism

Objective To respond to a Council resolution and subsequent workshop that reviewed the matters that had been identified in the original town centre report by Jenny and Associates, prepared in 2002, as part of the on-going upgrade of the Ballina town centre.

Background

The Council, at its Ordinary Meeting held on 28 March 2013, following a notice of motion, resolved that the Jenny Rand and Associates report on Town Centre Management from 2002 be referred to a workshop, following which a report shall be submitted to the Council on the merit and options available to implement the actions outlined in the Jenny Rand report (Minute No 280313/26).

A Councillor workshop was held in April to further discuss the Rand report. The following information is now provided in response to the Council's request for a further report.

Key Issues

- Ballina Town Centre management options
- Mechanisms to fund preferred management options

Information

The report referred to in the Council's resolution was prepared by Jenny Rand and Associates in July 2002 and is titled *Ballina Town Centre Management Study*. A copy of the report, which is extensive, was provided with the agenda for the March 2013 Council meeting.

Council originally engaged these consultants to provide information concerning town centre management options and to suggest appropriate management models.

At the time, the Council's desire was to employ strategies to support economic activity within the town centre as a means of mitigating the impact of expansion of retailing operations at the northern end of Kerr Street in Ballina. The terms of reference for the *Ballina Town Centre Management Study* included:

- Review current performance of the centre and identify issues impacting on performance
- Identify market and use opportunities for the centre arising from the improvements program
- Advise Council on CBD management, including the management tasks required, implications of centre management, roles and responsibilities of key players and possible management structures

10.9 Town Centre Management - Options

- Discuss funding options for managing the centre, including possible introduction of a Special Rate.

Management models for town centre management

The models identified in the report are:

1. Joint Council/business community venture - Either a management committee or incorporated body would be established where both Council and the business community are represented, with responsibility resting equally with both parties for town centre management.
2. Council assumes responsibility for operation and marketing of the centre - This approach would confer direct control of town centre management on Council. However, this would place additional responsibilities on Council with the business community being the direct beneficiary. The report advised this arrangement does not encourage optimum performance.
3. Ballina Chamber of Commerce and Industry or other business groups assume management responsibility - A separate organisation assumes responsibility for management and marketing of the town centre. This model has the advantage of passing responsibility for performance back to the business community; however these organisations can be subject to resource and administrative limitations.
4. Establish a marketing and promotions committee - A committee would be established with the sole responsibility for marketing and promotion of the town centre. Funding may come from Council by way of rate or grant. Council maintains responsibility for infrastructure/property works.
5. Management Contracts - This option would see Council contract out all or part of the responsibilities of town centre management. A limited number of councils have tried contracting the marketing and promotion of town centres, however this model tends to be unsuccessful as there is generally only financial motivation, which typically does not engender community support or engagement.
6. Appoint an events coordinator - The report indicated there are links between strong events in the town centre and an increased profile and performance of a town centre. An events coordinator could work with a committee, or be Council funded, to provide a program of events for the town centre. This approach is more likely to be successful where existing marketing and promotion of the town centre is already occurring.

These options were presented at the Councillor workshop in April, with some support for management model four – to establish a committee to oversee the marketing/promotion of the Ballina Town Centre.

This option would be funded by a Special Rate, and Council would retain the responsibility for infrastructure and property. Should this option emerge as the Council's preference, implementation could commence in the 2014/15 financial year.

10.9 Town Centre Management - Options

Introduction of a Special Rate

Under the *Local Government Act 1993* (LGA), councils are able to apply to the Minister for Local Government for additional increases in general income beyond the annual rate peg amount. This is referred to as a 'special rate variation'.

Under the LGA, councils may apply for a single year increase, which can be permanent, under section 508(2), or a multi-year increase (of between two and seven years) under section 508A.

In 2010, the Government delegated to the Independent Pricing & Regulatory Tribunal (IPART) the responsibility for assessing and determining special rate variation applications, effective from 2011/12 onwards. Previously, the Minister for Local Government was responsible.

While IPART has been delegated responsibility for assessing and determining special variations, the NSW Government has retained responsibility for setting the policy framework under which applications will be assessed. This is reflected in the Government's Special Rate Variation Application Guidelines, which set out the assessment criteria that IPART must consider when assessing applications.

Councils may seek a special rate variation in order to undertake environmental works, fund town improvements, redevelop community and civic facilities, address maintenance backlogs and maintain or improve existing service provision.

Local councils that are seeking special variations to general income above the rate peg amount are required to submit applications to IPART for review and assessment. The council must include details of its intention to apply for a special variation in its draft delivery program and operational plan and must consider any submissions received from the public.

If a council's application is approved, IPART will specify the percentage by which the council may increase its general income.

In considering special rate increases it is important to understand the current base, which for businesses, is outlined in the following table.

Ballina Business Rate Forecast 2013/14

Ratepayers	Number of businesses	Revenue
All businesses	1257	\$3,527,762
Ballina CBD businesses	369	\$821,676
All Ballina businesses	837	\$2,532,170

Note: "Ballina" properties include Ballina, East Ballina, West Ballina & CBD and exclude South Ballina.

10.9 Town Centre Management - Options

Lismore City Council case study – Come to the Heart

The *Lismore Business Promotion Program Review, Final Report (February 2013)* states that a Special Business Rate Variation Levy (SBRVL) was sought and obtained to fund the city centre management in 2009. This levy generated \$328,000 in 2012/13. This levy originally commenced in the mid 1990s.

The management model adopted in Lismore is a committee based model representing both Council and the business community. The Lismore Business Promotion Panel (LBP) consists of eight members, with a senior Council staff member as the non-voting Chair.

The seven voting members represent a wide cross-section of the Lismore business community, and of this number, three represent specific groups or geographic zones: the Lismore Chamber of Commerce, Lismore Shopping Square (which contains the largest single concentration of SBRVL contributors) and an 'out of city centre' businessperson.

The following key successes have been achieved by the program:

- The 'Come to the Heart' branding has been rolled out and captured the attention of the public
- An extensive calendar of events has been undertaken that incorporates annual signature events, multiple city centre entertainment activities, regular monthly or weekly attractions, community events
- A comprehensive website has been established through a partnership of the LBP Panel and Lismore Tourism, with over 450 businesses featured on it to date
- The LBP Panel has funded a significant number of promotional and community organisations' events to generate and support sustained activity in the city centre. These include the annual Lismore Lantern Parade (\$20,000)
- The Back Alley Gallery (laneways street art project) has been a key focus of activities to enliven the CBD and create a unique point of difference for the City
- Successive City Centre Managers have obtained in-kind support and sought sponsorships and grants for the projects undertaken during the term of their contracted employment.

The *Lismore Business Promotion Program Review (February 2013)* states that 73% of businesses surveyed indicated they agreed to the continuation of the program. The surveyed businesses were conducted online, and the sample size was 95, which was considered an adequate size for statistical analysis.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Strengthening the sense of community pride and town beautification are benefits of implementing a town centre management program.

10.9 Town Centre Management - Options

- **Economic**

Benefits expected from effective town centre management generally include increased visitation to an area, including higher frequency and length of stay, improved shop front presentation, increased rental returns, decreased vacancy rates, increased retail expenditure and employment.

Legal / Resource / Financial Implications

There are legal, resource and financial implications with respect to the introduction of a Special Rate and the implementation of a business promotions program.

The funding of the program would be sourced specifically from the Special Rate, unless the Council wished to re-deploy resources from other approved projects or programs.

Consultation

The Ballina Chamber of Commerce and Industry has been identified as a key stakeholder in relation to this matter and has been consulted through the workshop process. No further consultation had been undertaken with the broader business community, including those businesses that choose not to be represented by the Chamber.

Options

It is a matter for the Council to determine the extent to which it wishes to commit resources toward the management of the Ballina Town Centre. In general terms, the available options are set out earlier in this report, as distilled from the Jenny Rand and Associates report.

In respect to Council's current commitment, major projects such as the River Street upgrade, the purchase of two properties for car parking and the possible redevelopment of the Wigmore Arcade, all highlight the high priority that Council places on the town centre. With the expanded little Woolies (or now medium Woolies) to open in the next few months this again will add further economic activity.

A large part of thrust of the Jenny Rand is focused on activities such as marketing and / or events to provide joint promotions or employing a town centre manager to assist with these activities.

Council does not have the financial resources available to expend \$100,000, \$200,000 or more on these types of activities and the only way this could be supported was if a special rate was levied on the properties directly benefiting.

The following table outlines the percentage increase in rates needed from the business properties to generate this level of income.

Ratepayers	Current Revenue	\$100,000	\$200,000
All businesses	\$3,527,762	2.8%	5.7%
Ballina CBD businesses	\$821,676	12.2%	24.3%
All Ballina businesses	\$2,532,170	3.9%	7.9%

10.9 Town Centre Management - Options

As per this table if the special rate is focused only on the Ballina town centre businesses, a significant increase is needed to provide an adequate level of funding. However if the levy is spread over all Ballina businesses, or possibly the entire Shire, the figures aren't quite so dramatic.

The Ballina Chamber of Commerce, at the Councillor workshop, did not feel that the current business climate was conducive to above average rate increases, and this type of proposal would not be supported.

However, from a staff perspective, the only way such expenditure can be supported, particularly with the various infrastructure demands on Council, is by the businesses benefiting from the service also paying for that service.

The Lismore businesses have decided to continue to support such a rate and Lismore City Council was recently notified by IPART of its successful application for the continuation of their special rate for a further five years.

Therefore if Council wishes to progress this concept the recommended approach would be as follows:

- a) Council liaise with the three Chambers of Commerce to examine options for this levy and the level of interest from members.
- b) Council and the Chambers engage with the Lismore City Council program co-ordinators to provide a realistic case study and to help explain the benefits of the program
- c) If there is agreement to proceed, the Chambers would then liaise with their members to ascertain the level of support
- d) If there is support then the proposal is submitted to Council to prepare the application to IPART. This application would also involve wider consultation with the business community.

Overall this is considered to be a reasonable approach to this issue and this is the preferred option in respect to the Jenny Rand report.

Other options available include taking no further action and rely on the Chambers to continue their own promotions or for Council to allocate funding from our own budgets for increased marketing and promotional activities.

The recommendation that follows is to commence the discussion with the Chambers of Commerce on the introduction of a special levy, as it is considered to be the most effective way, and most equitable approach, to addressing some of the issues raised in the Jenny Rand report.

RECOMMENDATION

That Council supports the General Manager in approaching the Alstonville, Ballina and Lennox Head Chambers of Commerce, to determine whether or not there is support from the business community for the introduction of a special rate levy, for 2014/15 onwards, to assist in implementing the various recommendations identified in the Jenny Rand report.

Attachment(s)

Nil

10.10 Delivery Program 2013/14 - 2016/17 and Operational Plan 2013/14

10.10 Delivery Program 2013/14 - 2016/17 and Operational Plan 2013/14

Delivery Program Governance and Finance

Objective To report on submissions received in response to the exhibition of the Draft Operational Plan and Delivery Program and to seek adoption of the documents inclusive of amendments.

Background

The Draft Delivery Program and Operational Plan have been placed on public exhibition, with two public meetings held as part of the exhibition process. It is now incumbent upon Council to adopt the Delivery Program and Operational Plan, subject to any matters arising during the exhibition period.

The draft fees and charges were distributed with the agenda for the 25 March Finance Committee meeting. The draft Budget was distributed to Councillors at a Finance Committee meeting on 8 April 2013 and the draft Delivery Program/Operational Plan were distributed to Councillors at the April Council meeting.

Adjustments were made to all of the documents as a result of those meetings and prior to exhibition. As the documents are extensive they have not been reproduced for this report however the exhibited copies have been provided to all Councillors via the Ipads. Copies of the documents, as exhibited, are also available on Council's website. Additional hard copies can be obtained from Council if needed. Final copies of all documents will be reproduced in full once adopted.

Key Issues

- Contents of submissions
- Any additional amendments

Information

This report has been dissected into two main components being:

1. Submissions to the Draft Delivery Program / Operational Plan and details of the two public meetings held during June.
2. Further amendments to the Draft Delivery Program and Operational Plan based on updated or amended information.

Submissions

All submissions have been included as attachments to this report. The submissions can be categorised under three main headings:

- Submissions for funding assistance (i.e. general and hall donations)
- Submissions to fees and charges
- Submissions to works and services

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Submissions for Funding Assistance

The draft budget includes the following allocations for funding assistance:

Donation Description	Budget (\$)
General Donations	65,000
Public Halls	40,000
Southern Cross University - Scholarship	15,000
Rates and Charges	25,000
Planning and Development Fees - Community Groups	4,000
Total	149,000

Standard practice to allocate the General Donations and Public Halls donation budgets is to form a working party, comprising a minimum of three Councillors, with each ward represented.

The working party then considers the submissions and recommends to the July Ordinary meeting the preferred distribution of the available funds.

Details of submissions for funding assistance are summarised in the next tables. Applicants are required to complete a standard form that seeks to provide Councillors with consistent information.

As part of the budget process Council also writes to all the Public Hall Committees advising that there is funding available under our halls assistance program (i.e. 50% funding up to a limit of \$10,000 per hall).

Table One: Summary of General Submissions for Funding Assistance

Ref:	Organisation / Person	Project / Activity	(\$)
1	NSW Rural Doctors Network	Bush Bursaries CWA Sponsorships	3,300
2	N/Rivers Kids Counselling Service	Room hire costs LHCCC to hold workshops	255
3	Ballina Shire Concert Band Inc	Maintenance/purchase instruments, insurance, electricity and water rates	2,000
4	Richmond Valley Anglers Action Group Inc	Finance a study of the Richmond River	2,500
5	Ballina Senior Citizens Inc	Fund 2013 Christmas Party	2,200
6	Realising Every Dream (Red Inc)	Attendance at Day of People with Disabilities	1,675
7	Ballina Lighthouse RSL Day Club	Transporting members to events	2,820
8	Northern Rivers Branch Ulysses Club	Traffic Control for 2013 Toyrun	650
9	Lifeball	Room hire costs LHCCC	1,680
10	Ballina Sub Section Naval Assoc of Aust	Traffic Control for 2013 Ships Reunion	1,650
11	Wollongbar Garden Club	Assemble arrangements for Maranoa residents	250
12	Ballina Shire Concert Band Inc	Specifically for electricity costs for band room at Wigmore Hall	825
13	Apex Club of Alstonville	Costs associated with holding NYE Family Festival	15,000
14	Ballina Jet Boat Surf Rescue	Fuel and products associated with	2,700

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Ref:	Organisation / Person	Project / Activity	(\$)
		maintaining crafts	
15	Ballina Breast Cancer Support Group	Room hire Kentwell CC (6mths) plus m/teas	407
16	Ballina General Cancer Support Group	Room Hire Kentwell CC & Surf Club (12mths)	645
17	Tom Muir	Costs associated with providing goods and travel for Suicide Memorial Ceremony	1,500
18	Lions Club of Lennox Head Inc	Room hire to hold 30 x 2hr meetings/year	1,500
19	Wardell & District War Memorial Hall	Purchase of Ride on Mower(s)	10,000-20,000
20	Apex Club of Alstonville Inc	Traffic Control / Advertising for Alstonville Show	2,100
21	Australasian Native Orchid Society Far North Coast Inc	Costs of annual show and ongoing operational costs	600
22	Ballina Coastcare Incorporated	Costs to update and reprint visitors brochure "East Ballina's Bushland Treasures"	600
23	CSG Free Ballina Shire	Room and equipment hire LHCCC plus movie rights for information forum	465
24	Alstonville Red Cross	100 year celebrations	500
25	Rainbow Region Dragon Boat Club	Costs associated with inaugural Dragon Boat Regatta at Pop Denison Park	1,500
26	Alstonville Agricultural Society Inc	Completion of ring fence, enlargement of rodeo arena and alterations to stock holding yards	15,000
27	Rainbow Children's Centre Inc	Room hire Richmond Room or Ballina Surf Club for vacation care program (12 weeks per year)	7,500
28	Lennox Head View Club	Costs associated with International Women's Day breakfast March 2014	1,200
29	Ballina District Ministers Association Inc	Costs associated with Riverside Carols by Candlelight Event	8,000
30	Ballina and District Riding for the Disabled	Costs of setting up new Equestrian Centre at Booyong, waiving of council DA fees and cost of tanks, fencing, pumps	60,000
31	North Coast Academy of Sport	Fund the Academy's service to sport in our region	4,890
32	Lifeline Northern Rivers	Support training costs of one volunteer	1,500
33	Lennox Arts Board	Film festival	1,500
Totals			166,912

As mentioned, in respect to works related to public hall improvements, Council policy is that assistance is provided to 50% of the cost of works, based on a maximum assistance figure of \$10,000.

The policy only applies to halls that are located on Council land or Crown land.

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It has been assumed in table two that the Hall Committees will contribute a minimum of 50% of total costs.

Table Two: Submissions for Community Halls

Ref:	Organisation	Project / Activity	Project Value (\$)	Amount Requested (\$)
1	Wollongbar Community Hall	Various Landscaping works including redirecting stormwater and installing stormwater channel along back verandah	5,379	2,689
2	Wardell & District War Memorial Hall	Replace water damaged cupboards, walls, panels, renovate toilets	13,984	6,992
3	Northlakes Community Centre	Repaint hall interior	3,500	1,750
4	Rous Mill & District Memorial Hall Inc	Construct partition wall, pergola & weatherproof awning and upgrade fencing and gates	20,360	10,000
5	McLeans Ridges Hall Committee Inc	Replace lattice with slat boards & paint exterior of hall	11,330	5,665
6	Newrybar Community Hall	Additional facilities for kitchen, landscaping items, new verandah etc	23,000	10,000
7	Tintenbar Community Hall	Reimbursement for additional modifications/additions requested by BSC after inspection of verandah work	9,117	9,117
8	Meerschaum Vale Community Hall	Repairs to timber, damage caused by termite infestation	2,500	1,250
Totals			80,053	47,463

Submissions Fees and Charges

1. Lennox Head Community Market – Westpac Helicopter – Inspection fees (pages 44-45 of draft fees and charges document)

In recent years charges for inspections at the markets have been raised against the stall holder. A levy of \$165 currently applies to Category 1 stalls (on-site food preparation), \$95 for category 2 (one step preparation – juices and tastings) and there is no charge for category 3 (no-site preparation). This is a time consuming process and in various instances it is very difficult to extract payment.

For markets, it has been proposed to levy the inspection charge against the Market Promoter, which was the procedure some six or seven years ago. The proposed inspection charges are shown below. There would be a maximum of two inspections of each market per annum. The fee reflects the estimated time for a staff member to inspect each market together with vehicle costs.

Ballina Twilight	\$95
Alstonville	\$155
Summerland House with No Steps	\$155
Ballina	\$120
Lennox Head	\$710

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This will be a more efficient process for Council and the Market Promoter can include this cost in their charges levied on stall holders. This means that the stall holder is only paying one fee to the Promoter.

The Acting Co-ordinator of the Lennox Head market, on behalf of the Westpac Helicopter Rescue Service, has raised concerns about the proposed change to the method of charging for Council inspections. Issues raised include:

- At times the market is cancelled or reduced in size due to the weather
- The fee increase could be too much for some stall holders to remain viable
- Bangalow market inspections are charged at \$140 per hour
- If the markets are moved to the Lennox Community Centre fees will need to rise and two fee increases in a relatively short period may result in the loss of smaller stall holders.

The Promoter suggests that Council could charge the stall holder for an annual food permit as occurs in other Shires, with only one inspection per year.

Staff Comment

By law, Council can only charge for an annual permit if we actually inspect the stall. Given that there will only be one or two inspections per year it is very likely that some of the stall holders will not be inspected, therefore it is considered impractical to charge in advance.

Whilst Byron charges \$140 per hour they also charge the annual permit fee. It is assumed that they undertake to inspect every stall holder.

It is considered that the Promoter should amortise the inspection cost over stallholders at each and every market. This approach will see a relatively small fee applied each month. The proposal as exhibited is still recommended.

2. Marjorie Holley – Objection to fee to process dishonoured payments (page six)

Council charges a fee of \$45 to process a dishonoured cheque or direct debit payment. This fee is set to recover costs that are primarily related to staff time and also postage, stationery and fees applied by the financial institution (these fees vary per institution and can be zero).

Ms Holley paid a water bill by cheque and there were insufficient funds in the account to cover the withdrawal. A dishonour fee was subsequently raised and Ms Holley has taken issue with the charge.

Ms Holley is of the view that the fee is exorbitant and is more in line with a penalty than cost recovery. Attending to dishonoured cheques should be a normal part of staff duties.

Ms Holley has asked that Council consider not raising the charge if the account is paid within five to seven days of the initial payment.

She has also requested (verbally) that Council waive the charge levied in respect to her dishonour.

Staff Comment

The procedure to manage a dishonoured cheque starts with the accountant being notified of the dishonour on the bank statement. The accountant advises rating staff who must trace the payment using receipt details. Rating staff reverse the payment on the rating system and once this is done advise the accountant. The accountant then adjusts the transaction on the bank statement. Rating staff then prepare and issue a letter advising of the dishonour.

Staff time will on average be a minimum of 30 minutes per dishonour. The philosophy has been that it is reasonable to charge for staff time given that it is due an error on the part of the person making the payment. Council processes many thousands of cheques and direct debit transactions per annum and the fee does act as a deterrent, particularly to those who may otherwise use the system to gain time.

Unfortunately the process to reverse transactions must be carried out regardless of how quickly a second payment is received. Therefore if the rationale is to recover costs there is no saving if the second payment is received within five to seven days of the dishonour.

In regard to waiving the fee for Ms Holley there are no mitigating circumstances that could be put forward to distinguish this case from any others. No change is recommended.

Submissions Works and Services

1. Newrybar Village Parking

Nine submissions have been received requesting that Council commit to improving the parking and pedestrian access at Newrybar. There is concern that the lack of parking is 'fast approaching a danger zone'.

Residents advise that Council has a current opportunity to do the works using the contractor responsible for the highway upgrade 'Baulderstone'.

Staff Comment

The works are not included in the current Delivery Program and the estimated cost is \$100,000 which includes footpath and car park. Council has completed design work for the project and it is proposed to meet with 'Baulderstone' shortly so that they may consider the design.

As mentioned the works are not in the current program and if Council saw this project as a higher priority than others currently in the program, it would be a matter of delaying or deleting one or more of the proposed projects.

2. The Wardell and District Progress Association

The letter from the Association requests various works and improvements for the Wardell Township.

Responses to the matters raised in this letter are contained in the comments section of the Wardell Public Meeting section of this report.

3. Mr Malcolm Milner

Mr Millner attended the public meeting held at Lennox Head and provided constructive input to that meeting. The letter received from Mr Millner raises some of the issues that were discussed at the meeting. Responses to the matters raised in this letter are contained in the comments section of the Lennox Head Public Meeting section of this report.

4. South Ballina Beach Community Association

Correspondence has been received following a meeting of the association. Two of the issues raised are relevant in respect to the Operational Plan. Firstly there is a request to provide South Ballina residents with free use of the ferry in respect to trailers (boat/box/van/etc). This is on the basis that people using the ferry on push bikes are not charged.

Secondly the association has asked Council to investigate the possibilities of grant funding to build a community hall and that the South Ballina Beach Road area is zoned 'village'.

Staff Comment

Council, after much debate and community input, resolved not to charge push bike riders to use the ferry in 2012/13. There is no provision in the fees and charges to provide free use of the ferry for trailers and it is difficult to see any direct correlation between the two matters.

The Strategic and Community Facilities Group is preparing a response to the association in respect to possible grant funding for a community hall and zoning issues. The community hall represents a major change to the budget and the village zoning for South Ballina Beach Road is not on the Strategic and Community Facilities Group work program, particularly seeing we have just completed the LEP.

Public Meetings

Council held two public meetings to outline the draft 2013/17 Delivery Program and 2013/14 Operational Plan. The meetings were advertised in the local paper, on Council's website and via community access points. Brief descriptions of the meetings follow.

Wardell Community Hall: 3 June 2013

There were 20 people in attendance. A summary of the main issues includes:

- Questions were raised as to who owns the land occupied by Roads and Maritime Services near Wardell boat ramp? Are they paying a rental to occupy? The occupation is delaying work on the boat ramp.

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Comment: The land is controlled by Council and a rent is being paid by the Roads and Maritime Services to Council. However their occupation of the land is not delaying work on the boat ramp. There is an Osprey nest on a pole in the near vicinity of the boat ramp and work will not commence until the nesting has finished.

- Riverbank Road is in a poor state and is in need of repair.

Comment: Riverbank Road will be re-inspected and assessed following the meeting. Council has a road inspection regime in place for its road network, being over 600kms of road. Maintenance works are prioritised, and renewals projects are reviewed annually for updating the delivery program.

- The junction of the Richmond Street and Sinclair Street intersection is in a poor state of repair and needs work. The trucks from the quarry have caused a lot of the damage.

Comment: Richmond St / Sinclair St will be re-inspected and assessed following the meeting. There is no intersection renewal in the current delivery program.

- There is concern that Wardell does not get a fair share of the recurrent General Fund capital works. There is no money in the forward plan for roads/footpaths/street lights etc. The town centre funding is great but it should be extra on top of recurrent capital works to maintain existing infrastructure.

Comment: Council's recurrent capital works program for assets such as roads, footpaths and street lighting is based on condition assessments and priority frameworks for the asset class across the entire Shire. Funds are not allocated based on geographic location. Council has also allocated \$1M towards the Wardell village streetscape improvement program. The scope of the program has been changed to suit community consultation outcomes, which includes minor roadworks, footpaths and street lighting. A final element of the program is the boardwalk along River Drive however this requires additional funds for construction and grants have been sought.

- Council does not seem to be interested in promoting Wardell as a growth centre. Council could develop or pursue development of crown land.

Comment: This assertion is not supported. Council has previously fully funded the provision of a wastewater treatment facility to service Wardell and the surrounding community. Provision was made in the design and construction of the plant for throughput which substantially exceeds the demands of the current resident population of the locality. The plant has been designed to accommodate growth.

In 2002, Council initiated a comprehensive community engagement program with Wardell residents, culminating in the Council's adoption of the Wardell Strategic and Land Use Plan in 2003. Among other initiatives, this plan provided a basis for the identification of land that might be available to accommodate future urban growth, subject to detailed assessments being undertaken to confirm its urban suitability. These areas are identified and acknowledged in the Council's Ballina Shire growth Management Strategy

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which was adopted by the Council in July last year, and the land's further investigation may be triggered by approaches to the Council by the respective property owners.

Previously, the Council had supported the rezoning of a substantial area of Crown land having frontage to Carlisle Street in Wardell, to accommodate residential development. This rezoning was made by the Minister for Planning in 1999. Regrettably, due to the State Government's inaction to promote the land's development, natural vegetation within the rezoned area has since regenerated to such an extent that Council's 2012 LEP proposed that the land be "back zoned" to an environmental zone.

In the new LEP, areas within the Wardell village have been zoned for Medium Density Residential and Neighbourhood Centre zones respectively, to send a clear message that more intensive infill development of these areas can be entertained. Applications for redevelopment in these localities are yet to be received.

Finally, Council has recently committed to the expenditure of very significant funds for the embellishment of public areas within the village. Whilst this has been undertaken to improve general amenity and to upgrade infrastructure for local residents, the work is also intended as a catalyst to stimulate economic activity within the village.

- There is not enough street lighting in the town. You would improve the situation by trimming the trees however it is understood that the trees are special and there are restrictions on trimming. It was requested that provision be made for additional lights and/or trim the trees.

Comment: The trees will be inspected by Open Spaces and Reserves staff and any pruning necessary will be carried out.

The street lighting improvements provided as part of the Wardell village streetscape improvement program updated the road lighting in the urban areas to meet current standards.

- Request for new footpath in Carlisle Street to assist children to access the bus service.

Comment: A new footpath in Carlisle Street has not formed part of the Wardell village streetscape improvement program or the Pedestrian Access and Mobility Plan (PAMP). However, earlier advice to the Wardell Progress Association has indicated the path would cost \$60,000 (south side residential frontages) and the reallocation of funds within the Wardell village streetscape improvement program may achieve this with Council approval. This would impact the additional funding required for the boardwalk.

- Request for a new bus shelter in Carlisle Street. There is now a resident who is prepared to have a bus shelter located outside their house.

Comment: This request will be checked with the contractor supplying Council's advertised bus shelters.

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- Request to have a chair placed in the park to allow parents to sit and watch the kids play.

Comment: The request for a new seat has been placed on the list for seat installations. It is expected that one seat will be installed during the 2013/14 financial year.

- The ladies toilets at the park are poorly designed and you can not get into the stall and shut the door. Council needs to remedy this problem.

Comment: The toilets are old and small. Trades staff will inspect the block with a view to hanging the door such that it swings outwards, which should alleviate the problem.

- The path underneath the bridge (connecting East and West Wardell) is too narrow, so people have to walk on the road.

Comment: Advice was provided that a plan has been prepared by Ardill Payne to construct a boardwalk along the river that will resolve the problem. Council has over 50% of the funds required to complete the project (Wardell Town Centre budget) so the intent is to continue to apply for grant funding and if successful the project can proceed.

- There was debate about Council providing an annual bulky goods collection service.

Comment: This has been debated many times by Council and the current position is not to provide such a service.

- Previous forward capital works programs included a vote of \$100,000 for work on Wilson Street. In subsequent forwards plans the work has disappeared from the program.

Comment: As noted in previous responses above, the renewal program for the road network is reviewed annually and the priority for road renewals may change due to road conditions changing over time. Unfortunately higher priorities have overtaken these works.

Lennox Head Community and Cultural Centre : 4 June 2013

There were nine people in attendance. A summary of the main issues includes:

- Water quality monitoring of the Richmond River and beaches is not included in the Delivery Program / Corporate Plan directions and actions. It is important to the community that this activity is monitored and included in the reporting.

Comment: The Council's endorsed draft 2013/14 Operational Plan /Delivery Program contains an Action to improve the overall health of the Richmond River. This Action is pursued in collaboration with other local government authorities (Richmond River County Council is the lead agency) through the implementation of the Coastal Zone Management Plan for the Richmond River Estuary. Strategies within this document are

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largely reliant on funding from government, and grants are sought whenever these become available.

Staff members are also actively involved in a regular water quality monitoring program conducted within the Richmond River and North Creek estuaries. Outcomes of this program, as well as implementation of the Management Plan strategies referred to above are publicly and regularly reported through Council's mandatory State of the Environment reports.

Having regard for the above, it is suggested there is no need for a further and more specific water quality monitoring Action within the Council's key reporting documents.

- Council should prepare a master plan for Pat Morton Lookout.

Comment: There are no plans to prepare a new Master Plan of the lookout. A Master Plan has been prepared already which is considered to be comprehensive apart from the fact that the plan does not include improvement works on the car park. However the only remaining works to be implemented are two viewing platforms. There are also existing vegetation management plans for the area and plans for the recreation path.

- There was discussion on the Lennox Head Surf Club project and drainage issues associated with Lake Ainsworth.

Comment: The meeting was advised that both the surf club and drainage issues were being considered as part of the one project.

- The progress of the coastal path and walkway was considered. Residents commented that there is an urgent need for the path to be constructed along North Creek Road and it was questioned as to whether there remained a need for path to be constructed west of Williams Reserve.

Comment: Design for the North Creek Road section of the path has been completed and documentation has been submitted to the Development and Environmental Health Group for approval. The decision to proceed with the Williams Reserve section of the path follows exhibition of the Coastal Cycleways route which has been approved by Council.

- There was discussion on the budget of \$90,000 in 2016/17 for Williams Reserve stormwater improvements.

Comment: These works have been proposed for some time and they now have a budget allocation and a time frame.

- It was mentioned that the dirt road at the back of Lake Ainsworth is quite rutted and has potholes.

Comment: Camp Drewe Road will be inspected and assessed following the meeting.

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- A priority for the B Ward Residents Group is to see Ross Lane become flood proof. It was advised that a study is necessary to consider the options to manage the road over the long term however there is no budget in the forward plan to pursue the study.

Comment: There is a separate report on this issue in the agenda.

- There was general discussion on the progress of the developer at Pacific Pines to construct sporting fields at the estate. It was advised that a meeting with the developer indicated that the fields would be constructed in the early stages of any future development however there are delays in obtaining approval for further development. No time frames could be put forward as to when the construction of the fields may commence.

2. Amendments to the Draft Delivery Program and Operational Plan

Other matters that have been raised during the exhibition period are as follows.

Budget Matters

1. Wastewater Operating Expenses

The new Ballina Waste Water Treatment Plant (WWTP) is currently undergoing commissioning and to a large extent is fully operational. During the commissioning the monthly electricity accounts have shown a massive increase in energy consumption when compared to the old plant. The average electricity account in 2012 was \$14,550 and the most recent account for May 2013 was \$50,640. This figure is not expected to be typical as it was in the commissioning phase however the increase is still expected to be substantial.

The modern technology used in the plant, and the increased treatment processing effort to produce the required water quality is the reason for this increase in consumption. In choosing this treatment process, the Council considered a report in respect of the technology options available for this upgrade. This report was a whole of life cost assessment and therefore took into account capital and operating costs. The plant design that was selected by Council provided the highest quality water and had the lowest Net Present Value (NPV). The study completed to inform this decision was done some time ago (around five years) and electricity pricing has accelerated at a significant rate in that time.

The contract for the design and construction of the plant requires the plant to meet certain NPV outcomes. The contract provides a process whereby the price is reduced if these outcomes are not achieved. Until further commissioning and assessment is undertaken, it is not possible to predict whether this clause will be activated.

Based on the pricing of grid electricity compared to renewable energy sources, at the concept design phase for this project, grid only arrangements were developed. However in the current circumstances, staff have assessed that it is likely that a large scale solar PV system can be feasibly installed. The treatment facility operates at high demand 24/7 and therefore opportunity exists to off-set energy consumption.

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Initial investigations indicate that the plants peak demand could be largely offset by a 200 to 300 kilowatt solar PV system. Preliminary cost estimates suggest systems of this size would cost in the order of \$400,000 to \$600,000, with an estimated payback period of seven years.

Solar systems of this size require an area of approximately 1,200 square metres per 100 kilowatts and there is sufficient available land at the facility for this purpose. This land is close to the main electrical infrastructure on the site.

It was recently reported to Council that the contingency for this project is unlikely to be fully consumed. Therefore an investment in a solar system could be accommodated within the existing project allocation. Staff will continue to work on the feasibility, design and procurement options for this proposal and provide a report to Council in the near future.

Financial Plan

The draft budget currently estimates an electricity cost of \$146,000 which is based on historical operations. The upgraded facility is estimated to face electricity costs of \$466,000 per annum, assuming the solar proposal is not in place. The draft Wastewater budget needs to be amended to reflect this advice.

A summary of the Wastewater financial forecast in the Draft Operational Plan is as follows:

Description	2013/14 (\$'000)
Operating Revenues	14,009
Operating Expenses	16,788
Operating Result	(2,779)
Remove Non Cash	3,104
Cash Surplus	325
Total Reserves	12,851
Annual Charge	728

The budget increase of \$320,000 is approximately 2.3% of total operating expenses (excludes non cash items) which will reduce the forecast operating result to a break even point after non cash items. This means that the capital portion of loan repayments (\$2.4 million) will be financed from reserves.

This is not a satisfactory outlook and it is considered that corrective action is required to offset the additional expense. Modelling indicates that the situation will be satisfactory for at least the next year as reserves are run down.

Taking into account this additional expense the model indicates that reserves will be below \$1 million in 2017/18 and in negative by 2019/20.

An increase to the annual charge of approximately 2.5% will counter the increased electricity expense. This equates to an extra \$18 on the residential bill currently advertised as \$728. The draft Fees and Charges include an increase to the Wastewater Annual Charge of 8%, so it would mean a rise of 10.5% if Council were to offset the rise in electricity costs for the Ballina facility in 2013/14.

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Council may choose to increase the annual charge by more than the exhibited amount however it would be unusual to alter an annual charge. This is because an annual charge impacts most of the community and it is only reasonable that they are correctly informed at the time of exhibition and given an opportunity to comment.

Despite the fact that it would be financially prudent to increase the annual charge by 10.5% (as opposed to 8%) an amendment to the 2013/14 charge has not been recommended. This is because it is considered to be a significant departure from the advertised Operational Plan. It does mean that there is likely to be a 10% plus increase for 2014/15.

As an alternative, if Council felt comfortable with a change, one option could be to increase the charge by 9% for 2013/14. This matter was debated at the Finance Committee where the wastecharges were considered and even though not supported at the time, based on this latest information, an increase to 9% in 2013/14 may assist in reducing in charges in future years.

Wastewater budgets were developed with consideration given to the upgrade works and their potential impacts on recurrent costs. Staff have again reviewed budgets in light of this latest information and the revised electricity forecast for Ballina WWTP remains the only adjustment at this stage. However given that works are either still underway or only just completed the real impact of these works on operating costs is largely unknown.

2. Regional Library

The latest advice from the Lismore City Council in respect to the Regional Library contribution is that it will be \$1,286,000 for 2013/14 which is a 6.4% increase. The draft budget assumed a 3% increase which is \$40,000 less than current advice.

The reason for the above average increase is additional staff costs. Under the old arrangements staff positions had not been evaluated in many years. This process has now been completed with the outcome being an increase to total staff remuneration.

3. New position- Information Services

The draft budget made provision for an additional staff member to assist with training of staff with information technology. This role has now been evaluated and the actual position cost will be \$15,000 more than initially estimated. This additional cost will be funded by other businesses such as Water/Wastewater/Waste etc to \$5,000 with the remaining \$10,000 coming from reductions to the existing Information Services budget.

4. Animal Shelter

At the May 2013 Ordinary meeting a resolution was passed to increase the budget for the Animal Shelter by \$370,000 funded from the Industrial Land Reserve.

The additional funds will be added to the 2013/14 capital works program in the adopted 2013/14 Operational Plan.

5. Financial Assistance Grant

Advice has been received from the Local Government Grants Commission that Council will receive an advance payment of 50% of our anticipated 2013/14 grant in 2012/13. This amounts to \$1,788,000 which will improve our forecast 2012/13 operating result.

The draft budget estimates that the grant will be \$3,482,000. Based on advice from the Commission the grant will be \$3,576,000 which is an increase of \$94,000. It is proposed to increase the estimate by the \$94,000 and this will reduce the forecast working capital deficit.

The advance payment will be placed into reserve in 2012/13 so that it is available for use in 2013/14.

6. Depot Energy Efficient Lighting

At the May 2013 Ordinary meeting a resolution was passed to delete a budget of \$57,000 for energy efficient lighting from the 2012/13 budget as there will be no works conducted on this project this financial year. A new budget of \$57,000 will be added to the 2013/14 capital works program in the adopted 2013/14 Operational Plan.

7. Tamar Street Car park

During 2012/13 Council purchased two properties in Tamar Street for the purpose of constructing car parking. Plans are progressing to construct the car park and costs will be incurred in 2013/14 to relocate the tenants from the shops, complete design work and prepare tenders. Whilst there is no budget for this work it will be funded from the section 94 car parking reserve.

It is proposed to construct the car parking in 2013/14 and whilst an estimate for this work is not available it is considered that the project does need to be included in the adopted 2013/14 Operational Plan. Accordingly a new budget of \$500,000 is proposed (this figure has no engineering basis) funded from section 94 car parking reserves, so that the work is at least acknowledged in the plan.

The balance of the Ballina Section 94 car parking reserve is estimated to be \$1.1 million as at 30 June 2013.

8. Commercial Services Meeting – 24 June 2013

A number of items relevant to the 2013/14 budget were considered at that meeting and any resolutions arising will be included in the 2013/14 budget.

9. Bypass Handover

Council has received contributions from Roads and Maritime Services to maintain road segments that were 'handed over' to Council following construction of the Ballina and Alstonville bypasses.

A schedule of works has been approved however the 2013/14 expenditure is not currently included in the Operational Plan.

10.10 Delivery Program 2013/14 - 2016/17 and Operational Plan 2013/14

Accordingly it is proposed to raise budgets (see below) funded from RMS contributions that have been placed into reserve.

Alstonville Bypass (Old Bruxner Hwy)

2013/14	2014/15	2015/16	2016/17
\$600,000	\$60,000	\$130,000	\$20,000

Ballina Bypass (Old Bruxner Hwy)

2013/14	2014/15	2015/16	2016/17
\$3,000,000	\$128,000	\$51,000	\$633,000

10. Building Better Regional Cities

Council has now accepted two grants under this program which involves reimbursing \$25,000 to eligible property purchasers. The process to obtain approval and to ensure that the market price of the land has not been manipulated is quite involved. A solicitor acts on Council's behalf to administer the process and a property valuer must assess the value of each property prior to purchase.

The total costs associated with this process are approximately \$900 per application. It is proposed to charge the property purchaser fees to recover the majority of these costs as shown below and it also proposed to seek lower costs for these services from the valuer and solicitor providing the services to Council; i.e.

Application fee	\$150
Valuation fee	\$250
Settlement fee	<u>\$150</u>
Total	\$550

It is not proposed to place these fees in the adopted fees and charges document because Council is not directly providing the service and it is more a contractual matter that purchasers are advised of when making an enquiry.

11. Utility Expenses

In the months that have expired since the majority of the budget was prepared it has become apparent that in a few areas the budget allocated for rates and electricity is insufficient.

It is proposed to offset the increased forecast operating expenditures, as per the table below, by reducing a number of other operating expense budgets.

Budget Description	Variance \$	Budget (\$)	Revised (\$)
Admin Centre electricity	22,000	78,000	100,000
Open Spaces rates	10,000	46,000	56,000
Public Amenities rates	3,000	17,000	20,000
Various expense votes	(35,000)	141,000	176,000

Sustainability Considerations

- **Environment**
This report encompasses the entire Council budget and proposed activities and operations. The report has implications for environmental, social and economic outcomes.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

This report deals with all of Council's operations. Legal, resource and financial implications are all relevant to this report. The recommendations contained at the bottom of this report include various budget adjustments. In respect to the Wastewater Fund the recommended increase to forecast operating expense is an operational necessity.

In respect to General Fund all recommended adjustments have a funding source other than the increase to the Regional contribution (negative \$40,000) and the increase to the forecast Financial Assistance Grant (positive \$94,000). Hence these adjustments will improve the forecast General Fund outlook from a working capital deficit of \$189,000 to \$135,000.

The adoption of this report includes the making of the 2013/14 annual rates and charges. For information the table below provides a comparison of Ballina's annual rates and charges compared to other North Coast councils. This information is useful in providing an idea of the relativities between councils.

The column titled 'Ballina Rates and Annual charges' details the proposed 2013/14 rates and charges for Ballina. The figures in the other columns show the dollar and percentage variance to Ballina's levies. This information was tabled as part of the public meetings.

Proposed 2013/14 Annual Rates and Charges: North Coast Comparison

Item	Ballina Rates and Annual Charges	Byron more or (less) than Ballina (\$) & (%)		Coffs Harbour more or (less) than Ballina (\$) & (%)		Lismore more or (less) than Ballina (\$) & (%)		Richmond Valley more or (less) than Ballina (\$) & (%)		Tweed more or (less) than Ballina (\$) & (%)	
		\$	%	\$	%	\$	%	\$	%	\$	%
Ordinary Rate	841	219	26	129	15	261	31	(97)	(12)	369	44
Stormwater	25	0	0	0	0	0	0	0	0	0	0
Water Access Charge	178	(28)	(16)	(39)	(22)	7	4	(58)	(33)	(40)	(23)
Water Use (200kl)	382	60	16	128	34	162	42	(12)	(3)	68	18
Wastewater	728	374	51	55	8	10	1.4	142	20	(37)	(5)
Waste (DWM)	408	(23)	(6)	126	31	39	9.6	(38)	(9)	(29)	(7)
Total	2,562	602	23	399	16	479	19	(63)	(3)	331	13

10.10 Delivery Program 2013/14 - 2016/17 and Operational Plan 2013/14

The table is based on the proposed rates and charges to be levied in 2013/14 for each council.

Consultation

The Draft Delivery Program and Operational Plan have been advertised for public comment during May and June.

Options

Council has a legal obligation to adopt the Operational Plan and Delivery Program. Three Finance Committee meetings have been held to develop the strategies contained within these documents and Council is also in a position to consider community input into the Program and Plan.

The Delivery Program and Operational Plan need to be adopted inclusive of any amendments that are considered warranted.

The recommendations that follow encompass all the items addressed in this report, along with a recommendation to endorse the rating structure for 2013/14.

RECOMMENDATIONS

1. That Council adopts the 2013/17 Draft Delivery Program and 2013/14 Operational Plan, as exhibited, inclusive of any amendments determined at this meeting.
2. That Council approves the formation of a Committee of three Councillors, representing each Ward, to consider the applications for donations for 2013/14.
3. That Council resolves to make the 2013/14 rates and charges as per the advertised Operational Plan and Delivery Program, inclusive of any amendments adopted at this meeting. That Council resolves to make a base rating structure for the levy of the 2013/14 Ordinary Rate as per the following structure.

Rate Category	Rate in Dollar (cents in \$)	Base Amount (\$)	% Income from Base Amount
Residential	0.161054	420	49.8
Business	0.575440	420	14.8
Farmland	0.130375	420	32.6
Mining	0.575440	420	0.00

4. That Council approves an increase to the electricity budget in Wastewater for the Ballina Treatment Plant by \$320,000.
5. That Council approves an increase to the budget for the Regional Library contribution of \$40,000.
6. That Council approves an increase in funding for the new position in Information Services of \$15,000 with this increase to be offset by savings in that program and contributions from water, wastewater and waste.

10.10 Delivery Program 2013/14 - 2016/17 and Operational Plan 2013/14

7. That Council approves an increase in the estimated income from the Financial Assistance Grant of \$94,000.
8. That Council approves a budget of \$500,000 for the construction of the car parks on the Tamar Street properties funded from section 94 contributions.
9. That Council approves the inclusion of the following budgets for the Alstonville and Ballina Bypass works:

Alstonville Bypass (Old Bruxner Hwy)			
2013/14	2014/15	2015/16	2016/17
\$600,000	\$60,000	\$130,000	\$20,000

Ballina Bypass (Old Bruxner Hwy)			
2013/14	2014/15	2015/16	2016/17
\$3,000,000	\$128,000	\$51,000	\$633,000

10. That Council approves changes to the following budgets based on current trends with various other expenditure budgets to be reduced to offset the increases:

Budget Description	Variance \$	Budget (\$)	Revised (\$)
Admin Centre electricity	22,000	78,000	100,000
Open Spaces rates	10,000	46,000	56,000
Public Amenities rates	3,000	17,000	20,000
Total	(35,000)	141,000	176,000

11. That Council approves the inclusion of any other changes to the 2013/14 budget as resolved by Council at the May or June 2013 Ordinary meetings and as detailed within this report.

Attachment(s)

1. Submissions Received

11.1 Local Traffic Committee Report - June 2013

11. Civil Services Group Reports

11.1 Local Traffic Committee Report - June 2013

Delivery Program Asset Management

Objective Consideration of items referred to the Local Traffic Committee meeting held in June 2013

Background

The Local Traffic Committee (LTC) met on 12 June 2013. A copy of the agenda was distributed to all Councillors. This report provides the recommendations of the Committee to Council.

Key Issues

- Consideration of recommendations from the LTC

Information

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

Items Referred to Council

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

a) **Request Road Closure – Naidoc Week Celebration Walk**

The Committee reviewed a request seeking to close River Street, Ballina for the purpose of the annual Naidoc Celebration Walk. The recommendation to approve the road closure in accordance with the Traffic Management Plan was endorsed, subject to the addition of a note to the plan requiring its implementation to be undertaken by authorised traffic controllers and advertising is completed in accordance with the Roads Act.

b) **Request Road Closure – 2013 Skullcandy Oz Grom Open**

The Committee reviewed a request to undertake the closure of Pacific Parade, Lennox Head for the Skullcandy Oz Grom Open on 4 to 9 July 2013. The recommendation to approve the road closure in accordance with the Traffic Management Plan was endorsed, subject to the addition of a note to the plan requiring its implementation to be undertaken by authorised traffic controllers and advertising is completed in accordance with the Roads Act.

c) Request Road Closure – Alstonville Show Week Markets

The Committee reviewed a request to undertake the closure of Main Street Alstonville for community markets on 20 October 2013. The recommendation to approve the road closure in accordance with the Traffic Management Plan was endorsed, subject to the addition of a note to the plan requiring its implementation to be undertaken by authorised traffic controllers and advertising is completed in accordance with the Roads Act.

d) Request Road Closure – Ballina Coastal Country Music Festival

The Committee reviewed a request to undertake the closure of River Street and part of Cherry Street, Ballina for the Ballina Coastal Country Music Festival in October 2013. The recommendation to approve the road closures and modifications in accordance with the Traffic Control Plan Number 2, as attached to the report, was endorsed, subject to the addition of a note to the plan requiring its implementation to be undertaken by authorised traffic controllers and advertising is completed in accordance with the Roads Act.

Sustainability Considerations

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

Legal / Resource / Financial Implications

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

Consultation

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

Options

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

11.1 Local Traffic Committee Report - June 2013

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

RECOMMENDATIONS

1. That Council approves the closure of River Street, Ballina for the purpose of the annual Naidoc Celebration Walk. The recommendation to approve the road closure in accordance with the Traffic Management Plan with an additional note requiring its implementation by authorised traffic controllers and that advertising is in accordance with the Roads Act.
2. That Council approves the closure of Pacific Parade, Lennox Head for the Skullcandy Oz Grom Open on 4 to 9 July 2013. The recommendation to approve the road closure in accordance with the Traffic Management Plan with an additional note requiring its implementation by authorised traffic controllers and that advertising is in accordance with the Roads Act.
3. That Council approves the closure of Main Street Alstonville for community markets on 20 October 2013. The recommendation to approve the road closure in accordance with the Traffic Management Plan with an additional note requiring its implementation by authorised traffic controllers and that advertising is in accordance with the Roads Act.
4. That Council approves the road closure of River Street and part of Cherry Street, Ballina for the Ballina Coastal Country Music Festival in October 2013. The recommendation to approve the road closures and modifications in accordance with the Traffic Control Plan Number 2 with an additional note requiring its implementation by authorised traffic controllers and that advertising is in accordance with the Roads Act

Attachment(s)

Nil

11.2 Wollongbar Sports Fields - Update

11.2 Wollongbar Sports Fields - Update

Delivery Program Open Spaces and Reserves

Objective To seek direction from Council in respect of project planning issues regarding the development of the Wollongbar Sports Fields

Background

With the assistance of funding provided by the Commonwealth Government under the Building Better Regional Cities (BBRC) program, Council is presently undertaking the construction of the Wollongbar Sports Fields (WSF).

Council's Extraordinary meeting on 30 April 2013 considered a report on the BBRC funding for Ballina Heights Drive. Part of the resolution from that meeting was to receive a further report regarding the additional link road from Wollongbar Sporting Fields to Pearce's Creek Road.

Under the funding agreement with the Commonwealth, the WSF project will incorporate:

- 2 x rugby grounds and 2 x junior rugby grounds with lighting
- 1 x cricket oval (summer use of rugby grounds)
- 6 x tennis courts and lighting
- 4 x netball courts
- clubhouse facilities
- vehicular and pedestrian access
- car and bus parking
- roads, civil works, stormwater and drainage
- water reticulation
- electrical supply & reticulation
- planting & establishment of vegetated Buffer

As stated in the funding agreement "the fields will service the Wollongbar Urban Expansion Area, which will provide 800 new homes for approximately 2,500 people. Funding will bring forward stages of the housing development by between 7 to 12 years and pass on a total value of \$2400000.00 in savings to eligible Key Worker purchasers of the 96 lots to be developed".

The Commonwealth is providing \$4,496,000 towards the total project budget of \$6,179,454.

In addition to reporting on the link road from the WSF site to Pearce's Creek Road, this report provides a summary of the current status of the project and discusses the options for the provision of clubhouse facilities on the site.

Key Issues

- Access requirements
- Club house facility design
- Budget

Information

Current Project Status

The bulk earthworks for the project are now almost complete. This entailed excavation and filling of approximately 110,000 cubic metres of material for a contract value of \$1,806,288. Some of the contingency items within that contract have not been required and the final contract sum is now expected to be approximately \$100,000 less than the original amount.

Cardno has been engaged to undertake the design of the facility and is currently finalising plans of an improved layout for the project which includes relocation of the tennis courts to the northern boundary of the site in closer proximity to the rugby fields and the netball courts (refer to the attached Masterplan). The Alstonville Tennis Club has expressed support for this change to the proposal since it offers a better aspect in terms of visual and micro-climatic characteristics.

Tenders for the construction of the access driveways, car parking areas, playing courts and associated utility services are expected to be called around the end of August 2013.

Expenditure against the project is tracking in accordance with the budget.

An updated estimate of the cost of the project based on the new site layout will be prepared by Cardno over the coming weeks and another report on the project budget will be presented to the July / August 2013 Council meeting.

Provision of Club House Facilities

To allow for the future demolition of the tennis club house at Russelton (to permit redevelopment of that site) Council and the Alstonville Tennis Club have agreed that Council will construct a new building at the WSF site that is identical to the existing clubhouse at Russelton.

The funding agreement includes an allowance of \$450,000 for the provision of club house facilities. Desirably these club house facilities should include as a minimum:

- A clubhouse and associated amenities for the Alstonville tennis club (to replace the existing tennis club house at Russelton). This is likely to cost approximately \$200,000.
- Amenities for the rugby, netball and cricket players. The remaining budget sum of \$250,000 would be sufficient to construct only a very modest amenities building but no club house facilities.

It is therefore desirable to consolidate the rugby, netball and cricket change room and associated amenities within one building. The preferred location for such, as a shared facility, is to the north of the rugby fields (Site Option A on the Cardno Masterplan). The reasons for preferring this location of the club house facilities are as follows:

- This site is centrally located between the rugby fields, netball courts and cricket pitch
- It is readily accessible from the car parking area

11.2 Wollongbar Sports Fields - Update

- This site offers a commanding view over all of the sporting fields and the surrounding rural landscape
- Ultimately a two storey building could be built into the hillside with the change rooms at the lower level and the club house on the upper floor. The upper floor would finish at ground level thereby facilitating disabled access from the car parking area.

The Wollongbar Rugby Club is a key stakeholder for this project and is interested in constructing the clubhouse facilities with the assistance of local businesses and volunteer labour. The Wollongbar Rugby Club has also expressed a keen willingness to share its facilities with the netball and cricket players.

However the Wollongbar Rugby Club has advised that it has a very strong desire for the club house facilities to be constructed next to the half way line on the western side of the proposed main rugby field and immediately east of the junior rugby fields and cricket ground (Site Option B on the Cardno Masterplan). This provides the rugby players with excellent access to the fields and would offer a viewing position for rugby and cricket spectators, which is in close proximity to the field of play.

This site however has the following disadvantages:

- It is at least 80 metres from the nearest car parking area
- It lies between 100 metres and 200 metres from the netball courts and implicitly has a strong rugby focus
- This site does not take advantage of the commanding overview of all the playing fields and the surrounding landscape.
- The available space for constructing a building between the rugby field and the cricket ground is less than 25 metres wide

While ultimately it may be feasible to provide change rooms and club house facilities at both sites, the current budget is not sufficient to fund two separate buildings.

Pearces Creek Access Driveway

The development consent for the WSF requires that construction of both of the following two access driveways to the site be provided in stage one of the site's development:

- A 600 metre long accessway from Pearces Creek Road and
- A 960 metre long accessway from Ramses Street traversing the road reserve at the rear of 29 dwellings that front Ramses Street, Hellyar Drive and Ceretto Circuit. In order to create a low speed environment and reduce impacts on local residents this access will be heavily landscaped and constructed as a narrow meandering roadway.

An internal lockable gate is to be provided to prevent use of the access ways as a through road.

Given its closer proximity to Bruxner Highway and Wollongbar, most traffic is expected to access the site via Ramses Street. This will include Wollongbar residents and people travelling from Lismore and Ballina as well as motorists travelling from the south via the Pacific Highway.

11.2 Wollongbar Sports Fields - Update

However, residents from Alstonville (including most members of the Alstonville Tennis Club), Lennox Head and residents travelling from the north are more likely to access the site via Pearces Creek Road since that route is about two kilometres shorter.

The cost to complete the construction of a formal sealed access way from Pearces Creek Road to the WSF site is likely to be in the order of \$500,000. The implications of not constructing the Pearces Creek access are:

- There would be an increase in the numbers of vehicles using the Ramses Street access. Nearby residents are concerned about the impacts this may have on the local amenity
- People accessing the site from Alstonville and other locations to the north would travel an additional two kilometres each way.

There would be a saving of approximately \$500,000 in construction costs which could be allocated to providing additional club house facilities.

If deferral of this work is considered an acceptable option to the Council, there is no impediment to this in respect of the arrangements with the Federal Government. It would be necessary however to submit an application to vary the conditions of development consent. As part of that process, Council, acting as a proponent and a regulator, would need to consult with key stakeholders and residents.

It is highly likely that the removal of the Pearces Creek access would result in significant objections from residents in the Ramses Street / Cerreto Circuit locality as it would further impact on their amenity due to increased traffic flows.

The merits of removal would also need to be assessed from a planning perspective as one of the key issues under consideration in the original consent was to provide two accesses to this sporting complex, which will ultimately be a major regional facility.

Sustainability Considerations

- **Environment**
The design and approval for this development has regard to mitigating any effects to the environment.
- **Social**
The sporting fields and amenities will improve the social amenity for the local and wider regional communities.
- **Economic**
Hosting sporting and other events supports economic development.

Legal / Resource / Financial Implications

The removal of the Pearces Creek access road would require a Section 96 application or a fresh development application which would need to be exhibited for public comment.

11.2 Wollongbar Sports Fields - Update

A further report is programmed to be prepared at the end of July / August to review the budget again once the further information contained in the detail design is available. Therefore the purpose of this report is to seek some in principle direction from the Council to assist in the detail design process, as it is not necessary to ask Council for a final decision on these matters now.

Consultation

The relevant sporting clubs will continue to be consulted regarding the design of all proposed buildings at the WSF site.

Options

There are two issues discussed above.

In relation to the site location for Club House Facilities, two options are available to Council;

1. The north of the rugby fields (Site Option A on the Cardno Masterplan)
2. Immediately east of the junior rugby fields and cricket ground (Site Option B on the Cardno Masterplan).

For the reasons discussed in the above report, Option A is preferred. The report also suggests however that in the future change rooms and club house facilities could also be provided at the second site to enable the needs of the Rugby Club in respect of being immediately adjacent to their playing areas to be accommodated.

The recommendation that follows seeks to provide direction to the designers by supporting option 1, which supports Site Option A.

In relation to the Pearces Creek Road access, clearly it is preferred to provide this access as soon as possible. It is also feasible however to defer these works. As discussed in the financial implications section of this report, it is preferred for the design to be completed with access road included. This and all the aspects of the project can be costed more reliably and a further report be presented to Council. Therefore the recommendation to this report is to note the current assessment process.

RECOMMENDATIONS

1. That Council notes the contents of this status report in relation to the status of the Wollongbar Sports Field project.
2. That Council adopts the proposal to build the shared change room and amenities building at Site A as indicated on the Cardno Masterplan, as attached to this report.
3. At the completion of the detail design, Council receive a further report in relation to the budget for this project, including an analysis of staging options, if required.

Attachment(s)

Nil

11.3 Ferry Fee - Waiver

11.3 Ferry Fee - Waiver

Delivery Program Engineering Works

Objective To consider a request to waive ferry fees.

Background

Mr David Felsch has requested Council consider waiving certain ferry fees to assist in his efforts to support charities. As the waiver of fee in these circumstances is a donation, the matter is referred to Council for its determination.

Further information regarding the request is set out below.

Key Issues

- Determine a donation request

Information

Mr Felsch is a licensed auto electrician. Following the recent passing of Mr Felsch's father, Mr John Felsch, Mr Felsch has relocated to 971 River Drive South Ballina. Mr Felsch advises that at his former residence, outside of the Ballina local government area, he provided auto electrician services without charge to people needing assistance, including referrals from local charities.

Mr Felsch would like to continue to undertake this community service. On some occasions it is necessary to transport the vehicles using a trailer to his property. Mr Felsch holds a season ticket for his vehicle, however he is required to pay an additional fee of \$4.80 for each time he tows his trailer on the ferry.

Mr Felsch says it is difficult to predict how many times a year he may provide this service, however he estimates it could be a few times a month.

If Council were inclined to support this request there are several ways it can be implemented. However staff, while acknowledging the good intentions of Mr Felsch to assist those in the community in need, have indicated to Mr Felsch that these options present some governance issues to the Council.

Council could offer Mr Felsch a number of vouchers that could be redeemed when using the ferry. From a staff perspective, it would be preferred if these vouchers were issued to a recognised charity who in turn made referrals to Mr Felsch. This enables the Council to have some satisfaction about the need of the person to be assisted by Council waiving one of its fees.

Mr Felsch has expressed concerns about this option as he says the demand for his charity work is uncertain and he receives many of the requests direct.

11.3 Ferry Fee - Waiver

Council could offer to provide a second annual pass, without charge, to be used for the trailer. This would be valued at \$240.

The advantage of this option is that it is easy to administer, is capped, yet allows Mr Felsch to offer his service as many times as he desires. The disadvantage is that Mr Felsch also potentially obtains a private benefit as he can use this pass for his personal use.

As for a voucher system, there is a concern that this arrangement would not be linked to a recognised charity or community group.

Sustainability Considerations

- **Environment**
Not Applicable

- **Social**
Mr Felsch seeks Council assistance to support his charity work.

- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The financial implications are limited to the extent of donation (or fee waiver) that Council is willing to provide.

The above information discusses some governance issues associated with this request.

In terms of resourcing, if Council is inclined to support the request, it is important, notwithstanding the governance issues to be addressed, that the administration be cost effective having regard to the size of the donation.

Consultation

Council staff have met with Mr Felsch in response to his request and as we have not been able to resolve this issue the matter is now reported to Council.

Options

1. Support the request.
2. Decline the request.

If the Council is inclined to support the request, there are two options for administration. These are:

1. Provide a number of voucher tickets at \$4.80 each. The number of tickets would need to be determined by Council.
2. Provide a season pass for use with the trailer, valued at \$240.

Without endorsement for each trip from a registered charity, under both these options there is no method available to determine whether the season pass or voucher is used for a charitable purpose.

11.3 Ferry Fee - Waiver

Option one does limit the potential (and perceived) benefits of the private use, however it also limits the Council's support of the charitable work.

Conversely Option two increases the private benefit potential, however it also means Council's support is essentially unlimited but only represents foregone revenue of \$240. Option two is easier to administer.

This is a difficult matter for staff to make a recommendation. As per the above report, without being disrespectful to Mr Felsch's good intentions, the charity offering is outside of the framework of a community organisation or registered charity. On the other hand, Council may be satisfied that the potential private benefits are not concerning enough to deny the request.

Wording for the possible recommendations are:

Support – Option One

That Council provide Mr David Felsch an annual ferry pass to be used for his trailer as support to his provision of charity auto electrical services.

Not Support – Option Two

That Council express its appreciation to Mr David Felsch for his desire to support the community by offering charity auto electrical services, however in response to his request for Council assistance, this proposal is declined due to the lack of governance controls available to account for the use of the public monies. The alternative proposal for Mr Felsch is for the charities being provided with this service to directly approach Council.

Unfortunately Council is not a private business and we cannot just provide donations of public monies without some form of accountability. Based on this concern, the recommendation, somewhat reluctantly, is option B.

RECOMMENDATION

That Council express its appreciation to Mr David Felsch for his desire to support the community by offering charity auto electrical services, however in response to his request for Council assistance, this proposal is declined due to the lack of governance controls available to account for the use of the public monies. The alternative proposal for Mr Felsch is for the charities being provided with this service to directly approach Council.

Attachment(s)

Nil

11.4 Proposed Recycled Water Charges

11.4 Proposed Recycled Water Charges

Delivery Program	Water and Wastewater
Objective	To determine a pricing structure for the recycled water services

Background

Council adopted its Urban Water Management Strategy (UWMS) in 2004. The policy was reviewed in 2012 and the outcomes of this review reported to Council. From this report an update to the UWMS has been prepared and will be reported to Council for adoption shortly.

In developing the UMWS, there was a very strong view in the community that wastewater was to be considered as a resource and be reused rather than discharged to the marine environment. In response to this the UWMS proposed a number of targets in respect of the reuse of wastewater and one of the major strategies that is being implemented to assist in achieving the targets is the Council's ambitious urban dual reticulation scheme.

In accordance with the Ballina Lennox Head Recycled Water Master Plan, as adopted by Council in September 2007, the urban dual reticulation (UDR) will be installed in all new major subdivisions in the Ballina and Lennox Head areas. This will mean the provision of recycled water to an estimated 7,242 new lots by 2026. This water will be used for garden watering, toilet flushing and the cold water tap to washing machines.

There are already approximately 600 properties plumbed with dual reticulation infrastructure and services. These properties are currently being supplied with drinking water to their recycled water service.

The upgrades to the Lennox Head and Ballina Waste Water Treatment Plants (WWTP) and the construction of the distribution infrastructure are scheduled for completion by the end of 2013. Once this work is complete and following a period of verification and testing, Council will be able to commence distributing the high quality, fit for purpose recycled water for use in residential lots fitted with dual reticulation.

Now that we are getting close to the introduction of the service, it is an appropriate time for Council to consider its fees for this service. The consideration of this issue is the purpose of this report.

Key Issues

- Price for recycled water
- Comparison to potable water

Information

A number of councils and water utilities in Queensland, NSW and Victoria have introduced the supply of recycled water for use for domestic and industrial purposes.

11.4 Proposed Recycled Water Charges

Queensland and Victoria have introduced a rating system based on the level of treatment and quality of the recycled water in order to assist users in determining the quality of the water. This rating system outlines the purposes for which the recycled water can be used for. These grades typically align with the level of treatment the water has had, with the highest level treatment being classified as A (Vic) and A+ (QLD).

Council currently provides recycled water of varying quality for a number of purposes including the watering of sporting fields, use in nurseries and for use at the race track and golf course; with the water treatment typically aligning with the Class B type of water in both Victoria and QLD, that is, tertiary treated water as per the Australian Government National Water Commission Guideline.

The treatment plant upgrades will ensure that the discharge water from the Ballina and Lennox Head WWTPs will align with the Class A level in that the water will be treated using membranes, UV and have chlorine residual. This will ensure the water is fit for dual reticulation.

UDR is classified as direct potable replacement effectively offsetting up to 40% of a typical household's demand for drinking water. This will significantly reduce the demand on the water supply from growth making development more sustainable, thus helping to put off the need for upgrades to regional water supply infrastructure.

There is a cost in providing recycled water in this way. Along with capital and operating costs, Council needs to ensure education and regulation of the supply is provided for. This will entail additional staff and resources, and the recycled water will be supplied in lieu of drinking water that would have generated income.

Cost of production

Recycled water typically costs more than raw water from a river source to process for use as a secondary water supply for household. However in making this comparison, only those costs for production above the level that would have been required to allow that water to be discharged to the environment should be considered. It is also important to recognise the benefits to the water supply from the displaced demand which reduces or defers the need for water supply capital works.

The water that is being processed for reuse at the Ballina and Lennox Head WWTPs has required the addition of chlorination and additional infrastructure to pump the water to allow supply, and the Ballina supply is likely to need to be further treated using Reverse Osmosis to reduce salinity.

New properties have had additional costs to plumb them to accept the recycled water and there will be a need to monitor and inspect properties to minimise the chance of cross connection and contamination of the drinking water supply. During the early stages of any new scheme the cost will also be higher given the limited uptake. Ballina's supply will initially only cater for about 10% of the proposed capacity of the system, with the unit cost of supply decreasing with development and increased usage of the scheme.

11.4 Proposed Recycled Water Charges

Pricing Principles

The National Water Commission paper, *Pricing Principles for Recycled Water and Stormwater Reuse* proposed 'that recycled water prices must be set in a way that is consistent with the efficient, sustainable pricing of the products and services for which the recycled water is a substitute'. This means that Council needs to consider the cost of the water that is being replaced when making the pricing decision.

The price also needs to be compatible with the achievement of the overall objectives and goals of Council in relation to the need to provide an incentive to use this resource and to preserve drinking water.

At other water utilities the price has been set to encourage its use. As opposed to potable water, where it is more sustainable to reduce demand, with recycled water, its use is encouraged to avoid discharge to the marine environment. Pricing also recognises that recycled water may be viewed as a lesser quality product, albeit one that is suitable for the proposed purpose for which it is to be used.

The ability to provide and use recycled water during drought and whilst supply restrictions are in place is also a considerable benefit which may be used to offset any perceived quality issues.

A further matter to consider is that while the recycled water is only distributed to new subdivision areas, the scheme is a benefit to all residents in terms of managing our wastewater (avoided discharge) and water supply (deferred or avoided capital works).

Typically this Council has not sought to apply fees and charges with a geographic difference even though the costs to supply, collect, and treat may be different in each locality.

Pricing in other organisations

The table below lists other organisations that produce and/or sell recycled water and the relativity of the price charged for recycled water to their drinking water.

Organisation	Base rate drinking water Per KI	Recycled water charge Per KI	Recycled water as a % of base drinking water rate
Gold Coast City Council	3.2692	1.6791	51.36%
South East Water Melbourne	1.7511 (1 st 440 l per day, 2.1266 440l – 880l per day, 3.4401 above 880l per day)	1.6635	95%
Sydney Water	2.13	1.70*	79.8%
Ballina Shire Council	1.77	N/A	N/A
Pitt Town Water	2.25	2.03	90%

As shown by the table the price charged for recycled water ranges between 51% and 95% of the rate charged for potable (drinking) water with most charges being around the 90% rate, albeit this is a small sample.

Sustainability Considerations

- **Environment**

The principles in the UMWS were to develop the most appropriate approach in terms of environmental sustainability for water, wastewater and stormwater services. The UDR scheme avoids discharges to the marine environment and it reduces demands on the potable water supply.

- **Social**

The provision of recycled water to new developments will ensure the availability of services in a sustainable and affordable manner. Recycled water will be available in periods of drought and this will assist residents connected to the scheme maintain their outside areas.

- **Economic**

The adoption of a charge for recycled water will ensure it is valued appropriately to recognise the resource value of the product.

Legal / Resource / Financial Implications

The Council will need to meet the statutory requirements in terms of the establishment of a fee and charge.

Depending on the water rate selected, it is possible that the revenue to Council can change compared to the current situation where Council is receiving revenue based on the water supply rate.

Consultation

Staff consulted with a number of other Local Water Utilities that were providing recycled water in NSW, QLD and Victoria. The National Pricing Principles for recycled water and stormwater reuse (October 2010) were also used in the formulation of this report.

Options

Council can either:

1. Choose to model and charge the full cost of producing recycled water however this would likely lead to a cost significantly higher than the cost of potable water.
2. Establish a price to residential and commercial customers for recycled water based on a percentage of the cost of potable water. This will help to encourage the use of recycled water thus preserving potable (drinking) water.

This scheme is considered to have a range of environmental and water supply benefits that are to the advantage of the whole community, not just the recipients of the service. Furthermore, it is important to encourage the use of the scheme. For these reasons, option two is preferred.

11.4 Proposed Recycled Water Charges

If Council is inclined to support this view, then the question becomes is the rate as a proportion of the water rate. As per the earlier table above, the price charged has varied at the other organisations that have implemented recycled water for use in dual reticulated systems, with the charge typically established at between 80 – 95% of the charge for potable water and only the Gold Coast electing to go at a substantially lower level (50%).

The lower the figure, for example 80%, says the following;

- the Council is encouraging the use of the water, however it is noted that it is unlikely the price elasticity of demand is sensitive to this degree
- the water does not have all the uses of the potable supply
- drought supply is not a significant or material benefit

However, in the alternative, a figure closer to 100% has

- The advantage of additional revenue
- Retains the equity approach with the broader community with the cost of all water and wastewater services being shared.

This is a subjective decision and one for the Council to determine. For the purposes of making a recommendation, it is considered appropriate to recognise a discount as the water is not available for all uses however for the proposed use of the water this is not a significant disadvantage. Therefore equity in pricing and service is preferred and a charge at 90% of the water rate is recommended.

The recommendation only seeks an in principle decision at this point in time. The reason for this is the implementation is still at least six months away and a community information program will be delivered to ensure householders understand all the elements of participating in the scheme. Through this program staff will be able to assess any feedback in relation to the proposed pricing and this can be reported to Council.

The actual setting of the charge will require formal advertising at the appropriate time. Having an in principle decision will allow staff to indicate to the community a direction of Council which they can then comment on. Although it is noted, when asking about price, a typical response will be to support the least expensive charge.

There is also an option for Council to levy a charge against open space customers however this may discourage use and the uptake of this is a key element of the UWMS objectives relating to diversion. The maintenance of our open spaces is also important in respect of preserving the amenity of the local area.

11.4 Proposed Recycled Water Charges

RECOMMENDATIONS

1. That Council provides it in principle support that the price of recycled water for the urban dual reticulation system will be based on 90% of the water usage charge.
2. That Council confirms it support, for the reasons set out in this report, that it will continue to provide recycled water to open space customers at no charge.
3. That Council receive a further report providing details of the community feedback in relation to point one, to enable Council to then make a final decision prior to formally exhibiting the proposed charge for recycled water.

Attachment(s)

Nil

11.5 Tender – New Rural Fire Services Shed / Toilet Newrybar

11.5 Tender – New Rural Fire Services Shed / Toilet Newrybar

Delivery Program Operations Support

Objective To obtain Council approval to award the contract for the construction of the fire services shed/public toilet at Newrybar

Background

Tenders were advertised in April 2013 for the demolition of the existing and construction of the new Newrybar Rural Fire Service (RFS) Shed and public toilet. At the close of the tender period on 28 May 2013, three submissions were received. This report provides the outcomes from the tender evaluation process.

Key Issues

- Award the tender in accordance with the Local Government (General) Regulations 2005.
- Engage a suitably qualified and experienced contractor that having regard to all the circumstances provides the most advantageous tenders.

Information

Tender submissions were received from:

- All Steel Garages & Sheds Pty Ltd - \$146,059.00 +GST
- Castlereagh Construction Group Pty Ltd - \$146,053.00 +GST
- Greg Clark Building Pty Ltd - \$288,409.00 +GST

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

- Total Price 60%
- Capability & Experience 10%
- Social & Community 10%
- Quality, Safety & Environmental 20%

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

Evaluation Criteria	All Steel Garages & Sheds	Castlereagh Construction Group	Greg Clark Building Pty Ltd
Total Price	60.0%	60.0%	27.3%
Capability & Experience	8.2%	8.0%	9.0%
Social & Community	9.0%	5.5%	9.0%
Quality, Safety & Environmental	16.0%	16.7%	18.0%
Total	93.2%	90.2%	63.3%

11.5 Tender – New Rural Fire Services Shed / Toilet Newrybar

The original cost estimate for the construction of the building was \$200,000, with funding being provided by the NSW Rural Fire Service, who have budgeted \$237,000.

NSW Rural Fire Service has confirmed that these funds are currently available and will be carried over to the 2013/2014 financial year.

Council has expended \$10,800 to date for design and approval fees for the building. The tendered rate from All Steel Garages & Sheds Pty Ltd is \$146,059, excluding the fitout costs for lighting, power, kitchen and landscaping. The estimated cost of these items is \$50,000, giving a total estimated cost for the building of \$206,859.

Under the funding agreement, Council expends the funds and then claims reimbursement from the NSW Rural Fire Service.

Sustainability Considerations

- **Environment**
Sediment control measures are to be employed during the demolition and construction works
- **Social**
All Steel Garages & Sheds Pty Ltd are based in the Northern Rivers region and will employ local trade persons to complete the works.
- **Economic**
The tendered rate is consistent with the budget for the project.

Legal / Resource / Financial Implications

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

Consultation

A public tender process has been undertaken and Council has consulted with the members of the Newrybar Rural Fire Service.

Options

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

1. Council may determine not to accept any of the tenders received and invite fresh tenders.
2. Council may award the contract to All Steel Garages & Sheds Pty Ltd to undertake the Construction of the new Newrybar Rural Fire Service (RFS) Shed and public toilet.

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

11.5 Tender – New Rural Fire Services Shed / Toilet Newrybar

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

All Steel Garages & Sheds Pty Ltd is an experienced local contractor and has completed a number of projects for Council in the past. All Steel Garages & Sheds Pty Ltd has scored highest in the tender evaluation.

RECOMMENDATIONS

1. That Council accepts the tender for the Construction of the Newrybar Rural Fire Service (RFS) Shed and public toilet from All Steel Garages & Sheds Pty Ltd for the amount of \$146,059.00 (inc GST).
2. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

11.6 Tender - Supply and Delivery of Pre-Mixed Concrete 2013/2015

11.6 Tender - Supply and Delivery of Pre-Mixed Concrete 2013/2015

Delivery Program Engineering Works

Objective To provide Council with the results of a tender for Supply and Delivery of Pre-Mixed Concrete

Background

Tenders were advertised for Supply and Delivery of Pre-Mixed Concrete, closing on the 29 May 2013. The tender is initially for a two year period until 30 June 2015, but the tender documentation enables scope for extending the contract a further one year period up until 30 June 2016, subject to approval from the General Manager or delegate.

The following tenders were received:

- Hanson Construction Materials
- Holcim (Australia) P/L
- Boral Country Concrete & Quarries

Key Issues

- Appropriate assessment of suppliers of Pre-Mixed Concrete for the next two years

Information

Council recently called tenders for the Supply and Delivery of Pre-Mixed Concrete. This report provides details of the tender results. A précis of the tender results, including ex plant prices, is included as Attachment One and full details are available to Councillors on request, from the Group Manager Civil Services.

All the tenderers have supplied Pre-Mixed Concrete to Council over recent years and have proven to be reliable and competent.

A comparison of tender rates requires consideration of the product cost (ex plant) and haulage costs.

General guidance on rate comparisons is provided in Attachment Two, which summarises the preferred supplier for the most common products used by Council, being 20 MPa Ready Mixed Concrete and Kerb Mix. The assessment sheet was developed based on a lowest price comparison that included both product cost ex plant and haulage cost to different locations within the Shire.

In accordance with current practice, it is intended that rates will be checked at the time of construction works at a particular site to ensure that Council utilises the supplier who is available to meet program requirements and achieves the lowest overall supply and deliver cost to Council.

11.6 Tender - Supply and Delivery of Pre-Mixed Concrete 2013/2015

Late Tender

Nucon Pty Ltd, a current supplier to Council did not submit a tender however they contacted Council approximately 28 hours after the closing time, stating that they did not become aware of the tender until after the closing date and requested that they be able to submit a tender. Nucon were advised that as this was a public tender with advertisements placed in three newspapers as well as being uploaded to the Council electronic tendering web site and that given the time that had elapsed since the tender closed that Council would not be in a position to accept a late tender.

On 3 June 2013 a letter was received from the Chief Executive Officer of Nucon Pty Ltd further requesting that the company be allowed to submit a late tender, a copy is attached for reference. On 5 June 2013 Nucon submitted a late tender detailing their pricing, a copy of this document is attached for the information of Councillors. Following the staff advice to Nucon that the tender could not be accepted, Nucon have requested that this matter be referred to Council.

Relevantly, the Local Government (General) Regulation 2005 says the following at section 177.

177 Consideration of tenders

(1) As soon as practicable after the tenders for a proposed contract have been opened, the council must assess the tenders.

(2) A council must not consider a tender that is not submitted to the council by the deadline for the closing of tenders. This subclause is subject to subclauses (4) and (5).

(3) A council must consider a tender transmitted to it by facsimile machine or electronic means, but only if:

(a) in the case of transmission by electronic means, that means of transmission was specified in the relevant tender documents, and

(b) the transmission was received before the deadline for the closing of tenders, and

(c) the tender is complete.

(4) However, if a council has specified in the relevant tender documents issued by the council that a tender will not be considered unless formal tender documents are submitted to the council, then (despite subclause (3)), the council is not obliged to consider a tender transmitted to it in accordance with that subclause (being a tender that does not include formal tender documents) unless:

(a) the tenderer is able to satisfy the council that formal tender documents and all other requisite essential information were posted or lodged at a Post Office or other recognised delivery agency before the deadline for the closing of tenders, and

(b) the council actually receives those documents within such period as it decides to be reasonable in the circumstances.

(5) A council must also consider a tender received within such period after the deadline for the closing of tenders as it decides to be reasonable in the

11.6 Tender - Supply and Delivery of Pre-Mixed Concrete 2013/2015

circumstances if the tenderer satisfies the council that the tender documents and all other requisite essential information were posted or lodged at a Post Office or other recognised delivery agency in sufficient time to enable the documents to have been received by the council in the ordinary course of business before that deadline.

Having regard to the above provisions, staff have not evaluated the Nucon submission and the pricing provided by Nucon Pty Ltd have not been included in Attachment Two.

Council has had previous similar experience with this contract with another company. On that occasion the company was not accepted as a tender however it is pleasing to note they have made a new submission at this renewal.

If the Council was inclined to support the representation from Nucon, then the Council would need to decline all tenders, publically state a reason and call for fresh tenders. The test to be met to exercise that option requires the Council to be of the opinion that the market or pricing is unsatisfactory and a more appropriate result would be achieved from re-advertising.

The difficulty with this approach is the Council has received three tenders, with a relatively small spread in pricing suggesting Council has achieved a satisfactory market response. Furthermore, the price under this contract for 20MPa Concrete and Kerb Mix has not increased significantly since the 2010/2013 tenders.

It is also noted that the tender allows for Council to seek pricing outside of the tender on occasions. Typically this is done when the quantity required means there is likely better value for money for Council to seek a job specific quotation. Nucon can be invited to price in those circumstances.

Sustainability Considerations

- **Environment**
All plants are required to operate in accordance with an environmental management plan.
- **Social**
This tender will assist in the maintenance and construction of the road network and associated infrastructure and thereby support the community's transport needs.
- **Economic**
This tender will provide competitive prices for materials used in the maintenance and construction of the road network and associated infrastructure, an essential asset for economic development.

Legal / Resource / Financial Implications

This report aims to assist Council to meet its statutory and other legal obligations. Purchases made utilising this tender will be costed against applicable project and program budgets.

The tender from Boral Country Concrete & Quarries includes several departures from Council's tender documents. Boral included similar departures in another recent tender and these were referred to Council's solicitor for advice. Based on that advice, Council did not accept the amendments. The recommendations to this report deal specifically with this issue.

The price under this contract for 20MPa Concrete and Kerb Mix has not increased significantly since the 2010/2013 tenders.

Consultation

A public tender process was conducted.

Options

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

1. Council may determine not to accept any of the tenders received and invite fresh tenders.
2. Council may accepted all suitable tenders and adopted a list of preferred contractors.

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

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

On previous occasions, Council has accepted all suitable tenders and adopted a list of preferred contractors. This allows Council the opportunity to use the contractor most advantageous to program requirements applying at the time.

Option Three would be to review the submission from Nucon Pty Ltd for the inclusion of Nucon Pty Ltd on the list of preferred contractors. This option is not recommended as the Local Government (General) Regulations 2005 does not allow for the consideration of late tenders.

RECOMMENDATIONS

1. That Council accepts the tenders of Hanson Construction Materials and Holcim (Australia) P/L as preferred contractors for the supply of pre-mixed concrete for the period from 1 July 2013 to 30 June 2015, with the preferred supplier for each order determined by an assessment undertaken by staff having regard to cost and program requirements applicable at the time of the order.
2. That Council also accept as per point one above the tender from Boral Country Concrete & Quarries, as a preferred contractor for the supply of pre-mixed concrete for the period from 1 July 2013 to 30 June 2015, subject to the tenderer's acceptance of the terms and conditions in Council's documentation.
3. In accordance with the terms of the Contract, the General Manager or delegate be authorised to extend the contract period to 30 June 2016, if that arrangement is to the best advantage of Council.
4. That Council authorises the Council seal to be attached to the contract documents.
5. That Council advises Nucon Pty. Ltd. that it was not prepared to accept their late tender, or to decline all tenders, as a reasonable response has been received in respect to our call for tenders for this service.

Attachment(s)

1. Precis of Tender Results
2. General Guidance Rate Comparisons
3. Submission from Nucon

11.7 Tender - Supply and Delivery of Quarry Products 2013/2015

11.7 Tender - Supply and Delivery of Quarry Products 2013/2015

Delivery Program Engineering Works

Objective To provide Council with the results of the tender for Supply and Delivery of Quarry Products

Background

Tenders were advertised for Supply and Delivery of Quarry Products, closing on the 29 May 2013. The tender is initially for a two year period until 30 June 2015, but the tender documentation enables scope for extending the contract a further one year period up until 30 June 2016, subject to approval from the General Manager or delegate.

The following tenders were received:

- Boral Country Concrete & Quarries
- Northern Rivers Quarry & Asphalt
- Holcim Australia P/L

Key Issues

- Appropriate assessment of suppliers of quarry products for the next two year period.

Information

Council recently called tenders for the Supply and Delivery of Quarry Products. This report provides details of the tender results. A précis of tender results is included as Attachment One and full details are available to Councillors on request from the Group Manager Civil Services.

The Boral, NRQA and Holcim quarries have supplied quarry products to Council over a number of years and have proven to be reliable and competent and provide products suitable for Council's purposes.

It should be noted that there is provision in the contract for the calling of separate quotations for construction projects requiring quantities greater than 2,000 cubic metres.

A comparison of tender rates requires consideration of the product cost (ex quarry) and haulage costs.

General guidance on Rate Comparison is provided in Attachment Two, which summarises the preferred supplier for each respective quarry product based on deliveries to Ballina, Alstonville, Wardell, Tintenbar and Lennox Head. The assessment sheet was developed based on a lowest price comparison that included both product cost and haulage cost to these locations within the Shire.

11.7 Tender - Supply and Delivery of Quarry Products 2013/2015

Council generally hauls quarry material with contractors listed on Council's truck hire tender. The actual haulage costs will therefore vary depending on the rate for the contractor chosen from the truck hire tender list. The rate comparison provided in Attachment 2 is based on a common haulage rate from the truck hire contract.

In accordance with current practice, it is intended that rates will be checked at the time of the works (when truck contractors are known) to ensure that Council utilises the Quarry that achieves the lowest overall supply and deliver cost to Council.

Sustainability Considerations

- **Environment**
All quarries are required to operate in accordance with an environmental management plan.
- **Social**
This tender will assist in the maintenance and construction of the road network and associated infrastructure and thereby support the community's transport needs.
- **Economic**
This tender will provide competitive prices for materials used in the maintenance and construction of the road network, an essential asset for economic development.

Legal / Resource / Financial Implications

This report aims to assist Council to meet its statutory and other legal obligations. Purchases made utilising this tender will be costed against applicable project and program budgets.

The tender from Boral Country Concrete & Quarries includes several departures from Council's tender documents. Boral included similar departures in another recent tender and these were referred to Council's solicitor for advice. Based on that advice, Council did not accept the amendments. The recommendations to this report deal specifically with this issue.

The pricing under this tender for Council's key roadbase product, No 1 crushed roadbase, is approximately 15% higher than the 2010 tender price. This is a further demonstration of the budget challenges before Council with the cost of materials and other elements of project and maintenance work increasing at a greater cost than the budget increases.

Consultation

A public tender process was conducted.

Options

On previous occasions, Council has adopted a list of preferred contractors. This allows Council the opportunity to use the contractor most advantageous to program requirements applying at the time.

RECOMMENDATIONS

1. That Council accepts the Tenders of Boral Country Concrete & Quarries, Holcim (Australia) P/L and Northern Rivers Quarry & Asphalt as preferred contractors for the supply of quarry products for the period from 1 July 2013 to 30 June 2015, with the preferred supplier for each order determined by an assessment undertaken by staff having regard to cost and program requirements applicable at the time of the order.
2. That Council also accept the tender from Boral Country Concrete & Quarries, as per point one above, subject to the tenderer's acceptance of the terms and conditions in Council's documentation.
3. That in accordance with the terms of the Contract, the General Manager, or delegate, is authorised to extend the Contract period to 30 June 2016, if that arrangement is to the best advantage of Council.
4. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

1. Precis of Tender Results
2. General Guidance Rate Comparisons

11.8 Tender - Hire of Truck, Plant & Traffic Control

11.8 Tender - Hire of Truck, Plant & Traffic Control

Delivery Program Operations Support

Objective To consider the Tender for the Hire of Truck, Plant & Traffic Control

Background

Council recently called tenders for the Hire of Truck, Plant & Traffic Control. This tender was advertised in the Northern Star, Daily Telegraph & Advocate beginning on the 5 March 2013 and closing at 3pm 12 April 2013. The contract commences on 1 July 2013 and remains effective for a period of two years to 30 June 2015.

The tender submissions have been used to develop a database of pre-qualified services providers in relation to the wet hire only of Truck, Plant & Traffic Control. Council has historically called a tender of this type as it is essential that plant hire is available to ensure that Council has sufficient resources, procured in accordance with the relevant regulation, to be able to deliver its works and services.

Key Issues

- Compliance with regulations.
- Ensuring a fair, value for money and appropriate procurement arrangement is in place for these services.

Information

This is a fixed rate contract however under this contract all tenders are given the opportunity of altering their tendered hire rates every six months. This allows a more appropriate balance of risk as the contractor can more accurately predict their cost of services. This is in response to the history of significant fluctuation in fuel prices. Any lesser term would create difficulties with the administration of the contract.

A total of 39 submissions were received prior to tender closing time with various items of plant available under a wet hire arrangement.

Prior to commencement of the contract tenderers have to demonstrate that they have an appropriate Occupational Health and Safety Management system in place. Any contractor that has failed to meet legislative requirements in respect to their WH&S management system, have been notified in writing with a request to amend the issue. Should the issue not be amended, Council will be unable to utilise their services.

11.8 Tender - Hire of Truck, Plant & Traffic Control

As Council requires the services of plant and trucks, contractors will generally be contracted in rank order of assessment based on the tendered prices. It should be noted however that price will not be the only factor used to determine the most suitable contractor or item of plant procured at any given time.

The engagement of contractors shall be based on an assessment of the contractor's ability to provide the services. The main criteria used for the engagement of contractors will include but not be limited to:

- Price
- Age, condition, and capacity of the plant and operator.
- Fitment of onboard weighing systems on haulage trucks
- The availability of certain plant attachments
- Proven reliability of the contractor
- Experience and performance of the contractor.

Whilst this process provides Council a list of preferred services providers, Council is not bound to hire from the database and may invite separate quotations or tenders for specific works.

Sustainability Considerations

- **Environment**
Section 7 of the Tender Specification highlighted the contractor's environmental performance responsibilities.
- **Social**
Not Applicable
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The process ensures Council meets the requirements of the Local Government Act and Tendering Regulations, and obtains best value for money through a competitive process for plant hire. Each successful contractor will be presented with a "Letter of Engagement" highlighting the terms and condition of the contract.

Consultation

As advertised within the Tender specifications, a Tender information workshop was held in the Council Chamber at 7pm on the 19 March 2013. Information was presented by Council staff to the Contractors regarding Council's requirements. Furthermore, WorkCover was also invited and presented the legislative requirement expected for all parties involved in the tender.

11.8 Tender - Hire of Truck, Plant & Traffic Control

Options

Given this process is established by tender it is presented to Council for its endorsement. However given the process is about creating an availability and then the terms of engagement for a number of services and service providers on a temporary or ongoing basis, it is recommended that Council resolve to endorse the process created and followed rather than accept the tender as it would normally for a procurement process for a specific project

Details of the 39 tenders submitted are available for inspection at any time.

RECOMMENDATION

That the tenders received and determined to be compliant by staff with the relevant regulations and Council's specification be accepted, as unit rates, and be implemented on a "best advantage to Council" basis in accordance with the specification and other related tender documents.

Attachment(s)

Nil

11.9 Cumbalum Precinct B - Long Term Options for Ross Lane

11.9 Cumbalum Precinct B - Long Term Options for Ross Lane

Delivery Program Engineering Works

Objective To advise Council of the Long Term Upgrade Options for Ross Lane, Lennox Head

Background

For some period of time Council gave consideration to a planning proposal in respect of land identified as the Cumbalum Precinct B Strategic Urban Release Area. During this process concerns were raised by members of the community in relation to the capacity and safety of Ross Lane having regard to the impacts of the population growth associated with the proposed development.

At the conclusion of the process to consider the planning proposal, the Council determined its position in support of the application, however in response to the concerns about Ross Lane, Council resolved the following.

That Council receive a report on the long term upgrade options for Ross Lane, along with funding options...

The purpose of this report is to advise Council about the costs associated with the preparation of this report and to seek Council's determination in respect of a way forward for this point in time.

Key Issues

- Cost and benefit of preparing requested report

Information

As discussed, concerns have been raised by the community in respect to the capacity of Ross Lane to accommodate future traffic demands. A report to the Council's Environmental and Sustainability Committee Meeting held 11 December 2012 summarised these key issues as;

- *Safety concerns relating to the posted speed limit and alignment of existing bends*
- *Concerns that the proposal to upgrade Ross Lane on its existing alignment will not adequately address safety concerns*
- *Concerns with the impact of road widening and land acquisitions for properties fronting Ross Lane, many of which do not enjoy any development opportunities as a consequence of the planning proposal*
- *Concerns relating to road noise impacts, which affects the development potential of some land located in proximity to Ross Lane. It is noted that road noise impacts are discussed elsewhere in this report and*
- *A number of the submissions recommended straightening the western section of Ross Lane (to the north of the current alignment) as a preferred outcome, to address the above issues*

11.9 Cumbalum Precinct B - Long Term Options for Ross Lane

The same report provided the following advice to Council in respect of the issues raised in the submissions. This information was in addition to the outcomes of the traffic study prepared to assess the proposal.

Council acknowledges the existing alignment of Ross Lane is not ideal and that future works on the existing alignment will not bring the road up to the ideal formation for a rural arterial road. Notwithstanding, an acceptable road standard can be achieved within the existing alignment, with road widening and minor improvements to bends and road surface.

The option of straightening Ross Lane has been considered but not pursued further due to the following:

- *A straightened alignment would traverse a significant number of additional properties not currently affected by Ross Lane;*
- *The cost of works would likely be significant due to the extent of earthworks and engineering works required, land acquisitions costs and the need to maintain property accesses; and*
- *A straightened alignment would negotiate a slope of in excess of 16% which is well in excess of the general requirements (~10%) for a rural arterial road..."*

The traffic study prepared for the application was developed by consulting company Cardno. Cardno has also been previously engaged by Council to prepare the Ballina Shire Traffic Model and the current version of the Roads Section 94 Contribution Plan.

Due to their previous experience and familiarity with these documents and the issues generally, staff have convened a meeting with Cardno to assess the most appropriate scope of works to respond to the Council's resolution.

The suggested scope of works was determined as follows. This scope aims to build on the existing level of information, be relevant to the decision making required now, and be reasonable in terms of cost.

Conceptual Design

- Design a 2D layout
- Reference that against flooding and environmental constraints
- Design a vertical alignment of the road
- Look at options for Straightening Ross Lane through hills
- Identify areas of concern for review with cost analysis:

Functional Design

- Finalise design based on Council review
- Prepare plans for final design
- Identify future environmental investigation requirements
- Finalise Opinion of Cost
- Finalise Cost Benefit analysis
- Prepare report based on outcomes of design for Council.

11.9 Cumbalum Precinct B - Long Term Options for Ross Lane

The outcomes of this work would have some key outputs including;

- A comparison of route options for the western end
- Further details about intersection treatments for the connections of the new development to Ross Lane.
- Further details about the cost and benefit of works additional to those proposed in the current Section 94 Roads Contribution Plan.
- Feasibility of improving flood immunity to different levels.

The cost to prepare the requested report is in the vicinity of \$40,000. The scope of work was reviewed to reduce costs, however to meaningfully advance new information about this issue, the current proposal is the minimum possible to produce a meaningful outcome.

The options section of this report reviews whether this expenditure is a priority for Council at this point in time.

Sustainability Considerations

- **Environment**

A number of potential flora and fauna impacts have been identified through previous reports and or submissions. This report will include a desktop review of environmental factors to assist mitigating harm to the environment.

- **Social**

This report will assist in providing an adequate and appropriate rural arterial road standard as a transport link for residents and therefore support their social needs.

- **Economic**

This report will provide a cost benefit analysis that will assist Council in determining whether realignment is preferred or whether the existing alignment, complete with road widening and minor improvements, is the preferred upgrade option for Ross Lane.

Legal / Resource / Financial Implications

The planning proposal has been assessed in accordance with relevant statutory provisions. Therefore there is no legal requirement for Council to prepare the report.

There are no funds currently allocated for this project. As reported above, the projected costs are expected to be \$40,000 should Council proceed with the suggested scope of works.

Consultation

The Council resolution requesting a report was in response to feedback from the community.

No consultation has been undertaken in respect of preparing this report.

Should Council proceed to prepare the study, then the outcomes can be presented to the community for comment.

11.9 Cumbalum Precinct B - Long Term Options for Ross Lane

Options

The current budget does not have an allocation of funds for this project. Regardless, it is suggested to Council that it should consider whether or not investing in this report represents a priority for public funds at this point in time. In answering this question, it is important to consider the following factors;

- The Council has already made its substantive decision in respect of the planning proposal.
- The delivery plan does not provide funds for any upgrade works in Ross Lane in the four years of the plan.
- The Council's Section 94 Plan is due for review in 2013/2014 and this will be an opportunity to review the works proposed in that plan for Ross Lane. Funding for this review will be sourced from the Section 94 Roads Contribution Plan and even though this review may not provide significant detail in respect to some of the issues raised in respect to Ross Lane, the review will help inform Council as to what is the timing and types of upgrades planned into the future for Ross Lane.
- It will be some period of time before any significant increases in traffic generation will be experienced from the urban land release area. Future development applications will have regard to the impacts of traffic.

Given the above, the gap in time between finalising this study now and when any identified works are implemented will mean the study will be out of date at the time it is needed. This means the two options available to Council are;

1. Proceed with the study - If the Council selects this option, a funding source will need to be identified. The options available relate to increasing the forecast deficit for 2013/14 or sourcing the funding from other road projects or reserves for road projects.
2. Take no further action - Having regard to the points raised above, this option is considered to be the preferred approach. It is not considered an appropriate use of public funds at this point in time to undertake this study for the reasons stated. In recommending this option it is noted that Council will be able to monitor the performance of Ross Lane into the future, receive further traffic reports as part of the development assessment process and of course the option to commission this study at a more appropriate time remains available.

RECOMMENDATION

That Council notes the contents of this report on the long term options for Ross Lane and confirms it will take no further action on this item until the 2013/14 review of the Council's Section 94 Roads Contribution Plan is completed.

Attachment(s)

Nil

11.10 Asset Management Strategy Review 2013

11.10 Asset Management Strategy Review 2013

Delivery Program Asset Management

Objective To consider the adoption of an updated Asset Management Strategy for Council

Background

The Ballina Shire Council Asset Management (AM) Strategy was adopted by Council in February 2012. The AM Strategy assists to align the management of infrastructure assets to best meet the service delivery needs of the community both now and into the future.

The purpose of the AM Strategy is to develop a set of actions aimed at improved asset management practices through:

- improved stewardship and accountability for assets
- improved communication and relationships with service users
- improved risk management
- ensuring more effective utilisation of assets and
- improved financial effectiveness.

The AM Strategy describes how Council plans to meet its commitment to asset management as documented in Council's Asset Management Policy through:

- a review of current practices and systems
- a description of Council's asset management goals
- a gap analysis that summarised the current status of asset stewardship, asset management planning & financial planning
- a summary of planned developments in asset management systems
- a description of a series of tasks required to meet Council's asset management goals and planned developments.

The function of this report is to provide Council with an update on the Asset Management Strategy and its interpretation in light of the December 2012 on-site NSW Local Government Infrastructure Audit. 35 Councils were selected for this audit across the state, with the primary purpose to report to the NSW Government on the current state of NSW council's infrastructure backlog, covering maintenance and renewal.

Key Issues

- Ensure the AM Strategy sets an appropriate direction to further develop our capacity to manage infrastructure

Information

The scope of the NSW Local Government Audit was to review Councils existing asset management systems and practices. The proposed changes and the steps taken to date to implement them, as per the AM Strategy, were noted, but not reviewed.

11.10 Asset Management Strategy Review 2013

The results of the audit were recently reported to a Finance Committee Meeting and therefore a comprehensive discussion is not provided here.

This issue has also been referred to Council's internal auditor. Their response has been reported to the Internal Audit Committee meeting held 20 June 2013. Briefly, in discussions with staff, the internal auditor expressed the view the DLG audit report is less favourable to Council than perhaps it could be. However, the key point in their formal audit report is to endorse the direction and planning proposed by Council in the Asset Management Strategy.

In December last year Council approved funds for a significant investment in an expansion of its corporate business system to implement the Asset Management module. A project has been established to undertake this task. This is a major undertaking and is expected to be completed in March 2014.

Furthermore, staff time and other resources have been allocated in a number of projects to advance the asset condition data available to Council for its strategic planning and modelling purposes. These two actions alone will allow make a large difference in respect of any future audit processes.

The 2012 NSW Local Government Audit assessed Council's asset management practices against the six categories.

- Asset Knowledge / Data
- Asset Knowledge Processes
- Strategic Asset Planning Processes
- Operations & Maintenance Work Practices
- Information Systems
- Organisational Context

This report has summarised the Asset Management Strategy goals and planned developments around these categories to allow for direct response to the audit.

The December 2012 NSW DLG audits scoring assessment was defined as follows:

Assessment	Description	Standard
A	At or near best practice	≥ 9.0
B	Advanced level of competence	7.50 - 8.99
C	Core level of confidence	6.00 - 7.49
D	Basic level of confidence	4.00 - 5.99
E	Awareness	2.50 - 3.99
F	Nothing / limited	≤ 2.49

Set out below is the audit finding for each category of practice and a comment on how the AM Strategy, as amended, plans our future development.

A copy of the updated AM Strategy has been circulated to Councillors under separate cover.

Asset Knowledge / Data Overall audit score C

Audit Findings

The adoption of formal procedures for handling, creating and assessing asset data was stressed.

Expansion of GIS integration & asset condition assessments required.

Key AM Strategy Actions

A formal guideline for the creation, numbering and valuation of new assets within the adopted asset hierarchies will be developed for the Authority Asset Management System.

A continual improvement process is in place to add asset information to GIS layers. A formal GIS hierarchy has been adopted. GIS coordinates (latitude + longitude) have been added to many asset registers as asset attributes and will be automatically added to relevant GIS layers.

Standard asset condition collection forms are being developed in consultation with appropriate line managers and works staff. For most assets a 1 to 5 scale is adopted and the forms will define each condition scale. Roads & Transport & Open Spaces & Recreation assets are current priority.

Asset Knowledge Processes Overall audit score C

Audit Findings

Formal Asset valuations should be performed within a centralised database.

Key AM Strategy Actions

Asset valuation process is to be formally written down as an internal Council procedure. Valuations will be performed within the Authority Asset Management System once online.

Strategic Asset Planning Processes Overall audit score D

Audit Findings

Level of service need to be further developed and existing risk processes should be formally used in decision making.

Council should invest in capturing a range of asset condition data-sets. Project related risk analysis should be expanded upon.

Key AM Strategy Actions

A key requirement is to have Asset Management Plans align with the Financial Plans. The implementation of the Authority Asset Management System will allow assets to link directly with financial systems. Condition based prioritisation of works will be used to fit within given budgets or to request budget changes in advance of application using the scenario manager within Authority AM.

11.10 Asset Management Strategy Review 2013

Pavement condition (roughness rutting and surface defects) data has been collected for Council's sealed road networks. This data will be used to create a pavement condition index that will form the basis of a series of modelling curves that will be linked to standard treatments. Detailed long term renewal / maintenance plans will be created from this.

Council has let a tender to provide a risk based analysis of its water and wastewater pipe network for the purpose of creating detailed long term renewal plans.

Levels of service are currently being redefined in consultation with line managers and works staff, starting with Roads & Transport. They will include realistic targets and reporting format consistent with Australian standards.

Operations and Maintenance Work Practices E

Overall audit score

Audit Findings

The need for a formal written maintenance procedures and a maintenance management system was stressed.

Key AM Strategy Actions

An internal process improvement group have been formed to develop written works maintenance procedures and referenced quality standards.

The use of asset risk will be developed further using triple bottom line analysis, or direct risk rating, depending on asset criticality.

Assets defined as 'critical' and the methods used to prioritise works using risk shall be made widely available by user defined fields in the Authority Asset Management System.

Maintenance management functions within the Authority Asset Management System will be developed.

Information Systems

Overall audit score D

Audit Findings

The need for a single centralised asset database and greater integration with other systems was stressed

Key AM Strategy Actions

Over the next nine months, Council will be undertaking the installation of the Authority Asset Management System for all classes of Council's Assets. Data will become single sourced, networked, linked to Trim and available to all staff. Key benefits are that assets will be directly linked to finance and the integration of insurances and valuation data within the system.

GIS on mobile platforms will allow inspections with real-time updates in the field.

11.10 Asset Management Strategy Review 2013

These improvements will alleviate the audits concerns with de-centralised asset registers and poor systems integration

Organisational Context Overall audit score C

Audit Findings

That Council should spend more time in documenting and formally reviewing asset management practices.

Key AM Strategy Actions

The AM Strategy will be formally reviewed annually and monthly progress reports will be presented at the corporate asset management team meetings.

Council will formally adopt the system manager and backup system manager roles prior to implementation of the Authority Asset Management System.

Sustainability Considerations

- **Environment**
Assets that are not providing their intended level of service can have a negative impact on the environment.
- **Social**
Assets provide service potential that support the social needs of the community.
- **Economic**
Infrastructure services are required to support ongoing economic development.

Legal / Resource / Financial Implications

Asset management planning is considered vital to the financial planning of Council. Asset management plans can assist the Council understand the amount of funds required to maintain its assets.

It can also allow the Council to understand the extent of its capacity to acquire new assets.

The Council is considered compliant with the DLG's Integrated Planning and Reporting Framework, however further development of our asset management practice is considered important to enhance our response to these reforms and ensure our practice is appropriate for the value of our asset stock and the services that are required to be provided from this infrastructure.

There are no direct legal, resource or financial implications associated with the recommendations to this report.

The strategy will be implemented within the resource levels currently available and has been designed with these resource levels in mind.

Consultation

11.10 Asset Management Strategy Review 2013

The Ballina Shire Council AM Strategy had been developed in consultation with internal staff and under the guidelines of the International Infrastructure Management Manual 2011.

The first version of the strategy was advertised for comment. No submissions were received. It is likely that there would be little further interest from the community in a report of this nature. Therefore it is proposed for Council to adopt the plan and publish it on the website. Staff can respond to inquiries or suggestions about the plan in the future, and of course a plan of this type will regularly be reviewed by Council.

Options

This report aims to promote to Council about the importance of asset management and provide some information about the background work that has been occurring to improve Council's asset management planning capability.

The ongoing development of the Council's asset management practices are considered essential for the proper stewardship of the Council's infrastructure and to ensure Council is meeting its statutory obligations. The strategy sets out Council's approach to this ongoing development and is therefore recommended for adoption.

RECOMMENDATION

That Council adopts the review of the Asset Management Strategy, as attached to this report.

Attachment(s)

1. Asset Management Strategy Review 2013 (Under separate cover)

11.11 Road Closing and Purchase - Hewetsons Lane, Rous Mill

11.11 Road Closing and Purchase - Hewetsons Lane, Rous Mill

Delivery Program Asset Management

Objective To consider the closing of part of a public road and the sale of that land to the adjoining land owner

Background

This report is presented to Council to consider the closing of part of a public road and the sale of that land to the adjoining land owner. The reason for this suggestion is to rectify a shed encroachment on the Hewetsons Lane Road reserve. A plan showing the site and the proposed area (approximately 720m²) requested to be closed is included as attachment one.

Key Issues

- Assessment of a road closing application
- To consider the land valuation for the proposed road closure

Information

Hewetsons Lane, Rous Mill is an unsealed rural public road that provides access to four properties. The existing carriageway is located within the road reserve, however, fencing encroachments and farming activities on other properties are found well onto the road reserve at this location. It is not an unusual situation to find encroachments onto a rural road or, in some cases, by the road onto private property in rural areas.

The owners of 28 Hewetsons Lane (Mr & Mrs Roberts) purchased their property in December 2011 and, without the benefit of a survey, have now realized that part of the occupied yard area and a newly constructed shed is located outside their property and on the road reserve.

A development application for the shed (DA 2012/13) was lodged and approved by Council showing the proposed shed would be constructed within the property (see attachment two). The adjoining fencing and line of trees are located on the road reserve and provide a false impression of where the property boundary is located. The development application was assessed and condition 15 of the Notice of Determination says:

"A survey peg-out is to be carried out by a surveyor to establish the correct position of the boundaries of the allotment before any building work commences, unless all the existing survey pegs can be located. The building is to be located clear of Council easements and sewer mains."

The owner did not obtain a survey to determine the property boundary and the shed was constructed outside the property on Council's road reserve.

As a result of storms in January 2013, a large tree branch snapped and was caught approximately 6-8m above the ground. This branch posed a possible risk to users of the road and/or the shed if it dislodged.

11.11 Road Closing and Purchase - Hewetsons Lane, Rous Mill

In assessing responsibility for the response to the storm, staff needed to determine if the tree was located on the road or within the adjoining property. The ensuing survey determined the tree was well on the road reserve. The survey also uncovered the extent of the shed encroachment on the road reserve.

The gravel carriageway of Hewetsons Lane is approximately 4m wide and the road reserve is variable in width, generally around 25m wide. The proposal by the adjoining property owner is to close and purchase a 15m wide section of the existing road reserve to ensure their improvements are located on their land. This proposal leaves a section of road reserve being a minimum of 10m wide to cater for the gravel road formation and existing overhead electricity supply.

The formed section of Hewetsons Lane and the overhead electricity service can be accommodated in a 10m wide road reserve at this location. The existing road caters for the current level of use as an access road to the properties in Hewetsons Lane.

Council is the Roads Authority and owner of this public road. Any request to close and purchase a section of road must first be endorsed by Council before being referred to the Department of Lands for formal closure. A road closing application requires the proponent to provide all the necessary information and to meet all costs.

A valuation report has been requested by the adjoining land owner and the valuation amount is presented for Council's consideration. The valuation report was prepared by Valuers Australia and has assessed the current market value of the land at 28 March 2013 as \$13,000 (excluding GST if it is applicable). Council may accept this valuation report or request a further report if it wishes.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The proposed road closing does not affect the current level of access to other properties in Hewetsons Lane.
- **Economic**
Not applicable

Legal / Resource / Financial Implications

Should Council endorse this application, a small section of public road is to be closed and sold to the adjoining land owner. The land is public road owned by Council and proceeds from the land sale go to Council. Should Council not endorse this application, the issue of the shed encroachment will need to be determined and rectification action taken.

Consultation

Discussions with the owner indicate there has been a mistake on their part by erecting the shed outside their property boundary. In order to rectify the situation, staff have discussed the following options with the owner:

1. To remove the encroachments from the road reserve, or
2. To apply to Council to close and purchase the section of road.

The applicant prefers option two and has requested the road be closed and sold to them as the adjoining land owner. As this proposal does not affect the level of service or access for other properties in Hewetsons Lane, consultation with other property owners has not been undertaken. However, if the application proceeds, formal advertising of the proposal by the Department of Lands will occur. This will include a public notice in the local newspaper and provide a period for land owners in this area to comment on the proposal.

Options

The following options are available and the owner can rectify the situation by either:

1. Removing the encroachments from the Hewetsons Lane road reserve, or
2. Applying to Council to close and purchase the section of Hewetsons Lane being approximately 720m².

Option one requires the encroachments to be removed from the road reserve and the land reinstated to its pre-construction works state at no cost to Council. These reinstatement works are on the road reserve and will require consent from Council's Civil Services Group.

Option two requires the Council to endorse the road closing application. The section of road to be closed could then be purchased by the adjoining land owner. This process is at no cost to Council. Option two is preferred as it provides the most practical solution without impacting on the public interest in the land.

Should Council be inclined to support the direction of option two, it is necessary to determine whether or not the Council is satisfied with the land valuation. The valuation has been undertaken by a competent person, although it is noted that they were not engaged by Council. Having regard to the limited utility of the land to Council, and the amount of land, it is considered reasonable in the circumstances to rely on the valuation presented.

11.11 Road Closing and Purchase - Hewetsons Lane, Rous Mill

RECOMMENDATIONS

1. That Council endorses the proposal to close and purchase the part of Hewetsons Lane road reserve adjacent to Lot 1 DP 701054 at Rous Mill as detailed within this report.
2. That Council accepts a selling price of \$13,000 (excluding GST if it is applicable) to the owners of Lot 1 DP 701054 for the subject land, as per the valuation provided to Council.

Attachment(s)

1. Plan showing proposed road closing Hewetsons Lane, Rous Mill
2. Site Plan 28 Hewetsons Lane, Rous Mill

11.12 Development Servicing Plans - Water and Wastewater

11.12 Development Servicing Plans - Water and Wastewater

Delivery Program Water and Wastewater

Objective To obtain Council approve to exhibit draft Developer Servicing Plans for public comment

Background

Under section 64 of the *Local Government Act 1993* Council is able to recover part of the infrastructure costs incurred in servicing new development or additions and changes to existing development for water and wastewater (sewer) services.

To be compliant with the provisions to recover these costs, Council is required to prepare Developer Servicing Plans (DSPs). The Council's current DSP is due to be updated. In response to this draft plans were presented to Council last year and Council resolved to conduct a workshop to review the plans.

Prior to arranging the workshop, staff determined that the draft plans as submitted required further refinement. This internal review of the financial modelling of the DSPs has resulted in a reconfiguration of the costings to better match the loan arrangements that have been put in place to fund the Recycled Water Master Plan.

This has now been completed and new drafts are ready to be submitted to Council for its consideration.

Having regard to the previous resolution, and the new members of Council, a workshop to review the plans is still considered to be worthwhile. Assuming Council accepts the recommendation to this report, a workshop will be scheduled prior to exhibition of the plans.

This report provides summary information in respect to the plans, and in particular reviews the changes proposed when compared to the old plan.

Key Issues

- Equitable recovery of the costs of infrastructure provision in response to future development.
- Compliance with statutory arrangements and guidelines.

Information

Relevant Legislation

The relevant legislation is noted below.

Local Government Act 1993 Section 64 Construction of works for developers

11.12 Development Servicing Plans - Water and Wastewater

“Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 applies to a council exercising functions under this Division in the same way as it applies to a water supply authority exercising functions under that Act.”

Water Management Act 2000 Chapter 6 Part 2 Division 5 Section 306 (2)

“As a precondition to granting a certificate of compliance for development, a water supply authority may, by notice in writing served on the applicant, require the applicant to do either or both of the following:

- (a) to pay a specified amount to the water supply authority by way of contribution towards the cost of such water management works as are specified in the notice, being existing works or projected works, or both,
- (b) to construct water management works to serve the development.”

Water Management Act 2000 Chapter 6 Part 2 Division 5 Section 306 (3)

“In calculating an amount for the purposes of subsection (2) (a)... consideration is to be given to any guidelines issued for the time being for the purposes of this section by the Minister.”

What is a DSP?

A Development Servicing Plan (DSP) is a document published by Council that shows the construction works necessary to allow the connection of new development areas into its water and wastewater networks.

This includes works such as the upgrades to Ballina and Lennox Head wastewater treatment plants, the Recycled Water Master Plan, Ballina Heights and Lennox Head reservoirs, various sewage pump stations and pipe upgrades and extensions.

The works within the DSP are funded by developers. These up-front costs are called “Developer Charges” or “Section 64 Charges”. Proponents are required to pay these as a condition of development.

A copy of the draft DSPs have been provided to Council under separate cover.

What is a Developer Charge for Water and Wastewater?

Ballina Shire Council can levy for Developer Charges under section 64 of the *Local Government Act 1993* to recover part of the infrastructure costs incurred in servicing new development or additions and changes to existing development.

Developer charges provide a source of funding for infrastructure and provide signals to the community regarding the cost of urban development. In essence, where the costs of serving new urban development are in excess of the current and expected costs of servicing existing customers, then the additional costs should be recovered from new entrants in the form of an up-front contribution.

11.12 Development Servicing Plans - Water and Wastewater

The NSW Office of Water has issued Developer Charges Guidelines for Water Supply, Sewerage and Stormwater, December 2002 pursuant to section 306 (3)(C) of the Water Management Act 2000.

In order to be compliant with the NSW best practice management framework, NSW local water utilities are required to prepare a Development Servicing Plan (DSP) and to levy developer charges in accordance with these guidelines.

The Guidelines define the elements of best practice developer charges and provide guidance on the development, analysis and implementation of appropriate developer charges to ensure that new development meets a fair share of the cost of service provision.

How has Council developed the new developer servicing plan (2012)?

Council adopted the initial *Water and Sewerage Infrastructure Development Servicing Plans* (DSPs) in **May 2004**. The DSPs were prepared in accordance with the *Developer Charges Guidelines for Water Supply, Sewerage and Stormwater (2002)* issued by the NSW Office of Water, pursuant to section 306 (3) of the *Water Management Act 2000*.

The Guidelines have been reviewed by IPART (the Independent Pricing and Regulatory Tribunal) who has made recommendations to the minister for changes to the Guidelines. New draft Guidelines have been published however, despite an initial notification that they would come into effect in July 2013, it is not clear when the State Government will finalise the new Guideline.

In preparing the new draft DSPs (2012), Council has considered the IPART recommendations and sought to address them where practical. However it is seeking to comply with the 2002 Guideline.

It is possible that the modification to the Guideline will result in a requirement to modify the structure of the financial calculations within the DSP document. However it is possible that this will not significantly impact the amount of the developer charge.

The review considers factors such as:

- Projected growth areas
- Projected Capital Works Plan, including Council's Recycled Water System for Lennox Head and Ballina
- Current valuation for Council's Assets and
- the level of the Developer Charge

The new draft DSPs 2012 have been prepared continuing on from the approach in the 2004 Plan with no difference in the levels of services for water and wastewater. Service levels for recycled water have been firmed up as part of the hydraulic modelling necessary to support the Plan.

11.12 Development Servicing Plans - Water and Wastewater

Relationship to Section 94 Charges

Section 94 of the Environmental Planning and Assessment (EP&A) Act 1979, enables Ballina Shire Council to levy contributions for public amenities and services required as a consequence of development (stormwater may be levied either through section 94 of the EP&A Act or section 64 of the Local Government Act).

While this is a very similar concept to the Section 64 Charges, it is worth noting some key differences.

Item	Section 94 Charges	Section 64 Charges
Enables funding of	Community facilities, open space, roads, car parking, civic improvements, stormwater and other support facilities	Water, Sewer, Wastewater, Recycled Water, Stormwater
Relevant Acts	EP&A Act 1979	Local Government Act 1993 Water Management Act 2000
Relevant Regulation	Environmental Planning and Assessment Regulation 2000	Local Government (General) Regulation 2005 Water Management (General) Regulation 2011
NSW Government Department	Planning and Infrastructure	Office of Water
Fee cap	A cap of \$20,000 per residential lot or per dwelling for established areas A cap of \$30,000 per residential lot or per dwelling for greenfield areas	No cap
Guidelines	Development Contributions Practice Notes 2005, Updated 2006	Guidelines are Developer Charges Guidelines for Water Supply, Sewerage and Stormwater, December 2002
Acceptable basis of calculation	per dwelling per lot per worker per room or key per car space per metre of road frontage 1.	per Equivalent Tenement (ET)

Determination of Equivalent Tenements (ETs)

The Guidelines show how to calculate the Developer Charge per ET but they do not describe how the quantity of an ET is to be calculated. In the new plans Council has elected to use the methodology published by the NSW Water Directorate, *Section 64 Determinations of Equivalent Tenements Guidelines May 2009*.

This Guideline is currently in use, but is subject to some contradiction in the existing DSPs.

11.12 Development Servicing Plans - Water and Wastewater

The implementation of a subsidy

Council may elect to subsidise the amount of the developer charge through increasing residential bills (the water or wastewater service charges). However, to do so it must place its intention to subsidise on public exhibition as part of the exhibition period for the Developer Servicing Plans

Council will still be compliant with the Guidelines even were it to completely subsidise the Developer Charge, however this would mean that the \$60M of infrastructure, over the life of the plan, that would have been funded by the developer would otherwise be funded by the community through service charges (annual water and wastewater charge).

The plans propose to subsidise the developer charges for wastewater services in Wardell to a level equivalent to Area B (Lennox Head and Ballina). This will reduce the Wardell charge by \$5,415 per Equivalent Tenement. The purpose of this is to reduce the Wardell charge to a more affordable level, due to overall low level of population in that location and to make the Wardell charge more consistent with other charges.

The water supply developer charge for Wardell is not proposed to be reduced by a subsidy (as is currently case) as Rous Water developer charges are not imposed in the Wardell area. This means even though Council's developer charge is higher for Wardell than, say, Ballina Island the combined Rous Water and Ballina Shire Council developer charge is in total very similar (refer to the attachment for further detail).

The maximum amount that could be charged as a single Developer Charge (rather than having separate location charges) across the Shire is \$5,594 per ET (combined for water and wastewater) as the level of cross subsidy is restricted by the Guidelines. If this approach was followed this would result in the community funding in excess of \$25M of infrastructure across the life of the plan and these funds would then need to be sourced through annual service charges.

Works Program

Developers are typically responsible for the full cost of the design and construction of reticulation works within new development areas that relate to the servicing of that area. Therefore the preferred approach with the DSPs has been to focus on the provision of infrastructure that cannot be practically provided by a developer. Typically this relates to works that are centralised and remote from the development site such as treatment facilities.

Substantial modelling work was undertaken to develop the wastewater servicing plan, which has fine tuned the pump station catchments that require upgrades to support development. In the whole the works required to facilitate development have not substantially altered since the 2004 DSP although in some cases the source of funding (Developer or DSP) for those works has changed.

Where infrastructure is required within a development area (which may be one or more land owners) the draft DSP has placed the onus and costs of providing that infrastructure onto the proponents of the development.

11.12 Development Servicing Plans - Water and Wastewater

For instance, wastewater conveyance infrastructure within the Cumbalum Urban Release Areas (A and B) has been excluded from the DSP and is currently an item of negotiation.

However there will be occasions where the DSP contemplates the provision of shared infrastructure in release areas. This is done to support the orderly roll out of development.

In summary the works that have been included in the DSPs relate to:

- Wastewater Treatment Plants (WWTPs)
- Recycled Water Plants (RWPs)
- Water Treatment Plants (WTPs)
- Effluent and bio-solids management works
- Pumping stations
- Distribution and trunk mains and
- Storage

The localised reticulation infrastructure will still need to be fully funded and provided by the developer.

Funding Arrangements with Rous Water for Recycled Water Infrastructure

In the past Rous Water and Ballina Shire Council have had an agreement for the funding of Recycled Water infrastructure to Ballina Heights, which has included direct funding by Rous Water for Ballina's capital works. The nature and extent of Rous Water contributions for past works, as well as any continuing has not yet been finalised.

These plans have been prepared on the basis that no funding arrangement with Rous Water has been included in the calculation. This is consistent with the purpose of the Guideline, particularly that Developer Charges "provide signals regarding the cost of urban development and thus encourage less costly forms and areas of development." However this is a matter that can be reviewed once Rous Water has completed its Future Water Strategy and there is a further direction in respect of how they intend to fund future infrastructure.

Determining DSP Areas

Council's are required to minimise the number of DSP areas, by applying the following criteria;

- Capital charges need to be calculated for each water supply distribution system or sewage treatment works catchment.
- Capital charges need to be calculated for each new development area of over 500 lots.
- Areas with calculated capital charges within 30% should be agglomerated into a single DSP.

Previously the then Department of Energy, Utilities and Sustainability (DEUS) published advice that enabled councils to agglomerate areas that are outside the 30% limit where "it is warranted to suit their local circumstances" – DUES, 2004. The IPART review, mentioned earlier, has recommended that this no longer be allowed.

11.12 Development Servicing Plans - Water and Wastewater

Amount of the DSP Charges

In the past, both the water and wastewater developer charges for Wardell have been subsidised to the next higher charge. However, this resulted in a lower amount of total contributions for Wardell as it did not consider that the other areas, where bulk water is supplied by Rous Water, also pay the Rous Water developer charge, which is equal to \$8,268 for 2012/13.

Once the Rous Water developer charge is taken into consideration, the Wardell charge is very similar to the next highest charge (Area B = \$18,266).

The table below shows the total developer charges for each service area, combined for water and wastewater. Further details on the breakdown of the developer charge are included in the attachments.

Area	Total Combined Charge	Change (\$ / %)	
Area A – Wardell	\$19,264* (equivalent to \$9,998 plus \$8,268)	\$ 9,124	90%
Area B - Lennox Head, Skennars Head, East Ballina, Fig tree Hill, North Ballina, West Ballina, Ballina Island, Pacific Pines Estate, Henderson Land Central and South	\$9,998	-\$ 142	-1%
Area B - Pacific Pines Estate, Henderson Land Central and South	\$9,998	\$ 2,424	32%
Area C - Wollongbar Urban Expansion Area	\$17,332	\$ 6,054	54%
Area E - Alstonville and Wollongbar	\$7,165	\$ 355	5%
Area F - Cumbalum Precinct A, Ballina Heights	\$8,936	-\$ 312	-3%
Area G - Cumbalum Precinct B	\$5,594	-\$ 3,654	-40%

**This includes a subsidy for the Wardell wastewater developer charge of \$5,415. The subsidy will be achieved by increasing annual wastewater bills by an equivalent amount (around \$1 per year) and must be publically disclosed. As mentioned this total figure is higher than the other areas as the Rous Water charge must be added to those other areas.*

Sustainability Considerations

- **Environment**

The Developer Servicing Plan helps to protect the environment by ensuring the infrastructure is appropriately sized to cater for development. Detrimental environmental outcomes may result if development is to occur without the servicing plan in place, though it is more likely that development would be stalled due to infrastructure capacity restraints.

The recycled water scheme will decrease the quantity of discharge from Council's WWTPs and reduce the demand on the region's water sources are required to deal with growth.

11.12 Development Servicing Plans - Water and Wastewater

- **Social**

The Developer Servicing Plan allows for the equitable collection of developer contributions where any new development is required to pay their fair share of the cost of supplying infrastructure to their development.

- **Economic**

The Developer Servicing Plan promotes orderly and planned growth which provides economic development benefits. It is also important to consider the affordability of development. For the major growth areas the overall level of increase, in dollar terms, is not considered overly high, which is somewhat surprising considering the increases in infrastructure costs in recent years.

Legal / Resource / Financial Implications

By adopting the DSPs Council will be compliant with requirements of the:

- Developer Charges Guidelines for Water Supply, Sewerage and Stormwater, (Department of Land and Water Conservation, NSW, 2002)
- Best-Practice Management of Water Supply and Sewerage Guidelines (Department of Water and Energy, 2007)
- Water Management Act 2000 and the
- Local Government Act 1993

The DSPs aim to ensure Council has adequate funds to provide the infrastructure needed to accommodate expected population growth.

Consultation

There is a statutory requirement to advertise the draft DSPs for a minimum period of 30 days for public comment.

Options

The Council's current DSP was adopted in 2004 and requires an update. The recommendation to this report is to place on public exhibition the proposed new plan. It is also suggested that a briefing be held with the Council to examine the plan in more detail. Alternatively the Council can defer the exhibition. The Council can also express a position in respect to amending the draft plans.

A briefing will allow Councillors to address issues in respect to the draft plans and if any items are raised that suggests the plans should be amended prior to exhibition, a further report can still be presented to Council that issue(s).

RECOMMENDATIONS

1. The Council approves the exhibition of the draft Development Servicing Plans for Water Supply and Wastewater Infrastructure (2012), as attached to this report, for public comment.
2. That Council hold a Councillor briefing prior to the exhibition period for the purposes of enabling a response to inquiries by Councillors regarding the information in this report and the draft plans.

Attachment(s)

1. Developer Services Plans (Under separate cover)

12. Public Question Time

12. Public Question Time

13.1 Notice of Motion - Villages of Tintenbar and Newrybar - Naming

13. Notices of Motion

13.1 Notice of Motion - Villages of Tintenbar and Newrybar - Naming

Councillor Cr Cadwallader

I move

1. That Council replaces the existing town signage for Newrybar and Tintenbar with signs that make reference to the "Village of Tintenbar" and the "Newrybar Historic Village".
2. That Council also writes to the Geographical Names Board to determine whether or not it is possible to obtain formal recognition of these names for promotional purposes.

Councillor Comment

This proposal is reflecting feedback from the residents of these two localities who are keen to promote the history of our small villages. Council has an existing signs budget and the existing town signs could be replaced at minimal cost.

As for the Geographical Names Board there is a formal process councils can follow to apply for recognition of historic areas and villages. Council may or may not be successful in obtaining this recognition, but if we are, this does provide access to additional tourism signposting and other more formal recognition of these descriptions. This would further help promote these areas for when the Tintenbar to Ewingsdale Bypass is opened.

COUNCILLOR RECOMMENDATIONS

1. That Council replace the existing village signage for Newrybar and Tintenbar with signs that make reference to the "Village of Tintenbar" and "Newrybar Historic Village".
2. That Council write to the Geographical Names Board to determine whether or not it is possible to obtain formal recognition of these names.

Attachment(s)

Nil

13.2 Notice of Motion - Street Lighting Installation - Parkland Drive

13.2 Notice of Motion - Street Lighting Installation - Parkland Drive

Councillor Cr Johnson

I move

That the street lighting installation scheduled for 2016/17 for Parklands Drive, Alstonville as set out on Page 35 of the Draft Delivery Program be brought forward to financial year 2013/14, and the General Manager be authorised to make the adjustments needed to allow this change.

Councillor Comment

Street lighting on Parklands Drive has been an ongoing concern to residents. Because of the small reserve in the street which has large trees that block the light from the one light in that proximity, one side of the street is very dark, as are areas of the reserve. This reserve has attracted groups of young people with noise, harassment of residents, and other anti-social activity occurring. Better lighting does reduce undesirable behaviour and will in this case specifically, give the residents a better sense of security. The overall quantum of lights in Parkland Drive is well below that of neighbouring streets.

Staff Comment

If this motion is supported the preferred approach would be for Councillors to reallocate the works priority. The Delivery Program includes the following projects:

Description	13/14	14/15	15/16	16/17
Fawcett Street Ballina	19,000			
Norton Street Ballina	7,000			
Fox Street Ballina	7,000			
Waverly Pl /Smith Dr, West Ballina	11,000			
Isabella Drive Skennars Head		42,000		
Kays Lane Alstonville		3,000		
College Avenue Skennars Head			20,000	
Grant Street Ballina			15,000	
Moon Street Ballina			8,000	
Martin Street Ballina			3,400	
River Street West Ballina				36,000
Parkland Drive Alstonville				11,800

COUNCILLOR RECOMMENDATION

That the street lighting installation scheduled for 2016/17 for Parklands Drive, Alstonville as set out on Page 35 of the Draft Delivery Program be brought forward to financial year 2013/14, and the General Manager be authorised to make the adjustments needed to allow this change.

Attachment(s)

Nil

13.3 Notice of Motion - Referendum on Constitutional Recognition

13.3 Notice of Motion - Referendum on Constitutional Recognition

Councillor

Cr Meehan

I move

That Council take a pro-active approach in promoting the benefits of the “Yes” vote for the Federal referendum on the constitutional recognition of local government.

Councillor Comment

A Yes vote for local government in the Federal referendum is essential to ensure the financial sustainability of councils into the 21st century. The Federal Government's Roads to Recovery Program, along with Council's recent successes with Regional Development Australia, highlight the benefits that this direct funding brings to councils. It is likely that this funding will become more and more important for councils into the future as State Governments struggle with their revenue base.

Referendums have a history of not being successful unless there is bipartisan support. Unfortunately the NSW Minister for Local Government has issued a media release stating he does not support this referendum. This being the case it is essential that Council take a proactive approach in outlining the benefits of the Yes vote. Activities that Council can undertake, within our existing budgets, is promoting the benefits in our weekly advertising, along with the Mayor, Councillors and senior staff taking every opportunity they can to advise the community of the benefits.

COUNCILLOR RECOMMENDATION

That Council take a pro-active approach in promoting the benefits of the “Yes” vote for the Federal referendum on the constitutional recognition of local government.

Attachment(s)

Nil

14.1 Facilities Committee Minutes - 18 June 2013

14. Advisory Committee Minutes

14.1 Facilities Committee Minutes - 18 June 2013

Attendance

Cr Ben Smith – in the Chair), Sharon Cadwallader, Keith Williams, Keith Johnson, Ken Johnston, Paul Worth and David Wright.

Paul Hickey (General Manager), Steve Barnier (Strategic and Community Facilities Group Manager) and Sandra Bailey (Secretary) were in attendance.

There were 11 people in the gallery at this time.

1. Apologies

Apologies were received from Crs Susan Meehan, Robyn Hordern and Jeff Johnson.

RECOMMENDATION

(Cr David Wright/Cr Keith Johnson)

That such apologies be accepted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Susan Meehan and Cr Robyn Hordern

2. Declarations of Interest

Nil

3. Deputations

- **Lorraine Fox – Ballina Lighthouse RSL Day Club** – spoke in relation to Item 4.1 – Facility Management – Richmond Room / VIC / Ballina Library.
- **Kerrie Fairlie – Regional Librarian, Richmond-Tweed Regional Library** - spoke in relation to Item 4.1 – Facility Management – Richmond Room / VIC / Ballina Library.
- **David Humphrey – Ballina Friends of the Library** - spoke in relation to Item 4.1 – Facility Management – Richmond Room / VIC / Ballina Library.
- **Lee – Australian Red Cross** – spoke in relation to Item 4.1 – Facility Management – Richmond Room / VIC / Ballina Library.

Committee of the Whole

RECOMMENDATION

(Cr Keith Johnson/Cr Keith Williams)
That Council move into Committee of the Whole

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Susan Meehan and Cr Robyn Hordern

RECOMMENDATION

(Cr Keith Johnson/Cr Paul Worth)
That Council move out of Committee of the Whole.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Susan Meehan and Cr Robyn Hordern

4. Committee Reports

4.1 Facility Management - Richmond Room / VIC / Ballina Library

RECOMMENDATION

(Cr Sharon Cadwallader/Cr David Wright)

That Council notes the contents of this report in respect to the design options presented by Mr Finlay-Jones and that Council hold a Councillor briefing to discuss the following points:

- Wi-fi hub being located in the Visitor Information Centre without connecting the two buildings
- Option D as presented by the Architect
- Southern entrances
- Staged phasing into the Richmond Room
- Overall growth strategy for the Library

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Susan Meehan and Cr Robyn Hordern

MEETING CLOSURE

6.07 pm

RECOMMENDATION

That Council confirms the minutes of the Facilities Committee meeting held 18 June 2013 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

14.2 Commercial Services Committee Minutes - 24 June 2013

14.2 Commercial Services Committee Minutes - 24 June 2013

These minutes will be distributed prior to the meeting.

RECOMMENDATIONS

That Council confirms the minutes of the Commercial Services Committee meeting held 24 June 2013 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

15.1 Mayoral Meetings

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

15.1 Mayoral Meetings

Councillor David Wright

Activities since the May 2013 Ordinary meeting:

<u>Date</u>	<u>Function</u>
24/5/13	Meeting Las Balsas
27/5/13	Election Funding Authority
28/5/13	Councillor Briefing – Quarry
29/5/13	Tour – Ballina Surf Club
29/5/13	Meeting Richmond River County Council
29/5/13	Workshop on Planning reforms and White Paper
31/5/13	Gallery Exhibition Launch
1/6/13	Fair Day – Alstonville
3/6/13	Draft Delivery Program Meeting – Wardell
4/6/13	Draft Delivery Program Meeting – Lennox Head
5/6/13	Meeting Mr Moss re NSW Local Govt Act
5/6/13	Councillor Briefing – DCP Draft Amendment No 1
7/6/13	General Manager's Performance Review
8/6/13	Alstonville/Lennox Head Surf Club
11/6/13	Public Citizenship Ceremony
11/6/13	Independent Local Gov Review Panel – Lismore
12/6/13	On-site inspection of Wollongbar Sporting Fields
12/6/13	ALEC
13/6/13	Councillor Briefing LEP – Burns Point Ferry Road
13/6/13	Wollongbar Hall – Progress Association
14/6/13	Sound of Music – Players' Theatre
15/6/13	Family Fun Day – Wollongbar Hall
18/6/13	Councillor Briefing – Coal Seam Gas
18/6/13	Facilities Committee
19/6/13	Meeting Wendy Machin
19/6/13	Meeting Dr James Cowley
19/6/13	Wardell Progress Association Meeting
20/6/13	Internal Audit Committee
20/6/13	Alstonville Lions Changeover Dinner
21/6/13	Alstonville/Wollongbar Chamber Awards
21/6/13	Plateau Historical Soc. - Crawford House Display
24/6/13	Reserve Trust Meeting
24/6/13	Commercial Services Meeting
24/6/13	Ballina Rotary Changeover Dinner
26/6/13	Richmond River County Council Meeting
27/6/13	June Council Meeting
27/6/13	Meeting Alstonville Preschool - Teleconference

RECOMMENDATION

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

Attachment(s)

Nil

16. Questions Without Notice

16. Questions Without Notice

17. Confidential Session

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

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

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

17.1 Senior Staff - Contractual Conditions

This report contains information relating to the personal affairs of senior staff.

17.2 Mayoral Report - General Manager - Performance Review

This report contains information relating to the annual performance review of the General Manager.

RECOMMENDATION

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

17.1 Senior Staff - Contractual Conditions

Reason for Confidentiality

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

- a) personnel matters concerning particular individuals (other than councillors)

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the report provides details of the personal affairs of staff.

17.2 Mayoral Report - General Manager - Performance Review

Reason for Confidentiality

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

- a) personnel matters concerning particular individuals (other than councillors)

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 discussion may involve specific details of the employee's performance.