



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 22 August 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
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1. Australian National Anthem

The National Anthem will be performed by St Joseph's School, Alstonville.

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 25 July 2013 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 25 July 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 at the meeting of 27 July 2013 resolved the following:

That the Section 96 1(A) application be deferred particularly in relation to the deletion of Condition 1.5

A copy of the report submitted to the July meeting is attached.

Report

Council's concerns have been discussed with the applicant and the owner of the property, who have provided Council with the additional information reproduced as a further attachment to this report.

The additional information distinguishes the area to be used for storage from that to be used as manoeuvring area. The overall hardstand area has been reduced from that originally proposed by approximately 20% or 159m² with the area deleted from hardstand area being reallocated to the provision of grassed buffer area.

The grassed buffer area adjacent to Teven Road has been increased from 5m wide to 13.8m wide. Infill planting is proposed along the southern and eastern boundaries of the property, to reduce further any visual impact the business may have on those passing the site.

The proposed changes have resulted in the amount of grassed buffer area being increased to 40% (1652m²) of that part of the property used for the scaffolding business. This area is fenced off from the remaining 3.3ha of the property.

The amended plan shows a grassed buffer 5m wide along the northern edge of the hardstand area, where the original application showed a grassed buffer strip 7m wide. If Council is of a mind to grant approval to this amending application, a requirement will be incorporated in the landscaping condition requiring the provision of a 7m wide landscaping strip

Also, one additional condition will be imposed, requiring all proposed plantings to be established to Council's satisfaction prior to any work being undertaken on the additional hardstand area.

It is further proposed that Condition 1.5 be amended rather than deleted as originally proposed. This condition will be amended to restrict the storage of scaffold equipment and associated materials to the previously approved shed and the designated outdoor storage area, thus ensuring that the scaffold equipment and associated materials will be stored within the designated storage area.

Conclusion

It is considered that, with the reduction in the hardstand area and the provision of the additional landscaping, the scaffolding storage area would not be visible from Teven Road.

Options

Council has the following two options in this matter.

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 and the attached assessment of the original amending application.
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 attached report assessing the original amending application including that specific legislative provision is made for the expansion of existing land uses.

RECOMMENDATIONS

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 and Yard Plan) Revision C, Dated 26 July 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 amended to read
All scaffold equipment and associated materials are to be stored within the confines of the approved shed and the designated outdoor storage 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 Chappelle, 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 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 an application submitted under the provisions of S138 of the Roads Act 1993 for the construction of the additional roadworks/driveway.
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 the 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 show the grass buffer area between the hardstand area and the internal fence separating the scaffolding business from the remainder of the property as being not less than 7m wide. All proposed landscape plantings shall be native species endemic to this region.

8.1 DA 2011/105 - Section 96 - Bulk Storage

6. New Condition 2.9A is to be included
Prior to issue of a Construction Certificate where civil construction 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. New condition 3.12 is to be included
The plantings shown on plan A-02 revision C are to be planted and established to Council's satisfaction prior to the any additional work proceeding on the provision of the additional hardstand area.
9. All other conditions remain applicable and valid.

Schedule 1

Contribution	Receipt Code	Contribution Unit	Rate per contribution unit	Total contribution units payable	TOTAL COST
Alstonville Roads 2010	5202	equivalent residential allotment	\$10,673.00	1.1938	12,741.43
Roads administration 2010	5203	equivalent residential allotment	\$162.00	1.1938	\$193.40
TOTAL					\$12,934.82

Attachment(s)

1. Report to June 2013 Ordinary meeting
2. DA 2011/105 - Locality Plan
3. DA 2011/105 - Site Plan
4. DA 2011/105 - Submissions
5. DA 2011/105 - Council Meeting Report, May 2011
6. Additional Information from Applicant - Description of amendments
7. Amended Layout Plan
8. Letter of Support
9. Letter of Support
10. Letter of Support

8.2 DA 2010/962 - Highway Service Centre - Section 96 Amendment

8.2 DA 2010/962 - Highway Service Centre - Section 96 Amendment

Applicant	Sj Connelly CCP Pty Limited (on behalf of Ballina HSC Pty Ltd)
Property	Lot 11 DP 1011575 River Street (Old Pacific Highway) West Ballina
Proposal	Application under Section 96 (1A) of the EP&A Act to Modify Development Consent DA 2010/962 – Highway Service Centre
Effect of Planning Instrument	The land is zoned part RU2 under the provisions of the Ballina LEP2012 and part 2(a) Living Area Zone under the provisions of the Ballina LEP 1987
Locality Plan	The subject land is depicted on the locality plan attached.

Introduction

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

This report relates to an application under Section 96 (1A) of the Environmental Planning & Assessment Act 1979 (Amendment Application No 8) to amend the roads contribution component of the Section 94 developer contributions.

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

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

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

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

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

8.2 DA 2010/962 - Highway Service Centre - Section 96 Amendment

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

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

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

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

Amendment No.6 – Refused 8 March 2013 (Council)

- *To amend the provisions of Condition **3.3(ii)** of DA 2010/962 in relation to the construction of a shared footpath / cycleway on the northern side of River Street and the reduced construction standard of the footpath from concrete to bitumen.*

Amendment No. 9 – Approved 11 July 2013 (Delegated Authority)

To delete conditions relating to;

- *deferred consent conditions that have already been complied with;*
- *provision of a dewatering plan for approval to the Principal Certifying Authority prior to the issue of the Construction Certificate; and*
- *the provision of preload settlement reports to the Principal Certifying Authority indicating compliance with the Coffey geotechnical report “Interim Geotechnical Design for Preload Works: Ballina Highway Service Centre, West Ballina” dated 30 September 2010 (pp 14-15).*

To amend the conditions:

- *by deleting the words from relevant conditions “applicable at the time of construction” and “(as current at the time of construction)”, “This will require a pavement design which includes a minimum 40mm asphaltic concrete wearing surface” and “(as current at the time of construction works commencing)”;*
- *to refer to the installation of underground fuel tanks as opposed to the incorrect reference to the culvert banks; and*

8.2 DA 2010/962 - Highway Service Centre - Section 96 Amendment

- relating to the application of the differential settlement standard of 100mm as opposed to the originally required 25mm settlement for all buildings on-site.

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

Amendment No.4 – To be withdrawn

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

Amendment No. 7 – To be withdrawn

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

Amendment No. 8 (being the subject of this report)

Amendment No. 8

This amendment application under Section 96 (1A) of the Environmental Planning & Assessment Act 1979 is to amend condition No. 5.23 relating to developer contributions by amending the roads contribution payable (Schedule One) for the development by reducing the North & West Ballina Roads 2010 contribution amount from \$1,056,684.29 to \$638,793.00. Below is the existing and proposed Schedule One.

Existing Schedule One

Contribution	Receipt Code	Contribution Unit	Rate per Contribution Unit	Total Contribution Units Payable	TOTAL COST
North & West Ballina Roads 2010	5202	equivalent residential allotment	\$10,123.00	104.3845	\$1,056,684.29
Roads Administration 2010	5203	equivalent residential allotment	\$154.00	104.3845	\$16,075.21
West Ballina Sewerage (DSP Area B)	3003	equivalent tenement	\$6,886.00	48.3170	\$332,710.86
West Ballina Water (DSP Area B)	2003	equivalent tenement	\$3,179.00	30.2720	\$96,234.69
Rous Water 2009	5001	equivalent tenement	\$6,222.00	30.2720	\$188,352.38
TOTAL					\$1,690,057.44

Proposed Schedule

Contribution	Receipt Code	Contribution Unit	Rate per Contribution Unit	Total Contribution Units Payable	TOTAL COST
North & West Ballina Roads 2010	5202	equivalent residential allotment	\$10,123.00	62.1524	\$629,169.00
Roads Administration 2010	5203	equivalent residential allotment	\$154.00	62.1524	\$9,624.00
West Ballina Sewerage (DSP Area B)	3003	equivalent tenement	\$6,886.00	48.3170	\$332,710.86
West Ballina Water (DSP Area B)	2003	equivalent tenement	\$3,179.00	30.2720	\$96,234.69
Rous Water 2009	5001	equivalent tenement	\$6,222.00	30.2720	\$188,352.38
TOTAL					\$1,256,090.93

In support of this application the proponent provided advice from expert traffic engineers Cardno and retail analysis from RPS Australia (RPS). Subsequent to this, Cardno revised their calculations for the roads contribution (13 August 2013) resulting in an increase in the amount payable from their previous advice submitted with the proponent's application.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Report

In determining this application to modify DA 2010/962 (Amendment No. 8), Council must assess the proposed modifications against the heads of consideration as contained in Section 79C of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as are of relevance to the application.

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

8.2 DA 2010/962 - Highway Service Centre - Section 96 Amendment

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

During the preconstruction stage a number of requests have been received for amendments to be made to conditions of consent.

The amendment under Section 96 (1A) of the Environmental Planning & Assessment Act 1979 (as amended) that is the subject of this report is to reassess the roads contribution levy as imposed under condition 5.23 and Schedule 1 of the consent.

In support of their requested amendment, the proponents have submitted advice in the form of a traffic analysis report from expert traffic engineers Cardno Eppell Olsen (Cardno) to determine the new leviable trips created by the development.

Council, upon review of the submitted traffic analysis report, forwarded correspondence to Cardno requesting further substantiation of the figures provided. This further substantiation was received on the 13 August 2013.

The revised Cardno report (13 August 2013) is based on updated economic data and revised assumptions provided by RPS including a detailed trade area assessment which clarified the number, origin and type of trips likely to be generated by the development.

This RPS data is based on total monetary amount, from which average spend amounts, transactions, persons per vehicle & ultimately the number of trips are calculated. These assumptions in the dollar spend and persons per vehicle directly influence the trip generation rates.

Council's adopted Roads Contribution Plan uses estimated trip generation figures based on data from similar types of development. The plan also provides the ability to determine trip generation on a first principles basis for developments with unique service and location characteristics.

The roads contribution plan collects funds from development to cater for the increase in demand from that development on the Council's road network. These trips are considered to be leviable trips in the plan. While the additional traffic generated by development will also utilize the state road network, the plan does not provide for works on that network.

In accordance with the Roads Contribution Plan, the proponent's consultants have provided leviable trip generation figures based on a first principles analysis which has considered the uniqueness of this development location and activity.

The revised Cardno report has resulted in the amount of leviable trips being increased from the previous report submitted by the proponent. This revised report is considered consistent with the current Section 94 Plan whereby the nexus is demonstrated between the development and number of new daily trips.

8.2 DA 2010/962 - Highway Service Centre - Section 96 Amendment

The new daily trips generated by this development are classified as leviable or non-leviable in accordance with the adopted Section 94 Roads Contribution Plan. Currently the plan acknowledges that 20% of new trips are external to the Shire and therefore classified as leviable trips for employment generating developments. The report reviews how this particular development differs from the assumptions within the plan.

The RPS data and the Cardno report identifies the proportion of external trips specific to this development is approximately 11%.

Council staff review accepts, on the basis of the information supplied by the proponent and our traffic consultant (Cardno), that an appropriate number of leviable trips should be determined using the factor of 11%.

It is accepted that the variable inputs for this type of development have resulted in the number of leviable trips to be of the correct magnitude.

This results in 401 leviable trips attributable to the development. 6.45 leviable trip converts to 1 ERA (Equivalent Residential Allotments) and is shown in the tables as the Contribution Unit. This results in the development being liable for 62.1524 contribution units for road contribution purposes.

The contribution rate at the date of the consent was \$10,123.00 per contribution unit for roads and \$154.00 per contribution unit for the administration of the roads plan.

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

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

Comment

The proposed amendment to the roads contribution component of the Section 94 levies applicable to the proposed development:

- (1) is of minimal environmental impact;
- (2) does not result in a development that is substantially different to that which was originally approved by Council; and
- (3) was not required to be placed on public exhibition in accordance with Council's policies and the statutory requirements.

Conclusion

The Section 96(1A) application currently before Council for consideration to amend Development Application DA 2010/962 (The Highway Service Centre) for the recalculation of the Roads contribution levy should be supported on the following grounds:

- The proposal results in a development that is substantially the same as that approved by the Council; and
- The revised levy associated with the North & West Ballina Roads 2010 contribution under the Roads Contribution Plan 2010 is based on additional information supplied by the proponent's consultants and is in accordance with the Roads Contribution Plan 2010

RECOMMENDATIONS

That the Application under S96 (1A) of the Environmental Planning and Assessment Act to amend the provisions of Condition 5.23 and Schedule 1 of DA 2010/962 in relation to the roads contribution levy be **APPROVED** subject to strict compliance with the specified condition as set out below:

Developer Contributions

Prior to issue of the Construction Certificate (Building) where building work is proposed, payment to Council of 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
The Council of the Shire of Ballina Section 94 Contributions Plan: Heavy Vehicle Traffic Generating Development - Maintenance and Construction of Roads	9 February 1996

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.

The Contribution amounts applicable at the time this consent is issued are as per Schedule One (as follows).

Schedule One

Contribution	Receipt Code	Contribution Unit	Rate per contribution Unit	Total Units Payable	TOTAL COST
North & West Ballina Roads 2010	5202	equivalent residential allotment	\$10,123.00	62.1524	\$629,169.00
Roads Administration 2010	5203	equivalent residential allotment	\$154.00	62.1524	\$9,624.00
West Ballina Sewerage (DSP Area B)	3003	equivalent tenement	\$6,886.00	48.3170	\$332,710.86
West Ballina Water (DSP Area B)	2003	equivalent tenement	\$3,179.00	30.2720	\$96,234.69
Rous Water 2009	5001	equivalent tenement	\$6,222.00	30.2720	\$188,352.38
TOTAL					\$1,256,090.93

Attachment(s)

Nil

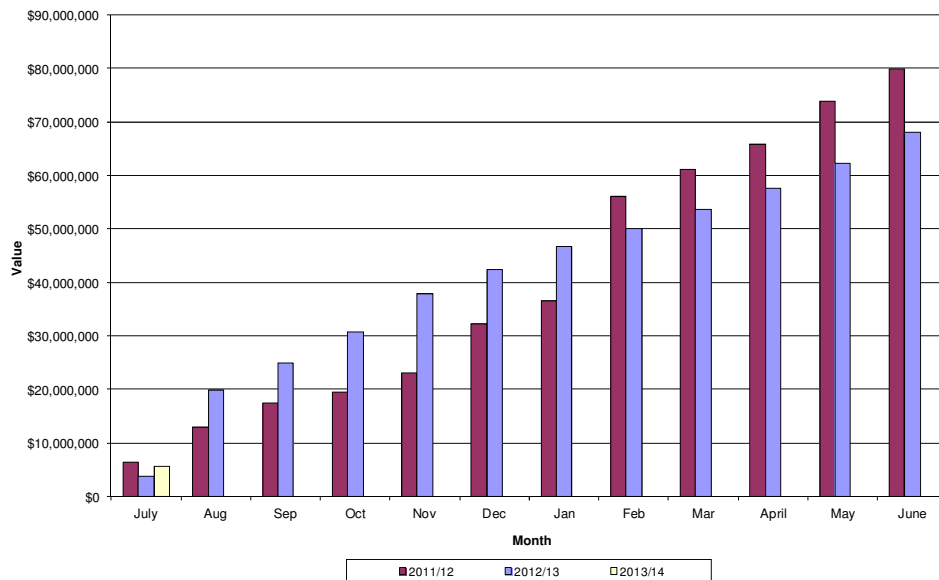
8.3 Development Consent Statistics - July 2013

8.3 Development Consent Statistics - July 2013

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

Number of Applications	Value of Work
35 Other Building Related	\$ 1,896,600
16 Dwelling/Duplexes/Residential Flat Buildings	\$ 3,797,000
2 General Developments	\$ 0
Total Value	\$ 5,693,600

The following chart details the cumulative consent figures for 2013/14 as compared to 2012/13 and 2011/12. It is too early in the year to provide a useful trend line for 2013/14.



RECOMMENDATION

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

Attachment(s)

Nil

8.4 Development Applications - Works in Progress - August 2013

8.4 Development Applications - Works in Progress - August 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
2011/320	22/07/2011 (Application Amended 27/6/2013)	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	Awaiting Additional Information
2011/515	30/11/2011	Newton Denny Chapelle	Staged development - 5 x lot subdivision for future cluster housing development and construction of public road, No. 565-589 River	Being Assessed

8.4 Development Applications - Works in Progress - August 2013

DA No.	Date Rec'd	Applicant	Proposal	Status
			Street, West Ballina	
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
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	Determination Pending

8.4 Development Applications - Works in Progress - August 2013

DA No.	Date Rec'd	Applicant	Proposal	Status
			function as the kitchen for the Hotel, modifications to the layout of the car park and boundary adjustment subdivision - 75-77 Main Street, Alstonville	
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, 58-63 Owen Street and 17 Hackett Lane, Ballina	Determination Pending
2013/165	20/05/2013 (Application Amended 9/08/2013)	SR Schott	Erection and strata title subdivision of a multi dwelling housing development	Being Assessed

8.4 Development Applications - Works in Progress - August 2013

DA No.	Date Rec'd	Applicant	Proposal	Status
			comprising two additional two storey dwelling and associated works – Lot 13 DP 241450, 28 Byron Street, Lennox Head	
2013/194	3/06/2013	Ballina Shire Council	Lennox Head Shared Pathways - Lot 5 DP 241434, The Coast Road, Lennox Head	Awaiting Additional Information
2013/195	3/06/2013	Ballina Shire Council	Lennox Head Shared Pathways – Various Roads and Reserves between East Ballina and Lennox Head.	Awaiting Additional Information
2013/211	14/06/2013	Logan Architecture	Alterations and Additions to Existing Restaurant - 23 Compton Drive, East Ballina	Awaiting Additional Information
2013/212	17/06/2013	Newton Denny Chapelle	Change of Use – Recreation Facility (Indoor) - Gymnasium - 78B Main Street, Alstonville	Awaiting Additional Information
2013/221	21/06/2013	Newton Denny Chapelle	Proposed Erection and Strata Title Subdivision of a Multi Dwelling Housing Development Comprising Four Residential Units - 18 Gibbon Street, Lennox Head	Awaiting Additional Information
2013/250	11/07/2013	Ardill Payne & Partners	Change of use of part of an existing dwelling house to a home	Being Assessed

8.4 Development Applications - Works in Progress - August 2013

DA No.	Date Rec'd	Applicant	Proposal	Status
			business (office for insurance broker) - 118 Martins Lane, Knockrow	
2013/258	15/07/2013	Newton Denny Chapelle	Alterations and Additions to an Existing Commercial Building Comprising the Construction of a new Takeaway Food and Drink Premises (23.5m ²), the Construction of a new Business Premises (133m ²) and a subsequent Three Lot Strata Subdivision - 88 Main Street, Alstonville	Awaiting Additional Information
2013/275	29/07/2013	M A Albany	To remove one tree - 12 Shelly Beach Road, East Ballina	Being Assessed
2013/281	1/08/2013	Ardill Payne & Partners	Erection of a 45 metre High Mono-pole (total height of 117.3m AHD) for the Purposes of being an Obstacle Hazard Beacon for the Ballina Byron Gateway Airport and Possible On-going Topping of Norfolk Island Trees if in the Future these Trees grow to a Height Exceeding 115 metres AHD	On Exhibition

8.4 Development Applications - Works in Progress - August 2013

DA No.	Date Rec'd	Applicant	Proposal	Status
			(currently range in height from 98m to 114m AHD) - Lot 11, North Creek Road, Lennox Head	
2013/282	2/08/2013	I Cardow	To remove two trees - 2-12 Greenwood Place, Lennox Head	Being Assessed
2013/285	5/08/2013	Nasmyth Pty Ltd	Erection of Strata Title Subdivision of an Industrial Building Comprising Eight Industrial Units and Three Storage Sheds - 54 North Creek Road, Ballina	Being Assessed
2013/291	8/08/2013	P Wittleton	To remove six trees - 59 Catherine Crescent, Ballina	Being Assessed

Regional Development (Determined by Joint Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
2012/334	17/08/2012	Ballina Shire Council	The construction of Hutley Drive connection to the Pacific Pines Estate via a round-about, connection to Elevation Estate & vegetation clearance in SEPP 14 affected area - North Creek Road, Lennox Head	Awaiting Additional Information

8.4 Development Applications - Works in Progress - August 2013

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	Awaiting Additional Information
2013/286	5/08/2013	Ballina Shire Council	Establishment and Operation of a Biochar and Waste-to-Energy Facility - 167 Southern Cross Drive, Ballina	On Exhibition

Major Development (Determined by Minister)

Major Project No./DA No.	Date Rec'd	Applicant	Proposal	Status
Nil				

RECOMMENDATION

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

Attachment(s)

Nil

9.1 LEP Amendment Request - Reservoir Hill Site, Lennox Head

9. Strategic and Community Facilities Group Reports

9.1 LEP Amendment Request - Reservoir Hill Site, Lennox Head

Delivery Program Strategic Planning

Objective To outline a proposal to amend the Ballina Local Environmental Plan 2012 to enable residential development on land commonly known as the Reservoir Hill Site at Lennox Head and seek direction on the progression of the proposal.

Background

Council has received a request to amend the Ballina Local Environmental Plan 2012 from the TGM Group Pty Ltd on behalf of Ballina Island Developments Pty Ltd in relation to Lot 5 DP 517111, North Creek Road, Lennox Head (Attachment One). The land is commonly referred to as the Water Reservoir or Reservoir Hill site.

The proposed amendment involves the rezoning of the land from RU1 Primary Production to enable residential development on the site via application of an R3 Medium Density Residential zone. A summary of the LEP amendment request prepared by the proponent (excluding attachments) is contained in Attachment Two. Copies of the various site assessments completed by the proponent can be provided on request.

Separate to the current request, the Council resolved to request that the Minister for Planning and Infrastructure discontinue Draft Amendment No.108 to the Ballina LEP (relating to the subject land) at its February 2013 Ordinary Meeting. Amendment No.108 had been before the Council since 2008 and the then proponent's had not submitted the necessary documentation to enable an assessment of the proposal. The Minister agreed to Council's request and the previous rezoning process was ceased.

The current request constitutes a new request for the rezoning of the land by a different proponent and as indicated above, documentation has been submitted to Council to enable assessment of the proposed outcomes. The current proposal is not related to the former Amendment No.108.

This report provides an overview of the proposed rezoning and seeks Council's direction with respect to the further consideration of the matter.

Key Issues

- Processing of LEP amendment request
- Provision of land for residential development
- Consistency with local and State government strategic planning policy

Information

The LEP amendment request is currently in initiation or concept stage. As such, staff have undertaken a preliminary assessment of the proposal and associated technical issues to inform a decision on whether Council should progress to prepare a planning proposal suitable for submission to the Department of Planning and Infrastructure and Gateway determination.

In summary, the LEP amendment request proposes the rezoning of Lot 5 DP 517111, being the Reservoir Hill site at Lennox Head, from RU1 Primary Production to R3 Medium Density Residential to enable residential development on the land. The proposal includes an indicative subdivision layout as a guide to the type of development that could occur on the land if rezoned (Attachment Three). As shown, the proponent's currently envisage in the order of 150 residential lots of various sizes as well as open space and a new road connection between North Creek Road and the planned northern extension to Hutley Drive.

The proponent's proposal also identifies application of a 600m² minimum lot size standard to the land. The 600m² minimum lot size standard is consistent with the general policy approach applied by Council in relation to new residential areas in the shire. Of note, however, is that the indicative subdivision layout shows about 20% of the residential lots being of a size less than 600m² (typically in the range between 560m² and 600m²). The land is also comprised of some significant slopes that may be suited to larger lot sizes.

In considering the above, the subdivision layout should be viewed as indicative only and neither Council nor the proponent is bound by it through the rezoning process. Therefore, whilst the proponent's intent is a significant consideration, it is suggested that the lot size standard applied under the LEP is the optimal point of focus for the LEP amendment. The lot size standard for the land, including consideration of topography, would be considered further in preparing a planning proposal should the amendment proceed to the planning proposal preparation phase.

The proposed rezoning is generally consistent with Council's local strategic planning policy, as contained in the Ballina Shire Growth Management Strategy (GMS) and the Lennox Head Structure Plan. Further, the proposal is also generally consistent with the strategic policy intent of the State Government's Far North Coast Regional Strategy (FNCRS). A summary of the key policy documents as they relate to the subject proposal is contained in Table 1.

**Table One: Summary of Key Strategic Planning Policy
Reservoir Hill site, Lennox Head**

Planning Policy	Summary in relation to Reservoir Hill site
Far North Coast Regional Strategy	The subject land is identified as a proposed future urban release area under the FNCRS. The proposed rezoning for residential purposes is consistent with this.
Ballina Shire Growth Management Strategy	The subject land is identified as a strategic urban growth area under the GMS. Given that the site is identified as a potential future urban area, the proposed rezoning for residential purposes is consistent with Council's GMS.
Lennox Head Structure Plan	<p>The subject land is identified as being within Area I under the Lennox Head Structure Plan (Area I is shown in Attachment Four). The structure plan identifies low and medium density housing as preferred urban land use outcomes. Residential use of the land is consistent with the envisaged outcomes identified in the structure plan.</p> <p>The structure plan also identifies road infrastructure, vehicle access, stormwater management, slope and vegetation as key issues for consideration as part of any rezoning proposals. These matters will be subject to further assessment and consideration should the processing of the LEP amendment request proceed.</p> <p>In addition to the above, the structure plan also indicates a preference for the rezoning of the subject land to occur in conjunction with the surrounding land within Area I (two land parcels, one to the east and one to the north). Whilst an integrated outcome is preferred, the proponent has indicated that the owner of the land to the east is not presently able to participate in the rezoning and the land to the north would ultimately be on the opposite side of any extension to Hutley Drive.</p> <p>Given the above, the potential road infrastructure outcomes of benefit to the wider community, and that the subject land represents almost 90% of Area I, it is considered to be reasonable for the LEP amendment request to proceed in this instance. If the proposal proceeds, further consideration will be given to the relationship between potential development on the subject land and surrounding land holdings.</p>

Although the proposal is generally consistent with urban planning policy for the site and locality, there are a number of aspects of the LEP amendment request that require further examination should Council proceed to prepare a planning proposal. These matters include the following:

- Scenic values and amenity implications
- Type of residential land use zone(s) applied and associated minimum lot size standards for subdivision (including consideration of the slope characteristics of the land)
- Application of an open space or environmental protection zone to the proposed open space area
- Proposed approach to stormwater management in the north western part of the site
- Retention and management of ecological attributes on the site

9.1 LEP Amendment Request - Reservoir Hill Site, Lennox Head

- Implications of road noise in relation to residential dwellings
- Road design and function, particularly in relation to the proposed new road connection between North Creek Road/ Henderson Lane and the northern extension of Hutley Drive
- Accessibility of residential lots from North Creek Road/ Henderson Lane and the Hutley Drive extension and the road link between these two roads
- Implications of geotechnical conditions and slope in relation to road infrastructure, practicality of residential lots and cut and fill.

Further, as outlined in Table One, consideration would also be given to the relationship between the development outcomes associated with the proposed rezoning and the potential for future urban land uses on land to the east and north.

Notwithstanding that further analysis and assessment is required, the proponent has submitted a suitable level of documentation to enable Council to proceed to prepare a planning proposal. Preparation of a planning proposal would include further consideration to the above matters and other key issues arising. The planning proposal, once compiled, would be reported to Council to determine whether to proceed to forward the proposal to the DP&I for Gateway determination.

Sustainability Considerations

- **Environment**
The subject land contains various attributes of environmental value. These matters would be assessed in detail if a planning proposal is prepared by Council and the matter proceeds to public exhibition.
- **Social**
There are a variety of social issues to consider in relation to the proposal, including implications for scenic and amenity values. These matters would be assessed in detail if a planning proposal is prepared by Council and the matter proceeds to public exhibition.
- **Economic**
The proposal has the potential to result in a number of positive economic impacts associated with construction and infrastructure. These matters would be further considered if a planning proposal is prepared by Council and the matter proceeds to public exhibition.

Legal / Resource / Financial Implications

Although this would be a substantial proposal to process, the resourcing and financial implications associated with the further processing of this LEP amendment can be accommodated.

Council's processing guidelines and adopted fees and charges for LEP amendment requests would be applied to the further processing of the request. Processing may include engagement of an independent third party to compile reporting following an affirmative Gateway determination.

Consultation

There has been no consultation undertaken with either the community or government agencies in relation to this LEP amendment request to date as this matter is in the initial concept phase.

However, should the proposal continue to proceed, community consultation, public exhibition and agency engagement will be undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act*.

Options

1. Proceed to prepare a planning proposal for the application of a residential zone over Lot 5 DP 517111

The preparation of a planning proposal that applies a residential zone over the subject land is recommended on the basis that residential land uses would be generally consistent with strategic planning policy for the site and locality. Under this approach, further consideration would be given to the most suitable residential zoning (R2 Low Density Residential, R3 Medium Density Residential or a combination of the two) and application of an alternate zoning (such as open space or environmental protection) to the area proposed for open space in the north western part of the site. The planning proposal would be reported to Council for further consideration before the matter proceeds to the DP&I for review and Gateway determination.

The proposed LEP amendment will not provide for an integrated consideration of the rezoning of all land in Area I as identified under the Lennox Head Structure Plan. However, it is considered that the circumstances are of a nature to warrant proceeding with the consideration of Lot 5 DP 517111 separate to the adjoining land to the east and north.

In considering this option, it is important to note that Council may cease action on the proposed amendment upon review of the planning proposal or at any other time prior to its finalisation.

Option one is the recommended course of action.

2. Defer consideration of the LEP amendment request.

Council may defer consideration of the LEP amendment request in order to seek additional information in relation to the proposed rezoning.

The level of information provided with the LEP amendment request is considered to be sufficient to enable progress to the preparation of a planning proposal. Given this, and the consistency of the proposal with the applicable strategic planning framework, this option is not recommended.

3. Cease further consideration of the LEP amendment request.

It is open to Council to decline the requested LEP amendment. Endorsement of this option would mean that no further action would be taken by Council with respect to the processing of the request.

9.1 LEP Amendment Request - Reservoir Hill Site, Lennox Head

This course of action is not recommended given the consistency of the proposal with the applicable strategic planning framework and no absolute constraints to the proposed residential land use have been identified at this time.

RECOMMENDATIONS

1. That Council prepare a planning proposal for the rezoning of Lot 5 DP 517111, North Creek Road, Lennox Head to enable residential development on the land.
2. That the preparation of the planning proposal includes further consideration of:
 - land use zoning options associated with residential development on the land
 - land use zoning options for proposed open space areas and
 - minimum lot size standards for subdivision of the land.

Attachment(s)

1. Lot 5 DP 517111 - Reservoir Hill Site Lennox Head
2. LEP Amendment Request - Reservoir Hill Site Lennox Head - TGM Group June 2013
3. LEP Amendment Request - Reservoir Hill Site Lennox Head - Indicative Subdivision Layout
4. Lennox Head Structure Plan Summary Map

9.2 Land Reclassification - Council Owned Waterways

9.2 Land Reclassification - Council Owned Waterways

Delivery Program Strategic Planning

Objective To advise in relation to private structures within Council owned waterways and to seek direction with respect to the ongoing management of these structures.

Background

There are a number of artificial waterways which are owned and managed as public land by Council in accordance with the provisions of the *Local Government Act 1993* (LG Act). The land tenure of these waterways differs from natural waterways (such as rivers and creeks) which are managed and controlled as Crown land. These waterways exist as a result of past land developments and include:

- Ballina Quays Canals (Lot 63 DP 263861 & Lot 132 DP 775228)
- Lakes at Northlakes Estate (Lot 114 DP 852971 & Lot 171 DP 1041678)
- Banyanda Lake (Lot 50 DP 259593)
- Endeavour Lake (Southern Cross Industrial Estate) (Lot 72 DP 778628)
- Prospect Lake (Lot 105 DP 871675)
- Chickiba Lake (Lot 207 DP 851318).

There are a number of private allotments which directly adjoin these waterways giving them access to the waterway and a connection to the wider Richmond River estuary system. The waterways with directly adjoining allotments are the Ballina Quays canals, Banyanda Lake and Endeavour Lake as identified in the locality plan in Attachment One.

Although the waterways identified are Council owned (public) land, some of the allotments adjoining the waterways benefit from the placement of private structures within the waterway such as jetties, gangways, pontoons, boat ramps, slipways and the like. In the past, Council has regulated the placement of these structures through the issue of development consents in conjunction with application of physical design parameters to ensure the integrity of the waterway profile.

A recent review of Council's practices and procedures for the management of Council owned land has identified several issues relating to the ongoing use and management of private waterway structures on Council owned public land. The purpose of this report is to bring these matters to Council's attention and to seek direction as to Council's preferred course of action in addressing the issues.

Key Issues

- Management of private structures on public land
- Appropriate regulation of private structures in Council waterways
- Compliance with requirements of the *Local Government Act 1993*.

9.2 Land Reclassification - Council Owned Waterways

Information

There are a number of Council owned waterways within which private structures have been placed. Many of the private allotments with direct access to these waterways benefit from private structures located within the waterway on Council owned land. In most cases, the waterway structures have been installed with approval and endorsement from Council through the issue of development consent. An estimate of the number of waterfront properties with associated private waterway structures is detailed in Table One.

Table One – Waterfront Lots with Waterway Structures¹		
Location	Waterfront Lots	Lots With Waterway Structure²
Ballina Quays	182	138 (75%)
Banyanda Lake	32	7 (21%)
Endeavour Lake	26	8 (30%)
TOTAL	240	153 (63%)

1. Council owned waterway only – excludes natural, Crown land waterways.

2. Based on observation of 2012 aerial photography

The Local Government (LG) Act contains specific requirements for the exclusive (private) occupation of Council owned public land. A recent review of the management provisions for the private occupation of public land has identified that Council's current and past practices regarding the placement of private waterway structures on Council owned land does not fully comply with the requirements of the LG Act. This non-compliance has also raised possible liability issues for Council.

Local Government Act 1993

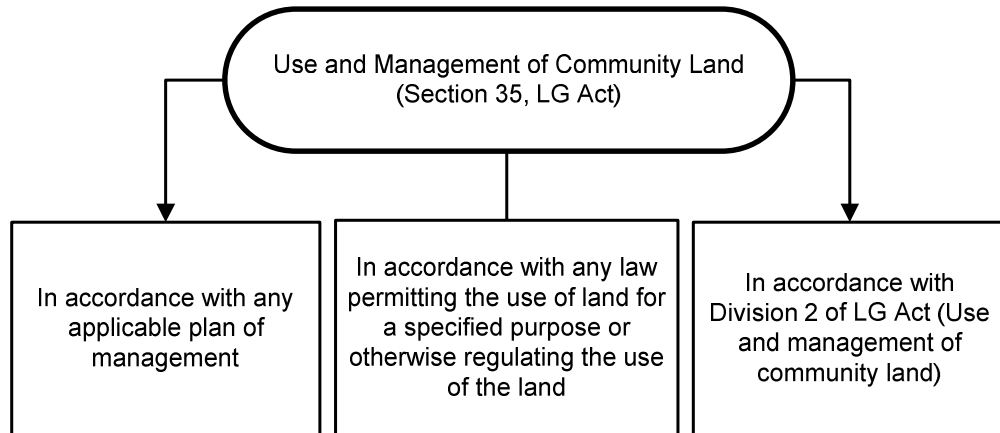
The Council owned land comprising the Ballina Quays canals (Lot 63 DP 263861 & Lot 132 DP 775228) and Banyanda Lake (Lot 50 DP 259593) has been classified as 'community land' since the commencement of the LG Act in 1993. The land comprising Endeavour Lake (Lot 72 DP 778628) has been classified as 'operational land' in accordance with the LG Act and Council's resolution of 24 February 1994. Land classified as community land is subject to specific management provisions as detailed in the LG Act while land classified as operational land is not.

Section 35 of the LG Act governs the use and management of community land. Section 35 has three components which specify the management provisions for community land as shown in Figure 1.

Any use of, or management provisions associated with, community land must comply with the requirements of all three components of section 35.

9.2 Land Reclassification - Council Owned Waterways

Figure One – Use and Management of Community Land, *Local Government Act 1993*



The plan of management applicable to the subject land is Council's *Principal Generic Plan of Management for Community Land* (PoM) adopted in April 1995. The PoM contains special provisions that recognise and authorise the establishment and use of 'private pontoons' but only in the Ballina Quays waterways. There are no specific management provisions for waterway structures in the Banyanda Lake. In the case of Endeavour Lake, because this land is classified as operational land the PoM provisions do not apply.

Other laws permitting or regulating the use of the subject land include the *Environmental Planning and Assessment Act 1979*, the *Ballina Local Environmental Plan 2012* and the *Fisheries Management Act 1994*. The installation and erection of structures within the subject waterways can be carried out with permission or consent granted in accordance with the provisions of the above legislative instruments, subject to consistency with the requirements of the LG Act.

The provisions of Division 2 of the LG Act contain the specific statutory requirements for the use and management of community land. In relation to the exclusive use of community land involving the placement of private waterway structures, section 47D permits this only in accordance with a lease or licence. To date, no leases or licences have been issued by Council in relation to the occupation of community land by private waterway structures.

Section 46 of the LG Act provides further specifications in relation to the issue of a lease or licence in respect of community land. Although it provides that a lease or licence may be "in accordance with an express authorisation in the plan of management" it also requires that it must be for a purpose prescribed in the LG Act. These purposes typically relate to the provision of services and facilities and the carrying out of activities to meet the current and future needs of the local community and the wider public such as public recreation and the physical, cultural, social and intellectual welfare or development of persons.

9.2 Land Reclassification - Council Owned Waterways

In accordance with the above information, section 46 of the LG Act does not make provision for the issuing of a lease or licence for the placement of private waterway structures on community land. Further to this, the LG Act provides, in section 46(6), that *“a plan of management is void to the extent that it purports to authorise the grant of a lease, licence or other estate in contravention of this section.”*

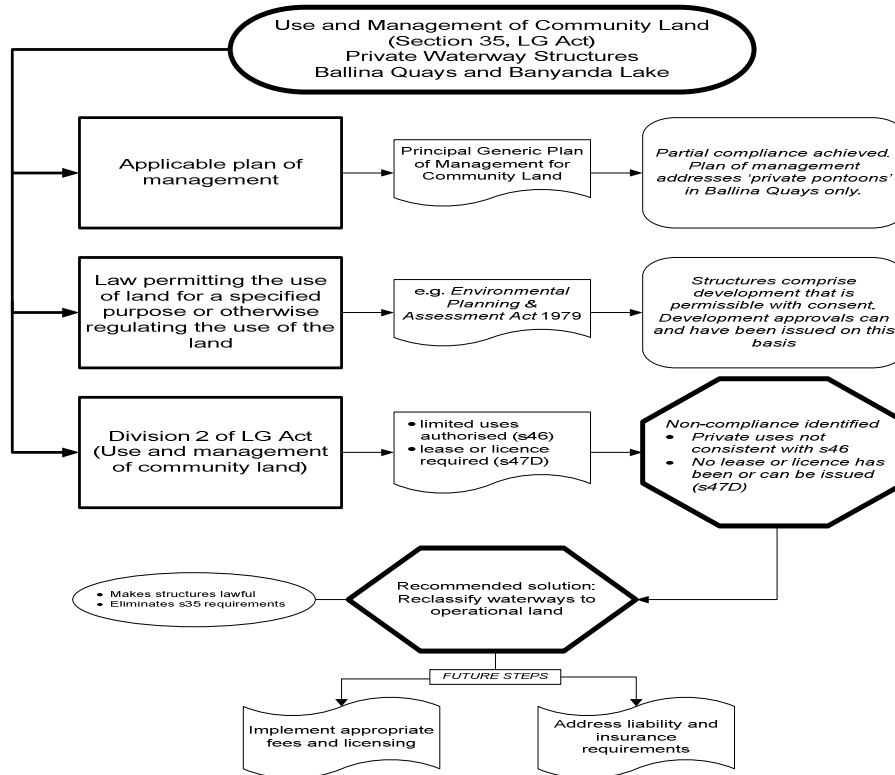
This means that although Council’s adopted PoM provides for the occupation of land in the Ballina Quays canals for private waterway structures, the PoM provisions are void where they are in contravention of the LG Act requirements for the usage, leasing and licensing of community land.

Based on the above it can be interpreted that the exclusive use of community land for private waterway structures is inconsistent with the management provisions for community land in the LG Act. In addition, the LG Act provides that a lease or license cannot be granted for the subject waterway structures under the current circumstances and thus the occupation of the land is not in compliance with the requirements of the LG Act.

Legal opinion in relation to the above was obtained from the solicitor of Council’s insurer (DLA Piper) in April 2013. This advice concurs with the interpretation above and recommends that to regularise (make lawful) these waterway structures, the land comprising the Ballina Quays and Banyanda Lake should be reclassified from community land to operational land. The reclassification of the subject land to operational will allow Council to make the subject structures lawful (through conformity with the LG Act) and will also enable it to address the potential liability issues relating to the placement of private structures on public land.

The LG Act provisions relating to the placement of private structures on community land and that form the basis of the recommendations in this report are summarised in Figure Two below.

Figure Two – Summary of LG Act Provisions and Recommendations



Public Liability

One of the other issues that arises as a result of the investigation into this matter is that of Council’s responsibility and potential liability for claims in relation to unregulated and/or unlicensed structures on Council land. This issue was also referred to Council’s DLA Piper for further advice.

In response, DLA Piper has advised that the current structures, where located on community land, are unlawful, and therefore are presently a potential liability for Council. In addition to the advice to reclassify the land as detailed above, it is also advised that following the reclassification, appropriate leasing or licensing arrangements between Council and the owners of the structures should be made to address Council’s potential liability in this regard. It is proposed that this step would be undertaken separate from the reclassification as it is likely to be controversial and require significant community engagement.

Recommended Actions

A number of actions are recommended in order to address and resolve the issues identified above, with the key outcome being to ensure existing and future structures are lawful and to manage Council’s liability risk. These are expected to result in a formalised and regulated response to the establishment and ongoing use of waterway structures on Council owned land that ensures public safety and addresses the potential liability of both Council and the owners of the structures. In sequence, the recommended actions are detailed below.

9.2 Land Reclassification - Council Owned Waterways

1. *The land comprising the Ballina Quays and Banyanda Lake is reclassified from community land to operational land in accordance with the provisions of the LG Act.*

The reclassification of public land requires an amendment to the *Ballina Local Environmental Plan 2012* (LEP). To enable this, it is recommended that the attached planning proposal be submitted to the Department of Planning and Infrastructure for Gateway determination in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*.

Part of the reclassification process will require a public hearing as specified in the LG Act. This is in addition to the standard public consultation associated with an LEP amendment. Clear and sufficient information will need to be provided to the public to ensure they are adequately informed of the situation and the reasons for the relevant actions in relation to the reclassification and expected subsequent related actions. The reclassification of the subject land to 'operational land' is an essential step in enabling Council to regularise (make lawful) existing and future private structures within the subject waterways.

2. *Council prepare and adopt a policy to regulate and manage private waterway structures on land comprising Council owned waterways.*

It is recommended that Council develop a policy to enable it to manage and appropriately regulate the use of public land for private waterway structures. The policy could be supported by guidelines relating to the use and application of such structures in Council waterways and incorporate the existing formal and informal requirements and procedures relating to these structures. The development of a policy and supporting guidelines would be undertaken separately from the reclassification in item one. The drafting of a policy and its subsequent implementation represents the greatest resource commitment by Council in relation to this matter. In developing the policy, consideration will need to be given to how it will be applied and implemented in relation to existing, long-standing, unregulated structures in the subject waterways.

Once a policy standard is drafted and adopted, further work will then be required in relation to authorising and regulating existing structures and formulating relevant leasing or licensing arrangements. This is likely to involve extensive legal work as well as physical verification of the location of existing structures, whether or not they are approved structures, whether or not they comply with the conditions of approval and whether or not the existing structures are of a suitable public safety or construction standard. The parameters, expectations and requirements for the owners of existing structures to comply with the above will need to be considered and incorporated into the policy.

Should Council resolve to support the preparation of a draft policy to regulate and manage private waterway structures on land comprising Council owned waterways, it is recommended that this matter be further reported to Council separately.

9.2 Land Reclassification - Council Owned Waterways

3. Council considers the application of a fee structure for the administration of the leasing or licensing of private waterway structures on land comprising Council owned waterways in association with Action 2.

In relation to Item two, Council will have the option to apply application and licensing fees as it considers appropriate for the ongoing management and use of the waterway structures. An assessment has been undertaken of other local government areas with similar private waterways as well as Crown Lands who manage natural waterways comprising Crown land. The findings of this assessment are detailed in Table Two. As with Item two, this matter would be reported to Council for its consideration separate to the proposed reclassification of the land.

Authority	Application Fee	Recurring Fees
Crown	\$438.40	Annual market based rent calculated via formula including base fee, area of occupation and generic land values
Tweed Shire Council	\$133.90	\$210 annual licence fee
Clarence Valley Council	N/A	\$55 annual lease fee
Port Macquarie Hastings Council	N/A	\$87 annual licence fee
Gosford City Council	Solicitors fees to establish licence agreement	\$753.70 annual licence fee

Sustainability Considerations

- **Environment**
The management and regulation of the placement of private structures within Council owned waterways as detailed in this report is not expected to result in significant environmental impacts. The placement of such structures currently requires development consent under the provisions of the *Environmental Planning and Assessment Act 1979*. This will not change as a result of the recommendations of this report.
- **Social**
As detailed in this report, there are a number of private structures occupying Council owned public land in a manner inconsistent with the provisions of the LG Act. It is considered optimal that this arrangement is formalised in a manner consistent with the terms of the LG Act, including examination of the issues associated with use of the public land and potential liability risk to Council.
- **Economic**
The recommendations in this report are not expected to result in any significant economic impacts on the broader community.

Legal / Resource / Financial Implications

The current regime of placing private structures within Council owned waterways has been identified as inconsistent with the provisions of the LG Act. As such, Council has a responsibility to take action to make any existing structures lawful as well as to facilitate the lawful placement of such structures in the future.

Part of this report contains the recommendation that Council reclassify two of the identified waterways in the first instance to enable the lawful regulation of the waterway structures. This action will require the commitment of Council resources in the processing of a planning proposal with the Department of Planning and Infrastructure as well as the undertaking of a public hearing in accordance with the LG Act. It is estimated that the reclassification of the subject land can be expected to take 6-8 months.

Further, should Council resolve to prepare of a draft policy to regulate the placement of private structures on public land, a further commitment of resources will be required. This will involve the preparation of the draft policy and its subsequent reporting, public exhibition and final consideration by Council. Depending on the contents and outcomes of the draft policy, a substantial commitment of Council resources may be required, particularly in relation to the regulation of existing waterway structures.

As detailed in this report, Council also has the option to consider the levying of fees and charges in relation to the placement of private structures within Council owned waterways. The consideration of these fees and charges could be undertaken in conjunction with the consideration of the draft policy. The levying of fees and charges for such structures would allow Council to recover some of its administrative costs in relation to regulating the structures as well as possibly some of its maintenance costs in relation to the upkeep of the artificial waterways.

As recommended in this report, this would be reported to Council for its consideration separate to the proposed reclassification of the land.

Consultation

No consultation has been undertaken to date in relation to this matter. As specified in this report, should Council resolve to reclassify the subject land, a public notification, public exhibition and public hearing processes will be required.

In relation to the preparation of a draft policy for the placement of private structures in Council owned waterways, this matter will be further addressed in a separate report to Council should it resolve to proceed with the preparation of a draft policy.

Options

1. Note the contents of this report and resolve to take no further action

The subject waterways and many of the structures detailed in this report have been in place for over 25 years with minimal to no regulation. There is the option to continue in this regard and take no action. Under this approach, the existing structures will remain inconsistent with LG Act requirements.

With respect to the address of the potentially significant risks to Council as landowner in relation to a personal injury or lawful use claim in relation to the structures, the alternative to the reclassification of land is Council compliance action to have the existing structures removed from its land.

Having regard for the above, this option is not recommended.

2. Reclassify the subject land from community land to operational land

Of the three Council owned waterways discussed in this report, two are classified as community land under the LG Act. The LG Act provisions effectively prohibit the placement of the identified private structures on community land resulting in the current structures being inconsistent with the terms of the LG Act.

To address this, it is recommended that the identified community land containing waterways with private structures be reclassified. This will involve the reclassification of the land containing the Ballina Quays canals (Lot 63 DP 263861 & Lot 132 DP 775228) and Banyanda Lake (Lot 50 DP 259593) from community land to operational land and allow Council to regularise (make lawful) any private structures on that land. This will involve the submission of the planning proposal in Attachment Two (or as amended by Council) to the Department of Planning and Infrastructure for Gateway determination.

Council may resolve to exercise this option on its own without committing to the preparation of a draft policy. While this will be a step towards achieving an appropriate level of management and regulation of private structures on public land, it does not adequately address Council's potential liability in relation to privately owned structures on Council owned land.

It is recommended that this option be considered in conjunction with the implementation of a Council policy for private structures in Council owned waterways as detailed in Option Four.

3. Prepare a draft policy to manage and regulate the placement of private waterway structures on Council owned land

Council has the option to resolve to prepare a draft policy to manage and regulate the placement of private waterway structures on Council owned land (public land). Council can only legitimately lease or license its land for private exclusive use in the subject circumstances if the land is classified as operational land under the LG Act.

9.2 Land Reclassification - Council Owned Waterways

Currently, only one of Council's waterways with existing private structures is classified as operational land (Endeavour Lake). Therefore, to enable the appropriate application of the recommended policy to all Council owned waterways, this option must be considered in conjunction with Option Two.

4. Reclassify the land and prepare a draft policy with the aim of managing and regulating the placement of private waterway structures on Council owned land

This option is an amalgam of Options Two and Three. Should Council resolve to support this option, it would result initially in the submission of the planning proposal in Attachment Two to enable the reclassification of the subject land from community land to operational land. This initial component would be further reported to Council for final consideration following the conclusion of the public exhibition and public hearing process.

The second component of this recommendation is that Council commit to the preparation of a draft policy for the regulation and management of private structures in Council owned waterways. This would involve the preparation of a draft policy that would be submitted to Council for consideration as a separate matter. It would also be open to Council to consider its options in relation to the charging of leasing/licensing fees in conjunction with such a policy.

It is also recommended that Council, in conjunction with its consideration of a draft policy for the regulation and management of private structures in Council owned waterways, also consider its options in relation to the levying of fees and charges for such structures. Should Council subsequently resolve to support the adoption of such a policy, it would take effect following the reclassification of the subject land detailed above.

Proceeding with this option will provide a process to address legal and public liability issues surrounding private structures on public land and enable existing structures to be made lawful in terms of the LG Act. This option does, however, result in a substantial resourcing commitment as detailed in this report.

This option is the recommended approach.

5. Reclassify the land and hold a briefing to consider options for the regulation and management of the placement of private waterway structures on Council owned land

Given the complexity and diversity of issues raised in this report, Councillors may wish to hold a briefing to further consider these issues before committing to further action. It is recommended that if it is resolved to proceed with a briefing, that Council not delay commencing the process to reclassify the land. As detailed in this report, the reclassification of the land is an essential step in making the existing structures compliant with the requirements of the LG Act. Further, Council will have further opportunities to consider the reclassification, post its initiation, prior to the completion of the process.

9.2 Land Reclassification - Council Owned Waterways

The reclassification of the land does not commit Council to the issue of any leases, licences or any other forms of regulation of the existing structures. Should Council resolve to proceed with this option, it will authorise the commencement of the reclassification process while deferring a decision with regard to the management and regulation of the waterway structures until after a workshop can be held.

RECOMMENDATIONS

1. That Council endorses the commencement of the process for the reclassification of the Ballina Quays canals (Lot 63 DP 263861 & Lot 132 DP 775228) and Banyanda Lake (Lot 50 DP 259593) from community land to operational land based on the planning proposal contained in Attachment Two.
2. That Council submit the planning proposal for the reclassification of the Ballina Quays canals (Lot 63 DP 263861 & Lot 132 DP 775228) and Banyanda Lake (Lot 50 DP 259593) to the Department of Planning and 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, including public exhibition and the holding of a public hearing, be undertaken.
4. That a further report be presented to Council in relation to the reclassification of the Ballina Quays canals (Lot 63 DP 263861 & Lot 132 DP 775228) and Banyanda Lake (Lot 50 DP 259593) following mandatory community consultation.
5. That Council prepare a draft policy in relation to the management of private structures within Council owned waterways and that this matter be reported to Council for its consideration.
6. That in conjunction with its consideration of a draft policy for the management of private structures within Council owned waterways, that Council also consider options regarding the levying of fees and charges for the leasing/licensing of private structures in Council owned waterways.

Attachment(s)

1. Locality Maps - Council Owned Waterways
2. Planning Proposal - Reclassification of Land, Council Owned Waterways

9.3 Land Reclassification - Lot 5 DP 843369, Old Bagotville Road

9.3 Land Reclassification - Lot 5 DP 843369, Old Bagotville Road

Delivery Program Strategic Planning

Objective To obtain Council's direction in relation to an LEP amendment to enable the reclassification of Lot 5 DP 843369 from community land to operational land.

Background

On 18 December 2012, Council's Commercial Services Committee considered a report in relation to a proposal to reclassify Council owned land identified as Lot 5 DP 843369 located on Old Bagotville Road, Wardell and shown on the locality plan in Attachment One. The Commercial Services Committee recommended that Council prepare a planning proposal for the reclassification of the land from community land to operational land in accordance with the requirements of the *Local Government Act* 1993. The minutes of this Commercial Services Committee meeting were adopted by Council at its Ordinary Meeting held on 20 December 2012 [Minute No. 201212/36]

The reclassification of Council owned land from community land to operational land requires an amendment to the local environmental plan (LEP) through the submission of a planning proposal to the Department of Planning and Infrastructure. To enable the LEP amendment, Council staff have prepared a draft planning proposal for Council's consideration (Attachment Two).

The planning proposal has been prepared with regard to supporting information submitted by Council's Commercial Services section on 22 July 2013 (see Attachment Three). The purpose of this report is to seek Council's direction in relation to the endorsement of the attached draft planning proposal and its submission to the Department of Planning and Infrastructure.

Key Issues

- Reclassification of public land
- Progress of LEP amendment

Information

The *Local Government Act* 1993 (LG Act) requires the classification of all Council owned land as either community land or operational land. Community land consists typically of parks and open space areas which are retained and managed for the use of the community. Operational land is land typically either held by Council as a temporary asset or as an investment, or land which facilitates Council carrying out its functions.

9.3 Land Reclassification - Lot 5 DP 843369, Old Bagotville Road

Lot 5 DP 843369 was acquired by Council in 1996 for its potential as an extractive resource and future landfill site. Due to the land being acquired at auction, Council was unable to comply with the legislative requirements applicable at the time in relation to the classification of the land as operational land. As such, the land has been classified as community land in accordance with the provisions of the LG Act.

Due to the physical and geographic constraints of Lot 5 DP 843369, it has limited use for future community land uses. As such, to enable Council to consider its options with regard to the sale, lease or other dealings with the land, the operational land classification is considered to be more appropriate for the land.

In addition to the above, the preferred route of the Pacific Highway Upgrade (Woodburn-Ballina section) traverses Lot 5 DP 843369. The reclassification of the land to operational land will provide for easier liaison with Roads and Maritime Services (RMS) with regard to the acquisition of the land required for the highway upgrade.

The reclassification should also be considered on the basis that the operational classification would support proposals for further quarry based and other commercial activity on the land either by Council or another land holder (such as the RMS) should the land ultimately be sold.

As detailed above, the proposed reclassification of Lot 5 DP 843369 was considered by Council's Commercial Services Committee on 18 December 2012 where it was recommended that Council prepare a planning proposal for the reclassification of the land in accordance with the requirements of the LG Act. This recommendation was adopted by Council at its Ordinary Meeting held on 20 December 2012.

Sustainability Considerations

- **Environment**
There are no direct environmental impacts expected as a result of the proposed reclassification.
- **Social**
The subject land has been identified as having limited potential for use by the community and as such the reclassification of the land to operational land is not expected to result in undesirable social impacts.
- **Economic**
The subject land was acquired by Council in 1996 for commercial reasons. The reclassification of the land to operational land enables Council greater flexibility in considering the future uses and/or disposal of the land to achieve a reasonable economic return.

Legal / Resource / Financial Implications

The reclassification of the subject land from community land to operational land will provide Council greater flexibility in relation to the sale, lease and/or use of the subject land. It will also improve the potential for a financial return to Council through the future sale or use of the land and will support negotiation with RMS in relation to the acquisition of all or part of the land for the Pacific Highway upgrade.

Due to the commercial nature of the proposed reclassification and the anticipated economic return to Council from any future sale or use of the land, the responsibility for initiating the proposal has been borne by Council's Commercial Services section. Due to the Council's commercial interest in the reclassification, the Commercial Services section has been responsible for obtaining the supporting information (Attachment 3), submitting the LEP amendment request application form and paying the relevant application fee. This has enabled the Strategic and Community Facilities Group to assess and report on this proposal in a manner similar to the processes employed for external proponents.

Consultation

No consultation has been undertaken to date in relation to the proposed reclassification. However, in accordance with the statutory requirements applying to LEP amendments and the reclassification of Council owned land, the proposal will be placed on public exhibition and a public hearing must be held prior to the finalisation of the reclassification.

Options

The purpose of this report is to seek Council's direction in relation to the attached draft planning proposal and its submission to the Department of Planning and Infrastructure for Gateway determination. As detailed in this report, Council has already resolved to proceed with the proposal to reclassify the subject land. It should also be noted that the proposed reclassification will be further reported to Council for its final endorsement following the conclusion of the required public exhibition and public hearing processes.

Council's options at this point are as follows:

1. To endorse the attached draft planning proposal for submission to the Department of Planning and Infrastructure for Gateway determination. This enables the next phase of the land reclassification process to proceed. This is the recommended option.
2. To decline endorsement of the attached draft planning proposal. This option will result in the matter being discontinued and Lot 5 DP 843369 will remain classified as community land. This option is not recommended for the reasons outlined in this report.

9.3 Land Reclassification - Lot 5 DP 843369, Old Bagotville Road

3. To defer the endorsement of the attached draft planning proposal and request further briefing or additional information. This option is not recommended given Council's earlier decision to proceed with the reclassification and the required consultation processes that will follow if the planning proposal receives an affirmative Gateway determination.

RECOMMENDATIONS

1. That Council submits the planning proposal for the reclassification of Lot 5 DP 843369, Old Bagotville Road, Wardell from community land to operational land to the Department of Planning and Infrastructure for review and Gateway determination.
2. That upon affirmative Gateway determination being received from the Department of Planning and Infrastructure, the procedural steps associated with progression of the planning proposal, including public exhibition and the holding of a public hearing, be undertaken.
3. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.

Attachment(s)

1. Locality Map - Lot 5 DP 843369
2. Draft Planning Proposal - Proposed Land Reclassification - Lot 5 DP 843369 Old Bagotville Road, Wardell
3. Supporting Information - Reclassification of Land - Lot 5 DP 843369 Old Bagotville Road, Wardell

9.4 Planning Proposal - Dual Occupancy Lots, Lennox Head

9.4 Planning Proposal - Dual Occupancy Lots, Lennox Head

Delivery Program Strategic Planning

Objective To present options for the Council with regard to progressing planning proposal BSCPP 13/002 relating to various dual occupancy lots at Lennox Head.

Background

The Ballina Local Environmental Plan 2012 (BLEP 2012) provides for the following residential zones:

- R2 Low Density Residential Zone – provides for low density residential development forms including dwellings and secondary dwellings/“granny-flats” (and other compatible uses)
- R3 Medium Density Residential Zone – provides for a broad range of residential development forms including dual occupancies, residential flat buildings, multi dwelling housing and the like (and other compatible uses).

The introduction of the BLEP 2012 involved the identification of existing residential allotments with appropriate zoning under the LEP either through application of an R2 Low Density Residential or R3 Medium Density Residential zone. Typically, existing low density lots received an R2 zone and existing duplex and medium density lots received an R3 zone.

Land within proposed urban release areas, where individual residential allotments had not been created, were generally (but not always, depending on the circumstances) zoned R3 Medium Density Residential under the new plan to allow the subdivision development assessment process to determine the appropriate mixture of low and medium density residential forms within these areas.

Under this approach, the potential for development of the various residential forms is mainly determined by the size of the allotments created, with reference to development standards provided in the Ballina LEP 2012 and the Ballina Shire Development Control Plan (DCP 2012).

It has recently been identified that several allotments in Lennox Head, designated for ‘dual occupancy’ in the respective development approvals that have previously been granted by Council, were not designated as such in the Ballina LEP 2012 (these lots were known as duplex lots under the former planning framework – dual occupancy is the equivalent land use in the Ballina LEP 2012).

These lots require zoning as R3 Medium Density Residential in the LEP to enable dual occupancy development to occur, as intended.

This matter appears to have arisen due to the interim stage of the developments and the various ‘hold points’ of the LEP maps during key stages of the negotiations and implementation of the new plan.

9.4 Planning Proposal - Dual Occupancy Lots, Lennox Head

That is, the lots identified were not created at the time the LEP zone provisions were applied and so were not subject to analysis regarding the most suitable residential zone type on an individual lot basis (the individual lots did not exist in Council's property information system at the time zones were applied).

The planning proposal, contained in Attachment One, seeks to amend the LEP to acknowledge the past approvals for dual occupancy development on certain land by the application of the R3 Medium Density Residential zone to the land.

The proposal also includes the application of a minimum lot standard for subdivision of 800m². Council was asked by the Department of Planning & Infrastructure (DP&I) via the Gateway determination to consider a smaller minimum lot size. This has been reviewed and application of the 800m² standard is recommended as it is consistent with lot size standards applied in similar circumstances in Lennox Head.

With respect to the progress of the matter to date, Council considered the subject planning proposal at its Ordinary Meeting held on 24 April 2013, resolving [Minute 240413/7] as follows:

1. *That the Council endorses the application of an R3 Medium Density Residential zone and associated minimum lot standard for subdivision of 800m² as the basis for a planning proposal applying to the following land:*
 - *Lots 182, 183 & 184 DP 1165078 and Lot 168 DP 1166175.*
 - *Two approved lots under development consent No 2008/628 within existing Lot 177 DP 1172682 and one approved lot under development consent No 2007/503 within existing Lot 20 DP1121759 and Lot 3 DP 253428 (as shown in Figure 1 of the planning proposal contained in Attachment 1).*
2. *That the Council submit the planning proposal relating to various approved dual occupancy lots in Lennox Head 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, including public exhibition, be undertaken.*
4. *That a further report be presented to the Council in relation to this matter following mandatory community consultation.*

The DP&I issued a Gateway determination allowing the planning proposal to proceed on 13 May 2013, a copy of which is provided as Appendix Three of the planning proposal.

The planning proposal was subsequently publicly exhibited, in accordance with the Gateway determination for a minimum 28 days from 26 June 2013 to 26 July 2013.

No submissions were received in response to the public exhibition.

The purpose of this report is to provide the Council with options for progressing the subject planning proposal.

Key Issues

9.4 Planning Proposal - Dual Occupancy Lots, Lennox Head

- Residential development potential.
- Consistency with strategic planning intent and existing development approvals.

Information

Land parcels

This planning proposal relates to four existing allotments of land and three approved (but not created allotments) at Lennox Head as described below:

- Existing allotments described in real property terms as Lots 182, 183 & 184 DP 1165078 and Lot 168 DP 1166175.
- Two approved lots under development consent No 2008/628 within existing Lot 177 DP 1172682 and one approved lot under development consent No 2007/503 within existing Lot 20 DP1121759 and Lot 3 DP 253428.

The location of the subject land is shown in Figure 1 of the planning proposal contained in Attachment One. As shown, the land is located within the Lennox Meadows and Elevation Estates in Lennox Head.

Planning Context

The Ballina Shire Growth Management Strategy 2012 provides the strategic planning context for urban development in Ballina Shire. The development of the land, to which this matter relates, is consistent with Council's Growth Management Strategy.

The development approvals applying to the subject land acknowledge that dual occupancy development is to occur on the lots created (or, in three instances, to be created). The application of the R3 Medium Density zone is, therefore, consistent with the planning context for the land.

Council understands that a number of the subject allotments have recently been sold or are currently on the market for sale. It is reasonable under the circumstances, therefore, that this matter be addressed promptly.

As a consequence of the above, a planning proposal that would have the effect of rezoning the subject (existing and prospective) allotments from R2 Low Density Residential zone to R3 Medium Density Residential zone, under the terms of the BLEP 2012 has been prepared and publicly exhibited. The planning proposal is contained in Attachment One.

9.4 Planning Proposal - Dual Occupancy Lots, Lennox Head

The purpose of the subject planning proposal is to bring the zoning and minimum lot size standards of the Ballina LEP 2012 into line with the intended land use outcomes as envisaged by the development approvals that have been granted. Consequently, the subject planning proposal constitutes “housekeeping” to ensure consistency with previous decisions of Council in relation to the subdivision of the subject land, and with community expectations.

No submissions were received in response to the public exhibition of the planning proposal.

Sustainability Considerations

- **Environment**

The rezoning of the land from low density to medium residential uses is, under the circumstances, a minor matter and as such it is not likely to have any significant implications from an environmental, social or economic perspective. The rezoning is consistent with existing approvals for dual occupancy development on the land.

- **Social**

As above.

- **Economic**

As above.

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.

Consultation

The Gateway determination required consultation with the NSW Rural Fire Service (RFS). The RFS did not raise any objections to the planning proposal proceeding. A copy of the RFS response is provided in Appendix 4 of the planning proposal.

The planning proposal was publicly exhibited, in accordance with the Gateway determination for a minimum 28 days from 26 June 2013 to 26 July 2013. No submissions were received during the public exhibition phase of the planning proposal.

Options

1. That Council progress to finalisation of the planning proposal; or
2. That Council discontinue or defer the planning proposal.

9.4 Planning Proposal - Dual Occupancy Lots, Lennox Head

Option one is the preferred course of action on the basis that it is consistent with planning context and development history of the land. Essentially, the rezoning constitutes “housekeeping” to ensure consistency with previous decisions of Council in relation to the subdivision of the subject land, and with community expectations.

Due to the relatively minor nature of the proposal and its consistency with the planning context of the land, it is recommended that the planning proposal be finalised. The proposal would be finalised on the basis of the planning proposal documentation contained in Attachment One (the planning proposal incorporates minor amendments relating to the outcomes of the consultation phase and to finalise the documentation). Council may amend the planning proposal further prior to finalisation.

If Council proceeds with option one, 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.

Although there are some resourcing implications for Council (more staff time in processing), it is recommended that Council exercise its delegation in this instance due to the minor nature of the proposal and that it provides an opportunity for Council to continue to trial the delegation based system with minimal risks.

The primary disadvantage of the planning proposal not proceeding is the inconsistency that arises between the approved and anticipated use of the subject lots and the zoning under the LEP. The current zoning under the BLEP 2012 prevents the land being used for its approved purpose, being dual occupancy development.

RECOMMENDATIONS

1. That Council endorses the application of an R3 Medium Density Residential zone and associated minimum lot standard for subdivision of 800m² over the following land:
 - Lots 182, 183 & 184 DP 1165078 and Lot 168 DP 1166175.
 - Two approved lots under development consent No 2008/628 within existing Lot 177 DP 1172682 and one approved lot under development consent No 2007/503 within existing Lot 20 DP1121759 and Lot 3 DP 253428 (as shown in Figure 1 of the planning proposal contained in Attachment One).
2. That Council proceed to finalise and implement Planning Proposal BSCPP 13/002, relating to various approved dual occupancy lots in Lennox Head, directly in liaison with Parliamentary Counsel.

Attachment(s)

1. Planning Proposal BSCPP13/002 - Dual Occupancy Lots Lennox Head (Final)

9.5 Planning Proposal - Crane Street, Ballina

9.5 Planning Proposal - Crane Street, Ballina

Delivery Program Strategic Planning

Objective To present options for the progression of planning proposal BSCPP 13/004 relating to 60 Crane Street in Ballina.

Background

This report relates to Lot 2 DP 506103, located at 60 Crane Street, Ballina (refer to Map 1 within the planning proposal contained in Attachment One). The subject land is currently owned by Fire & Rescue New South Wales, comprising part of the current Ballina Fire Station site.

Council staff recently had cause to be discussing with representatives of Fire and Rescue New South Wales, that organisation's infrastructure requirements for the future delivery of fire services within Ballina. Outcomes of these discussions were presented in a report to the Commercial Services Committee meeting held on 26 February 2013. As part of these deliberations, Council identified a zoning anomaly relating to part of the land on which the current fire station is located, giving rise to the need for an amendment to the Ballina Local Environmental Plan 2012 (Ballina LEP 2012) to rectify the zoning anomaly.

The Council, at its Ordinary Meeting held on 28 February 2013, resolved to prepare a planning proposal to address the zoning of Lot 2 DP 506103 [Minute No. 280213/30]. Council considered the draft planning proposal at its Ordinary Meeting held on 23 May 2013, resolving [Minute No. 230513/12] as follows:

1. *That Council endorses the application of a B3 Commercial Core zone as the basis for a planning proposal applying to Lot 2 DP 506103, 60 Crane Street, Ballina (as shown in Map 1 of the planning proposal contained in Attachment 1).*
2. *That the Council submit the planning proposal relating to Lot 2 DP 506103, 60 Crane Street, Ballina 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, including community consultation, be undertaken.*
4. *That a further report be presented to the Council in relation to this matter following mandatory community consultation.*

9.5 Planning Proposal - Crane Street, Ballina

The Department of Planning & Infrastructure (DP&I) issued a Gateway determination allowing the planning proposal to proceed on 1 July 2013, a copy of which is provided in Appendix Two of the attached planning proposal. The planning proposal was publicly exhibited, in accordance with the Gateway determination for a minimum 14 days from 17 July 2013 to 2 August 2013. No submissions were received in response to the public exhibition. The purpose of this report is to provide the Council with options for progression the subject planning proposal.

Key Issues

- Commercial zoning
- Consistency with strategic planning intent

Information

Investigation into this matter has identified that the current zoning of the subject land (Lot 2 DP 506103) is a consequence of a mapping anomaly associated with the previous digitisation of the Ballina Local Environmental Plan 1987. Details of the anomaly are contained in the planning proposal (Attachment One). Importantly, the current and historic use of the subject land is associated with the use of an adjoining land parcel that is zoned for commercial purposes.

As a consequence of the above, a planning proposal that would have the effect of rezoning the subject land from R3 Medium Density Residential zone to B3 Commercial Core zone, under the terms of the BLEP 2012 has been prepared (Attachment One). The planning proposal seeks to apply the appropriate commercial zone to the land, consistent with the zoning of the adjacent land parcel with which its development history and use is associated.

It is noted that the planning proposal is consistent with the strategic planning context and history of the land, and the zoning anomaly outlined above is in need of rectification even though there is no development proposal currently pending in relation to the land.

Sustainability Considerations

- **Environment**
The rezoning of the land from medium density residential to commercial is, under the circumstances, a minor matter and as such it is not likely to have any significant implications from an environmental, social or economic perspective. The rezoning is consistent with the strategic planning intent and historic use of the land.
- **Social**
As above.
- **Economic**
As above.

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.

Consultation

The subject planning proposal was publicly exhibited for a minimum period of 14 days from 17 July 2013 to 2 August 2013. No submissions were received in response to the public exhibition. Comment was sought from NSW Fire & Rescue, in accordance with the Gateway determination, however no response was received.

Options

1. That Council refer the planning proposal to the NSW Department of Planning and Infrastructure for finalisation; or
2. That Council discontinue the planning proposal.

Option one is the preferred course of action on the basis that it is consistent with planning context and development history of the land. Essentially, the rezoning constitutes "housekeeping" to ensure consistency with previous decisions of Council in relation to the subdivision of the subject land, and with community expectations, and to correct a mapping anomaly which has been detected within the Council's public records.

Due to the relatively minor nature of the proposal and its consistency with the planning context of the land, it is recommended that the planning proposal be forwarded to the Department of Planning and Infrastructure to be finalised. The primary disadvantage of the planning proposal not proceeding is the continuation of the inconsistency in zoning that applies to the land with respect to the adjoining parcel with which the existing use is associated.

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. Under these delegations, Council can perform some of the plan making functions that are otherwise completed by the Department. Despite the Council declining to make such a request in this case, Council was provided with delegation to exercise plan finalisation functions in relation to the subject planning proposal.

Although there may be occasion where the application of the delegations is of benefit to Council, typically the exercise of the delegation shifts tasks to Council, shifts risk in the plan making process to Council and removes a Departmental review point (which has historically been beneficial in the LEP amendment process). No specific benefit in the use of the delegation has been identified for this matter and given that Council may have a financial interest in the land [Minute No. 280213/30], it is recommended that Council does not exercise its delegations in this instance.

RECOMMENDATIONS

1. That the Council endorses the application of a B3 Commercial Core zone to Lot 2 DP 506103, 60 Crane Street, Ballina (as shown in Map 1 of the planning proposal contained in Attachment One).
2. That Council submit the planning proposal BSCPP 13/004 relating to Lot 2 DP 506103, 60 Crane Street, Ballina to the NSW Department of Planning & Infrastructure to be finalised.
3. That Council advise the NSW Department of Planning & Infrastructure that it does not intend to exercise its delegations with respect to the finalisation of the planning proposal in this case.

Attachment(s)

1. Planning Proposal BSCPP13/004 - 60 Crane Street Ballina (Final)

9.6 Australian Fishing Tournaments Pty Ltd - Request to Waive Fees

9.6 Australian Fishing Tournaments Pty Ltd - Request to Waive Fees

Delivery Program Tourism

Objective To consider a request to waive Council's event application fees for the 2013 North Coast Fishing Bonanza.

Background

Council has received correspondence from the organisers of the North Coast Fishing Bonanza requesting that Council waive the applicable commercial event fees (Attachment One). Council's endorsed 2013/14 fees and charges states that commercial event applicants are subject to application and ground hire fees.

This report canvasses the issues of providing a fee exemption for this event.

Key Issues

- Equitable application of fees for commercial event organisers
- Clarification as to the definition of a commercial event

Information

The North Coast Fishing Bonanza has been running for three years in the Ballina Shire. According to the organisers, the event is Australia's largest catch and photograph fishing tournament attracting up to 500 attendees.

This year, it is planned that the event will be held from 25 to 29 September 2013 at the Ballina Amphitheatre. The four day event is presented by Gamakatsu and Evinrude Etec with over \$60,000 worth of prizes. The entry fees are listed below:

- adults \$120
- cadets \$50
- juniors \$15
- family discount of 10% when entering with three or more people

In the past, it has been unclear to Council staff as to the exact nature of the event (i.e. whether the event is community, not for profit or commercial based in terms of Council's Events on Public Land Policy). As such no application or ground hire fees have been charged.

On a recent review of the events on public land application submitted by Australian Fishing Tournaments Pty Ltd this year, it has become evident that the organisers of the Australian Fishing Tournaments Pty Ltd are running The North Coast Fishing Bonanza on a commercial basis.

9.6 Australian Fishing Tournaments Pty Ltd - Request to Waive Fees

In light of this information, under the 2013/14 Council Fees and Charges, the applicant has been advised that the event is subject to the following charges:

Fees and Charges 2013/14	Charge (\$) (incl. GST)
Application Fee for Commercial Users	\$400
Amphitheatre Ground Hire (per day for Commercial Users) – Hire period 5 days @ \$300 per day	\$300 per day Total = \$1,500
Total:	\$1,900 (incl.GST).

Page 11 of the fees and charges document also states as follows:

Applicants eligible for the ground rental fee exemption must be a not for profit group which is either an incorporated association or similar entity. Commercially run community events which have no entry free are also exempt. All other applicants will be treated as commercial users and will pay a ground rental fee as determined by the General Manager, or delegate.

This extra clause was added during 2012/13 in order to address this issue of managing events that also have a commercial focus.

Australian Fishing Tournaments Pty Ltd is now asking Council to waive the applicable fees (as outlined in their correspondence contained in Attachment One).

In summary Australian Fishing Tournaments Pty Ltd is seeking an exemption on the basis of the following:

- The number of people attending The North Coast Fishing Bonanza is continuing to grow, and anticipates being a major signature event with benefits to the local economy
- The North Coast Fishing Bonanza has been running at a loss for three consecutive years
- The North Coast Fishing Bonanza is the only family fishing event in Ballina and
- Ballina has a reputation as a family fishing destination, and should support events which help showcase this.

Whilst the event has the potential to generate economic benefits to the Ballina Shire as it grows; it also has the potential to make a profit and is run by a commercial entity.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Community events add significantly to the fabric social fabric of communities
- **Economic**
Events have the potential to generate significant economic benefits

Legal / Resource / Financial Implications

Financial implications include lost revenue by waiving the fees and potential for broader loss if a precedent is set by not charging fees for commercial event applicants.

Consultation

The Council policy was subject to public exhibition.

Options

Council has the option of waiving the fees. This option has some merit in that Council is generally supportive of events and the revenue foregone is limited, relative to Council's overall budget, although at just under \$2,000 it is in isolation a reasonable amount of revenue. The key issue with this option is not the revenue foregone but the precedent being set for other events, along with the fact that Council policy is to charge for commercial entrance fee paying events. If Council chooses this option it should possibly also change the fees and charges to avoid this situation arising again

The other option is to not approve the request on the basis that the use of community owned land for commercial purposes should provide some financial return to the community.

As Council's fees and charges includes charges for this type of activity the recommendation is not to waive the event fees.

RECOMMENDATION

That Council does not endorse the request to waive the Council application and hire fees for the 2013 North Coast Fishing Bonanza event, run by Australian Fishing Tournaments Pty Ltd, as the event is being conducted on a fee for entry basis.

Attachment(s)

1. Correspondence from Australian Fishing Tournaments Pty Ltd

10.1 Use of Council Seal

10. General Manager's Group Reports

10.1 Use of Council Seal

RECOMMENDATION

That Council affix the Common Seal to the following document.

US13/17	<p>Council to The Northcott Society – Licence to Occupy part 14 Martin Street Ballina (formerly 42 Tamar Street Ballina) for a nominal rental of \$1.</p> <p>Explanation – Council granted approval for The Northcott Society to operate a Community Participation Program for young people with disabilities from the subject site on 29 November 2012 (DA 2012/392). A condition of the consent required the applicant to dedicate to Council part of the property facing Tamar street for road widening purposes. At this time, Council does not require the land for road widening purposes, accordingly a licence is proposed, allowing The Northcott Society to use the land required for road widening purposes until Council actually requires the land. An aerial map of the property showing the licensed area is attached.</p> <p>The preference of the Northcott Society is to occupy this area for a nominal rental of \$1. As Council does not currently need this land it has nominal value, albeit that Council needs to be satisfied that there is not a commercial gain being returned to the occupier of the land. Northcott is a non for profit organisation and their web site states as follows:</p> <p><i>Northcott is one of Australia's leading organisations providing programs and services for children and adults with disabilities and their families living in NSW and the ACT. Committed to building an inclusive society where people can live the life they choose, Northcott supports people with physical, intellectual and rare or lesser known disabilities to help develop independence, confidence and life skills. In all that we do, we are driven by a commitment to 'do more' - to provide more funding, to generate more opportunity and to create more choice. Northcott is a client-centred, value-based organisation. We support the introduction of DisabilityCare Australia and a strive to give our clients more voice, choice and opportunity.</i></p> <p>Due to the nature of the services provided Council staff have no objection to the nominal lease value. Also, the dedicated land is part of a much longer term plan to provide additional parking in Tamar Street.</p>
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Attachment(s)

1. Aerial map of property showing licence area

10.2 Investment Summary - July 2013

10.2 Investment Summary - July 2013

Delivery Program Governance and Finance

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 July 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 July 2013 was \$84,324,000. This represents a decrease from June of \$4,360,000.

The balance of the cheque account at the Commonwealth Bank, Ballina as at 31 July 2013, was \$2,164,667.

Council's investments as at 31 July are at an average (weighted) rate of 4.18% which is 1.43% above the 90 Day Bank Bill Index of 2.75%.

The majority of the approximately \$84 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 - July 2013

Information

As largely expected, the RBA cut the cash rate from 2.75% to 2.50% at its August 6 meeting.

The focus however was always going to be what they said in the accompanying statement and the need to support the transition from mining led growth to construction sector led growth, in the context of low global growth.

The following points are evident from the statement:

- Global growth: Global growth comments were much the same as the prior meeting, where the RBA noted that growth was “running a bit below average this year, with reasonable prospects of a pick-up next year”.
- Financial markets (globally): Whilst financial conditions remain very accommodative, “volatility in financial markets has increased and has affected a number of emerging market economies in particular”.
- Domestic economy: Some acknowledgement that the economy has been growing a bit below trend over the past year. This is expected to continue in the near term as the economy adjusts to lower levels of mining investment.
- Future: “The Board will continue to assess the outlook and adjust policy as needed to foster sustainable growth in demand and inflation outcomes consistent with the inflation target over time.”

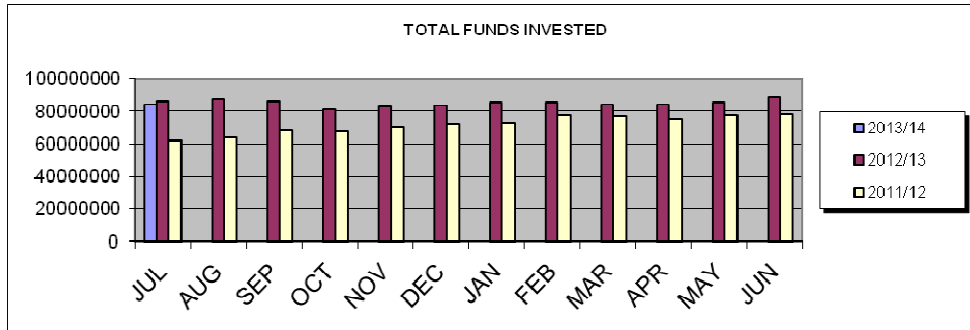
A. Summary of investments by institution

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	2.4	12%
Rated Institutions						
ANZ Bank	AA-	28	18	20	0.0	
Bank of Queensland	BBB+	7,000	7,000	10	8.3	
Bank of Western Australia	AA-	1,000	0	20	0	
Bendigo & Adelaide Bank	A-	2,000	0	10	0	
Commonwealth Bank of Aust	AA-	4,018	8,518	20	10.1	
Defence Bank Ltd	BBB+	1,000	3,000	10	3.6	
Greater Building Society	BBB	2,000	2,000	10	2.4	
Heritage Bank	BBB+	3,000	3,000	10	3.6	
Illawarra Mutual Bld Soc	BBB	2,000	2,000	10	2.4	
ING Bank Ltd	A	14,000	15,000	20	17.8	
Members Equity Bank	BBB	8,000	8,000	10	9.5	
National Australia Bank	AA-	15,000	13,000	20	15.4	
Newcastle Perm Bld Society	BBB+	2,000	2,000	10	2.4	
Rural Bank Ltd	A-	4,000	4,000	10	4.7	
Suncorp Metway Bank	A+	12,850	6,000	20	7.1	
Westpac Banking Corporation	AA-	1,000	1,000	20	1.2	88%
Unrated ADI's				\$1m	0.0	
Total		88,684	84,324			100%

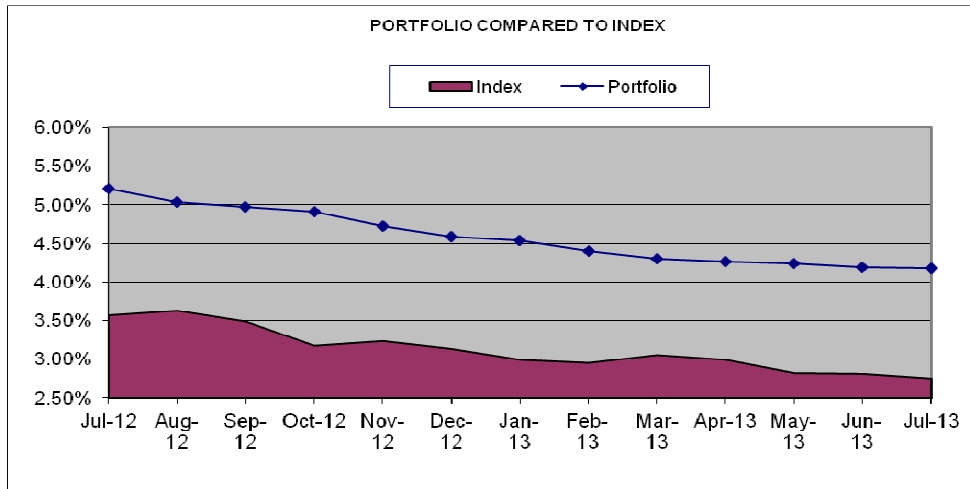
* Rating is on Capital only by Citigroup Pty Ltd

10.2 Investment Summary - July 2013

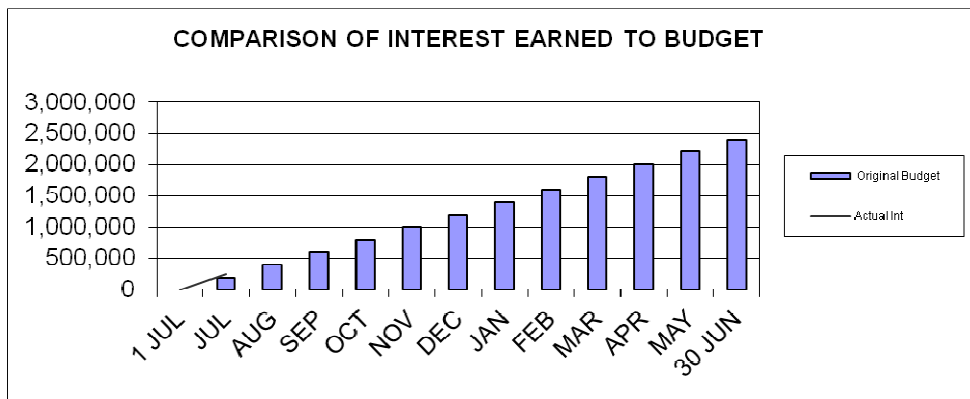
B. Monthly Comparison of Total Funds Invested



C. Comparison of Portfolio Investment Rate to 90 Day BBSW



D. Progressive Total of Interest Earned to Budget



10.2 Investment Summary - July 2013

E. Investments held as at 31 July 2013

Purchase Date	Issuer	Type	Rate%	Call or Maturity Date	Purchase Value \$'000	Fair Value \$'000
23/04/04	Deutsche Bank	FRN	3.74	23/04/14	2,000	1,989
23/04/04	Deutsche Bank	FRN	3.74	23/04/14	2,000	1,989
20/09/04	National Australia Bank (ASXlisted)	FRN	4.06	Perpetual	1,788	1,263
12/04/06	Goldman Sachs	FRN	3.27	12/04/16	1,000	973
16/06/06	National Wealth M'ment Holdings	FRN	3.41	16/06/16	2,000	1,864
28/06/07	Longreach Series 28**	FND	0.00	27/06/14	1,000	995
17/12/08	Commonwealth Bank Of Australia	FRN	3.98	17/12/13	1,000	1,004
17/12/08	Commonwealth Bank Of Australia	FRTD	5.93	17/12/13	999	1,011
	at call Commonwealth Bank Of Australia	FND	2.70	at call	4,528	4,528
	at call ANZ Bank	FND	2.50	at call	18	18
24/01/12	ING Bank Ltd	FRTD	4.68	24/01/17	1,000	1,000
06/02/12	Westpac Bank	FRN	4.55	06/02/17	1,000	1,038
25/01/13	Commonwealth Bank Of Australia	TD	4.36	25/01/18	1,991	2,014
05/02/13	Members Equity Bank	TD	4.40	05/08/13	2,000	2,000
11/02/13	ING Bank Ltd	TD	4.39	12/08/13	2,000	2,000
18/02/13	Members Equity Bank	TD	4.40	19/08/13	2,000	2,000
28/02/13	Bank of Queensland	TD	4.40	28/08/13	1,000	1,000
06/03/13	Suncorp-Metway Bank	TD	4.20	02/09/13	2,000	2,000
18/03/13	ING Bank Ltd	TD	4.40	16/09/13	1,000	1,000
10/04/13	National Australia Bank	TD	4.42	10/10/13	2,000	2,000
17/04/13	National Australia Bank	TD	4.37	14/10/13	4,000	4,000
17/04/13	National Australia Bank	TD	4.25	15/08/13	1,000	1,000
24/04/13	Rural Bank Ltd	TD	4.40	21/10/13	2,000	2,000
29/04/13	National Australia Bank	TD	4.25	29/10/13	2,000	2,000
01/05/13	National Australia Bank	TD	4.20	01/11/13	2,000	2,000
02/05/13	Illawarra Mutual Bld Society	TD	4.20	29/10/13	2,000	2,000
07/05/13	ING Bank Ltd	TD	4.32	07/11/13	1,000	1,000
07/05/13	Heritage Bank	TD	4.30	07/05/14	3,000	3,000
08/05/13	Bank of Queensland	TD	4.35	08/08/13	2,000	2,000
10/05/13	Suncorp-Metway Bank	TD	4.10	08/05/13	2,000	2,000
14/05/13	Newcastle Permanent Bld Society	TD	4.10	12/08/13	2,000	2,000
20/05/13	Defence Bank	TD	4.45	20/05/14	1,000	1,000
21/05/13	Members Equity Bank	TD	4.35	19/08/13	2,000	2,000
28/05/13	Rural Bank Ltd	TD	4.18	25/09/13	2,000	2,000
28/05/13	Suncorp-Metway Bank	TD	4.15	25/11/13	2,000	2,000
30/05/13	ING Bank Ltd	TD	4.27	26/11/13	1,000	1,000
05/06/13	National Australia Bank	FRTD	4.07	05/06/15	2,000	2,000
07/06/13	Greater Bld Society	FRN	4.25	07/06/16	2,000	1,998
18/06/13	ING Bank Ltd	TD	4.25	16/09/13	3,000	3,000
18/06/13	Members Equity Bank	TD	4.30	16/09/13	1,000	1,000
20/06/13	ING Bank Ltd	TD	4.21	20/01/14	1,000	1,000
04/07/13	ING Bank Ltd	TD	4.14	30/01/14	2,000	2,000
22/07/13	Defence Bank	TD	4.15	29/11/13	2,000	2,000
24/07/13	ING Bank Ltd	TD	4.00	20/01/14	1,000	1,000
25/07/13	Bank of Queensland	TD	4.10	22/11/13	3,000	3,000
30/07/13	Members Equity Bank	TD	4.20	28/10/13	1,000	1,000
30/07/13	ING Bank Ltd	FRTD	4.17	30/07/14	2,000	2,000
31/07/13	Bank of Queensland	TD	4.10	29/10/13	1,000	1,000
Totals					84,324	83,684
TD=Term Deposit		FRN=Floating Rate Note		FND=Managed Fund		
ELN= Equity Linked Note		FRTD= Floating Rate Term Deposit				

RECOMMENDATION

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

Attachment(s)

Nil

10.3 Temporary Occupation - Wollongbar Community Hall

10.3 Temporary Occupation - Wollongbar Community Hall

Delivery Program Commercial Services

Objective To consider a request from the Alstonville Community Preschool Incorporated to operate from the Wollongbar Community Hall on a temporary basis.

Background

Council considered a report at the November 2011 Ordinary meeting regarding a request from the Alstonville Community Preschool for assistance with locating a suitable site for their preschool, as the existing site at the Alstonville Baptist Church, was no longer available from December 2013.

Council subsequently resolved as follows:

- 1. That Council authorises the General Manager to conduct a community consultation process, as required by the Local Government Act, in respect to a proposal to alter that part of Crawford Park that would be required for the Alstonville Preschool from sports ground to general community use.*
- 2. This consultation is to be conducted following discussions with the proponents of the preschool and the sporting clubs currently utilising Crawford Park to determine the appropriate size and location of the area for the preschool.*
- 3. That Cooke Park be removed from the list of potential sites for the proposed Alstonville Preschool.*

At the completion of the community consultation process, a report was considered on 20 December 2012 with the following resolution adopted:

That Council adopt Draft Amendment No. 7 to the Ballina Shire Principal Generic Plan of Management for Community Land to recategorise approximately 4,000m² of land on the northern edge of Crawford Park from "park" and "sportsground" to "general community use" and the insertion of special provisions to enable the establishment of the proposed Alstonville Community Preschool.

As an interim measure, prior to the proposed construction of a preschool on the Crawford Park site, or the possible location to another site, the Alstonville Preschool has negotiated with the Wollongbar Hall Committee temporary accommodation (two year period referenced) within the hall.

The Wollongbar Community Hall is located in Hall Court, Wollongbar, as is the Wollongbar Community Preschool and a number of residential units. As there are differing opinions as to the suitability of the use of the hall for this interim purpose, it is important that Council, as the hall owner, make a determination as to whether or not it supports this interim use.

Key Issues

10.3 Temporary Occupation - Wollongbar Community Hall

- Concerns raised by the Wollongbar Community Preschool
- Traffic management issues on Hall Court as identified by Council

Information

The Alstonville Community Preschool Inc. has formally written to Council (copy attached) asking to relocate to the Wollongbar Community Hall, which is situated in the same locality as the Wollongbar Community Preschool. This is an interim proposal until the Crawford Park site is developed, or another suitable site confirmed.

On receipt of the request, advice was sought from the Development and Environmental Health, and Civil Services Groups of Council, with the following comments provided:

Development and Environmental Health Group:

The development application and building application history for the site was reviewed, and it was confirmed that the Wollongbar Hall has approval for a use akin to a 'community building' as it was defined at that time under the BLEP 1987.

A **community building** means a building or place owned or leased by the Council and used to provide facilities comprising or relating to any one or more of the following:

- (a) a public library
- (b) public health, welfare or information services
- (c) rest rooms
- (d) meeting rooms
- (e) indoor recreation
- (f) child minding or
- (g) other community support facilities.

Consequently, no development application would be required for the proposed use of the Hall (as a preschool). Any alterations or additions to the Hall may require approval and these enquiries should be directed to Council's Building Services Section once details of any alterations are known.

Civil Services Group:

- The existing Wollongbar PreSchool, Wollongbar Community Hall and adjoining unit developments are sharing the access road (Hall Court). The parking area is partly formalised and sealed, while there is a large section adjacent to the hall which is not formalised or sealed.
- The site currently experiences some congestion at peak times. This is more so in times of wet weather due to the unsuitable unsealed parking area.
- It is considered the provision of a new preschool facility in the hall would exacerbate the parking and maneuvering issues in this already congested space.

10.3 Temporary Occupation - Wollongbar Community Hall

- The issue of upgrading the parking area is noted by Council (and shown in the draft car park design plan – copy attached), but does not appear on the forward works plan, has no budget allocation and is not considered a high priority for funding at this time.

Therefore, the establishment of a new 29 child preschool facility located in the community hall is not supported due to inadequate parking and vehicle turning areas with no allocated funding from Council to upgrade the road and parking infrastructure.

This means that while there is no development consent issues identified for the proposed relocation of the Alstonville Community Preschool, the traffic management issues should be resolved prior to use as a preschool.

Further to this, as per the second attachment to this report, the Wollongbar Community Preschool has expressed concerns with the proposal, including but not limited to;

- Increased noise levels
- Supervisory issues along an adjoining fence line and
- Car parking and traffic conflict along Hall Court.

As per the first attachment to this report the Alstonville Community Preschool Inc. has offered possible solutions to these issues. Any proposal for interim use should ensure that these solutions are implemented, where practical.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Council has previously acknowledged its support for the establishment of a new preschool to promote the availability of this service to the residents of Alstonville and surrounding areas.
- **Economic**
Council is looking to support the provision of affordable and accessible children's services in the Alstonville community.

Legal / Resource / Financial Implications

There appears to be no legal or resource implications to the proposal to operate the Alstonville Community Preschool from within the Wollongbar Hall, however a budget allocation may be required if Council is of the view that the identified inadequate car parking and vehicle turning areas within Hall Court, Wollongbar, need to be addressed.

Consultation

The Alstonville Community Preschool Inc. and the Wollongbar Community Preschool have submitted their comments on the proposal. The Alstonville Community Preschool is actively pursuing all known site options.

10.3 Temporary Occupation - Wollongbar Community Hall

Options

There are a range of options available to Council including:

1. Approve the operation of the Alstonville Community Preschool Inc. from the Wollongbar Community Hall, not address the traffic management issues and ensure the solutions proposed by the Preschool are implemented.
2. Approve the operation of the Alstonville Community Preschool Inc. from the Wollongbar Community Hall, address the traffic management issues and ensure the solutions proposed by the Preschool are implemented. The cost of the traffic management works is estimated at \$35,000 to \$45,000 dependent on the exact number of car parks provided.
3. Not approve the request on the basis of the objections submitted by the Wollongbar Community Preschool and the budgetary requirements necessary to resolve the traffic management issues.

The Alstonville Community Preschool is continuing to pursue other possible sites, such as Amaze n Place. The Wollongbar Hall is seen as an option of last resort if no other site is forthcoming, particularly as it is not even located in Alstonville.

In looking at options the objective of Council should be to try and ensure an outcome that is in the best interests of the entire community. By not allowing an interim use there will be a significant impact on preschool services in Alstonville and this is considered to be a very important service to the local community. Therefore option three is not supported.

However, if that interim use is allowed based on the current traffic conditions, then Council is ignoring the professional advice from staff. This effectively rules out option one.

What this means is that the only viable option is option two; i.e.

- a) Approve the request
- b) Address the traffic issues by providing a budget of approximately \$40,000
- c) Ensure the other management solutions proposed in the correspondence from the Alstonville Preschool are implemented, where practical.

In identifying this as the preferred approach other important points to consider are:

- a) The option may not proceed, if an alternative site, closer to Alstonville, is identified
- b) The funding for the car park does not need to be undertaken unless this option proceeds
- c) If the option proceeds the car parking works will provide a permanent benefit for the Wollongbar Hall and is therefore a reasonable expenditure of public monies, albeit there are arguably a large number of higher priority projects.

10.3 Temporary Occupation - Wollongbar Community Hall

The major issue with this is the funding of \$40,000. The recommended funding source for work of this nature would be from one of Council's internal reserves. Reserves are held for four main purposes:

- a) Surplus from operating results for certain programs to fund future capital works and services
- b) Legislative requirements
- c) To take advantage of opportunities and
- d) To assist when unforeseen circumstances arise such as disasters, emergencies etc.

The current issue facing Council is similar to point d) in that there is almost a semi-crisis facing the Alstonville community through the possible loss of their preschool service. Therefore it is reasonable to access funding from one of our internal reserves. In looking at the internal reserves available to Council the preferred funding source is the Civil Works contingency reserve.

This reserve has a balance of \$214,600 as at 30 June 2013. This reserve has been established to assist in balancing the over and under expenditures of the multitude of road constructions works undertaken by the Civil Services Group each year. This is not an ideal funding source, but the circumstances we are facing make it a practical solution.

The recommendation that follows supports this approach.

RECOMMENDATIONS

1. That Council confirms its support for the interim use of the Wollongbar Community Hall by the Alstonville Preschool subject to the Alstonville Preschool implementing the solutions they identified in their attached correspondence to address the issues raised by the Wollongbar Preschool.
2. That Council approves the allocation of \$40,000 to address the traffic management issues at this location, with this funding to be sourced from the Civil Works Contingency Reserve. The expenditure of these funds is not to proceed unless the Alstonville Preschool actually takes up their interim occupation of the Wollongbar Community Hall.

Attachment(s)

1. Correspondence from Alstonville Community Preschool
2. Correspondence from Wollongbar Community Preschool
3. Car parking plan

10.4 Lennox Head Bowling Club - Lease

10.4 Lennox Head Bowling Club - Lease

Delivery Program Commercial Services

Objective To consider a request from Club Lennox to reduce the lease costs for the Lennox Head Bowling Club.

Background

The legal entity that currently operates the Lennox Head Bowling Club, and leases the land on which the building is located, from Council, being Ramsgate Memorial Club Ltd, has closed the Club due to on-going operating losses.

In response to this a community group has formed, Club Lennox Ltd., in an attempt to re-open the Club and encourage higher use of the facilities by the broader community.

Council is now in receipt of a request from Club Lennox to consider reducing the existing rental if the Club is re-opened under their management.

The report that follows canvasses this issue.

Key Issues

- Merits of reducing the current rental

Information

The Lennox Head Bowling Club is located on Council owned community land and part of a road reserve. There are two leases in place one being for the community land and the other for the road reserve. Both leases are held by Ramsgate Memorial. A site map of the locality is attached to this report.

The community land lease is for a period of 21 years expiring on 31 December 2024. The current rental for this lease is \$41,542 per annum, with a review to market every five years.

The road reserve lease was only for a period of four years with the lease expiring on 30 August 2010. Since that date the lease has been operating on a month to month basis and can be terminated at any time by Council. The current rental for this lease is \$1,315 per annum.

The lease conditions are based on Council owning the land and the lessee owning the fixtures and fittings; i.e. the lessee owns the building. This means the lessee is responsible for all operating and maintenance costs for the building such as insurance, electricity etc.

Prior to Ramsgate holding these leases, the leases were held by Lennox Head Bowls and Sports Club Ltd. As this was considered to be a locally based not for profit group the Council traditionally provided the lease rental at 50% of the market value.

10.4 Lennox Head Bowling Club - Lease

However the agreement with Lennox Head Bowls and Sports Club Ltd stated that this concession would be revoked and the rent would be reviewed to market should the lessee ever sell, assign, amalgamate or merge to/with another entity, including amalgamation or merger with a non-profit club.

In 2006 the Lennox Head Bowls and Sports Club Limited went into voluntary liquidation and whilst in liquidation amalgamated with Ramsgate RSL Memorial Club Ltd. This resulted in the then rental being increased to \$30,000. That figure has subsequently been indexed by CPI since that date.

With Club Lennox now looking to take over the operation of the building and ultimately the lease, they are seeking a return to the original conditions (i.e. 50% subsidy) if not higher.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Club Lennox is attempting to re-open the bowling club with a far stronger emphasis on a broad community involvement.
- **Economic**
Any concessions will result in a loss of current revenue to Council.

Legal / Resource / Financial Implications

Club Lennox is following a long and convoluted process in an attempt to have the club re-opened. Any transfer of the existing leases will need to be reviewed by Council's legal advisors.

Consultation

The original 21 year lease on community land was subject to a public exhibition process.

Options

At this stage Club Lennox is seeking direction from Council as to whether or not Council will support a lease concession if and when the club is re-opened and operated by Club Lennox.

This means the options are:

- a) Not support the request – the risk with this is that Club Lennox could fail and this will ultimately mean that the premises could be closed permanently, resulting in lost revenue for Council and the loss of an important community facility in Lennox Head.
- b) Support the request through a 50% subsidy – This has been the traditional position of Council and would result in approximately a \$21,000 subsidy based on current rentals.

10.4 Lennox Head Bowling Club - Lease

- c) Support the request through a higher or tiered subsidy – For example, as Club Lennox will have a transitional period as they re-establish the Club one option could be to apply an 80% subsidy in year one, 65% in year two and 50% in year three, thereby allowing a three year transitional period. Other options could include a 90% concession in year one and then moving to a 50% concession through 10% increments over the first five years. The attached correspondence proposes 80% year one, 75% year two, 70% year three, 60% year four and 50% year five.

In respect to the recommended approach the preferred option is the 50% concession as this has been the historical position of Council and this represents a significant subsidy of \$21,000. It is also recommended that Council review this concession every five years as part of any market review, as this will then allow Council to assess the overall trading position of Club Lennox on a regular basis.

RECOMMENDATION

That the General Manager advise Club Lennox that if they are successful in re-opening the Lennox Head Bowling Club, Council provides in principle support for a 50% concession of the market value for the land rental, subject to this concession being reviewed every five years, as part of any review to market.

Attachment(s)

1. Request from Club Lennox
2. Site map

10.5 Wigmore Arcade - Friends of the Library Second Hand Book Store

10.5 Wigmore Arcade - Friends of the Library Second Hand Book Store

Delivery Program Commercial Services

Objective To ascertain whether Council wishes to continue leasing Wigmore Arcade premises as a second hand book store to the Friends of the Library.

Background

With many commercial landlords currently struggling to retain high occupancy rates a common practice is to allow temporary tenants to occupy vacant space on short term agreements and / or reduced rentals to ensure that the commercial space remains occupied and thereby promotes the location as a positive leasing space.

Council, as the owner of the Wigmore Arcade, has followed a similar practice with recent short term tenancies including:

- Ballina Surf – approximately six months at reduced rent
- LJ Hooker – approximately four months at reduced rent
- Kim Toft – Still occupied on a month to month lease at reduced rent
- Australia Labor Party – Six week lease at reduced rent
- Daley's Meats – existing tenant expanded on a trial basis
- Serafino – existing tenant expanded on a trial basis
- Friends of the Library – approximately three weeks to date, after occupying 78 Tamar Street – no rent.

Council has now received a complaint from another book store operator that the Friends of the Library are impacting on their business. A copy of that complaint is attached. The purpose of this report is to determine how Council wishes to manage this complaint.

Key Issues

- Equity and fairness of current arrangements

Information

As per the attached complaint, the concern raised is that Friends of the Library is impacting on the viability of another commercial operator in the town centre. The points being raised are reasonable and Council now needs to determine whether it wishes to support the complainant and terminate this lease, or perhaps charge a lease fee which would effectively result in the termination of the lease, or allow Friends of the Library to continue to operate.

From a Wigmore Arcade management perspective the feedback is that the other tenants do not object to the presence of Friends of the Library and overall they have helped to improve the mix of people and businesses operating within the Arcade. Therefore they are seen as having a positive impact on the overall performance of the Arcade.

10.5 Wigmore Arcade - Friends of the Library Second Hand Book Store

On the other hand, it can be argued that Council has a responsibility to encourage fair and equitable competition and we should not be supporting activities that impact on the overall equity and fairness of competition, especially when we are operating on a commercial basis.

Currently Council has no policy position on this type of issue and to date staff have been attempting to manage Wigmore Arcade tenancies in a very difficult retail market. Whereas private landlords can make all sorts of arrangements to attract and retain tenants this is not so easy in a public domain.

For example Council staff have recently been criticized for allowing the Australian Labor Party to occupy one of the vacant shops for a period of five weeks, with the rental being \$800 for August and \$200 for the first week in September.

This is a discounted rent however from a staff perspective, as the space was vacant and as there were no other tenancies proposed for this period it was considered beneficial to collect that income rather than have the space remain vacant. Also this was the highest income that was able to be negotiated in a relatively short time frame.

Due to these sorts of issues now arising it may be appropriate to prepare a policy that will guide staff in how they manage short term vacancies and one of the recommendations to this report is to prepare such a policy for consideration by Council.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Friends of the Library provides a community service.
- **Economic**
The current vacancies in Wigmore Arcade reflect the difficult retail environment that currently exists.

Legal / Resource / Financial Implications

There are no direct implications of this report as the Friends of the Library are not currently paying rent.

Consultation

There has been no direct consultation in respect to the report, excluding the feedback mentioned from other operators within the Wigmore Arcade.

Options

The two options for this report are:

- a) Terminate the agreement with Friends of the Library or
- b) Continue the agreement until a suitable replacement tenant is confirmed.

10.5 Wigmore Arcade - Friends of the Library Second Hand Book Store

The difficulty in making a recommendation is that there is currently no formal policy position of Council in respect to this issue. This being the case both options have been included in the recommendation to allow Council to determine its preferred policy position.

The second recommendation is to then formulate a policy for consideration by Council to allow these issues to be addressed into the future.

RECOMMENDATIONS

1A. That Council acknowledges the complaint in respect to the current occupation of the Wigmore Arcade by the Friends of the Library, however as any landlord is allowed to negotiate a reduced or free rental to tenants, and as the feedback is that this tenancy is providing a positive impact on the Wigmore Arcade, Council agrees to continue the existing tenancy until a replacement tenant is confirmed.

OR

1B. That Council accepts that due to the concerns raised in respect to the current occupation of the Wigmore Arcade by the Friends of the Library, that it is impacting unfairly on similar private operators and as such authorises the General Manager to terminate the current agreement.

2. That the General Manager prepare a report for consideration by Council that provides a documented policy to assist staff in the management of the short term occupation of Council properties.

Attachment(s)

1. Enquiry regarding Council Policy - Friends of the Library bookshop in Wigmore Arcade

10.6 Policy (Review) - Local Procurement

10.6 Policy (Review) - Local Procurement

Delivery Program Administration

Objective To respond to a matter raised through the Internal Audit Program in respect to Council having a local supplier policy.

Background

One of the recommendations from an internal audit undertaken by Grant Thornton Pty. Ltd. (Council's appointed internal audit firm), of Council's "Tendering and Contract Management Arrangements", is for Council to consider the establishment of a local supplier policy.

This issue arose as Council's *Tendering and Quotations – Evaluation Criteria* Policy, states in part:

Council's preference is to purchase goods and services firstly from suppliers within the shire, secondly from within the northern rivers region and finally from outside the region.

However, due to legislation such as the Trade Practices Act, the purpose of which is to enhance the welfare of Australians through the promotion of competition and fair trading and provides for consumer protection, it is important that council only supports local suppliers where there are justifiable reasons that can support such a selection.

To support the use of local suppliers the Evaluation Criteria Policy includes under the criterion of "social and community" the following item:

- Social impact on local economy

This item allows tender evaluation panels to provide a weighting to submissions based on their knowledge / impact on the local economy, which in turn can assist locally based companies receive a higher weighting in the overall evaluation. The internal auditors would prefer to see Council have a more formal local supplier policy in place and with a number of other councils having considered or adopted such policies in recent times the purpose of this report is to consider such a policy for Council.

Key Issues

- Benefit
- Definitions
- Legislative framework

Information

Local councils have always tried to support local businesses, particularly in regional and rural areas, as typically the council is the major employer in the area and there are direct benefits to the local economy from purchasing goods and services locally.

Balancing this is the need for councils to be accountable in their expenditure of public monies and in ensuring that the community receives best value for any services delivered.

Various legislation, such as the National Competition Policy (Federal) and the Trade Practices Act (State); have been enacted to assist in ensuring the most efficient provision of publicly provided goods and services by minimising restrictions on competition. This type of legislation is based on the principle that a public entity must be able to demonstrate there is a public benefit before introducing any policies that place restrictions or limitations on competition.

The concept of providing local suppliers with a benefit, as compared to non local suppliers, is in itself a restriction on competition therefore councils need to be careful in considering the introduction of local supplier policies.

Despite these concerns there are options available to provide local suppliers with a higher weighting in procurement assessments, based on the understanding that even though, at times, this may result in a higher purchase price for goods or services, the positive economic impact on the local economy offsets any higher cost.

The Division of Local Government recognises that councils should pursue "Value for Money" and that this "does not automatically mean lowest price." Their publication, titled *Tendering Guidelines - NSW Division of Local Government, 2009* has a section in regard to local preference (section 1.6), which states as follows:

"Councils often have a significant role in local and regional economic development. This may include consideration of local supply issues and Aboriginal and young people's employment participation policies.

The implementation of local preference policies is not necessarily inconsistent with the principles of National Competition Policy. However, the use of local preference in the evaluation of tenders and awarding of contracts possesses inherent risks in terms of anti-competitiveness and the maintenance of defensibility, accountability and probity.

Where a council wants to consider local preference as a factor in the supply of goods and services or the disposal of property, it should develop and adopt a local preference policy. This policy should be based on sound reasoning and outline the circumstances in which the council would bring this policy into effect. For example, where an additional cost would be incurred by the council in implementing its local preference policy, the maximum amount or percentage of that additional cost should be specified and the particular circumstances in which the amount should also be acceptable to the local community.

10.6 Policy (Review) - Local Procurement

The policy, as well as a statement indicating the basis for its use, should be provided to any potential tenderers prior to their decision to submit a tender. Such a policy should be included in the tender documents and identified in the evaluation criteria.

When reporting the result of a tender evaluation process, the application of the policy should be clearly referred to and details provided regarding any additional costs to be incurred by the council if it accepts a tender, other than the lowest tender, as a result of the implementation of the policy.

Councils should also consider seeking legal opinion regarding their proposed local preference policy to ensure the policy does not breach either the Trade Practices Act 1974 (Cth), the Fair Trading Act 1987 (NSW), or various international trade agreements."

One of the first questions that must be addressed in considering a local preference policy is to define the term local. Examples used by councils include:

- Kiama NSW - *"local content means goods or services procured from a local supplier or employees living permanently in the Kiama Municipal Municipality Council Local Government area."*
- Cairns Qld - *"In this policy statement, a "local supplier" is a supplier which:
 - a) *is beneficially owned by persons who are residents or rate payers of the local government area of Council; or*
 - b) *has its principal place of business within the Local Government area of Council; or*
 - c) *otherwise has a place of business within the Local Government area of Council which solely or primarily employs persons who are residents or rate payers of the Local Government area of Council."**
- Tumut NSW - *"local supplier means a business, contractor or industry:
 - (i) *either permanently based in, or employing permanent staff operating from, permanent premises situated within the Shire's boundaries."**

Other local preference policies extend the "local supplier" definition to include other councils in their region. Examples include:

- Wyong NSW - *"Local" - means the NSW Central Coast, specifically the Wyong Shire and Gosford City Local Government Areas."*
- Mid Western Regional Council NSW - *"...discounts may also apply to suppliers based outside the Mid-Western Regional Council area where such suppliers: Use goods, materials or services of a significant amount via sub-contracts that are sourced within the Mid-Western Regional Council area. The discount applies to the value of the goods, materials or services sourced and used from the local government area; or can demonstrate the use of locally sourced products and services as opposed to using products and services from outside the Mid-Western Regional Council area".*

10.6 Policy (Review) - Local Procurement

- Gold Coast City Qld - Gold Coast have a range of local preference weightings, ranging from 15% for Gold Coast Business, 6% for branch office in Gold Coast with minimum 5 full time equivalent employees (FTE), 4% for adjoining LGA (Logan, Scenic Rim, Redland, Tweed), 2% for Qld business, 1% for interstate business and 0% for overseas business.
- Mandurah WA - *"The region this policy relates to includes the district of the City of Mandurah (the 'City') and the non-metropolitan Peel Region districts of the Shires of Murray, Boddington, Serpentine/Jarrahdale and Waroona."*

For Ballina Shire we need to determine whether local means the Ballina Shire Local Government Area, or the entire Northern Rivers (i.e. the NOROC footprint), or part thereof.

There is a lot of interconnectivity in this region with many residents travelling across local government areas for their day to day work. There are also business owners who may own businesses in Ballina and live elsewhere, such as Lismore and vice versa. This means there is some logic in applying a broader definition than the Ballina Shire, in that so long as we are retaining business in the region, people can then select where they wish to live and / or locate their business.

Another alternative is to define local as Ballina Shire, with perhaps a higher weighting attached, and then have a sub-category with a lower rating, for regionally based businesses.

The first attachment to this report is a submission from the Ballina Chamber of Commerce and Industry, where they strongly support the focus being on businesses based in Ballina Shire. There are concerns that this type of focus could be too narrow and ultimately we should be encouraging competition within the region to maximise price efficiencies. Town centres such as Byron Bay and Lismore are all within 40kms of Ballina and due to the highly populated nature of the Northern Rivers region, it may be more appropriate to take a regional approach to local. This approach still ensures that work remains in the region and it is then a matter for property owners, Chambers of Commerce and councils to compete to have those businesses, or their employees, residing in their local government areas.

In considering options for this report one analysis completed was a review of the relevant post codes for current payments to suppliers to try and assess where our expenditure is currently sourced. The following table provides an overview of the outcomes of this analysis for the 2012/13 and 2011/12 financial years.

Table One – Dissection of 2012/13 and 2011/12 Payments by Post Code

Locality	2012/13			2011/12		
	Dollar Value (\$'000)	% of Dollar Value	% of Total Transaction	Dollar Value (\$'000)	% of Dollar Value	% of Total Transaction
Ballina Shire	9,770	11	33	11,428	11	29
Balance of NOROC	16,905	18	16	20,402	19	20
Sydney Region	41,109	45	17	36,108	34	10
Regional NSW	2,643	3	8	13,614	13	15
Queensland	13,085	14	16	14,843	14	16
Other	8,009	9	10	9,044	9	10
Total	91,521	100	100	105,440	100	100

10.6 Policy (Review) - Local Procurement

This analysis was conducted at a fairly high level and the figures should be treated as a guide only but some points of interest are:

- The Sydney figures include the head office address for a number of suppliers (i.e. Bridgestone, Caltex etc). This means even though the product may be purchased locally it will be included in the Sydney figures
- The figures include a large number of statutory payments and payments to State Government agencies, with these payments typically being paid to the Sydney head office (i.e. insurance premiums, workers compensation, superannuation, RMS, Rural Fire Service etc). This again distorts upwards the Sydney figures
- The largest number of transactions is incurred within the Ballina Shire (33% 2012/13 and 29% 2011/12) but overall this equates to only 11% of the total value for both years. This indicates that the smaller transactions are generally occurring within the Ballina Shire
- The NOROC footprint represents 29% (2012/13) and 30% (2011/12) of the total expenditure and 49% of the total transactions for both years. These figures support the comment that there is a high level of interaction for the council areas within the NOROC footprint
- Lismore represents 14% for both years of the total expenditure highlighting a high level of interdependence between Lismore and Ballina local government areas.
- The level and value of transactions locally and within the NOROC footprint is very consistent between both years, which indicates there is a fairly standard of pattern of expenditure on a regional basis, particularly for the lower value transactions.

Once Council determines its preferred definition of local the second key issue is to determine how a local preference is applied and the weighting provided.

The simplest mechanism is by providing a fixed percentage price discount for "local" suppliers. Such mechanisms are often accompanied by an upper "cap" on the local discount that can be applied. Examples include:

- Kiama NSW - *"For local suppliers who respond to Council's Procurement Requests, Council will assess their response as if their total net cost bid was reduced by 5%. Discounts will be limited to a maximum of \$15,000. For non local suppliers who respond to Council's Procurement Requests if at least 25% of the net cost of their response or tender includes or is attributable to local content, Council will assess such response as if the total net cost attributable to local content were reduced by 5%. Discounts will be limited to a maximum of \$15,000".*
- Tumut NSW - *"Where the cost of a local supplier's offer is to be compared with one from outside the area, the local supplier's cost will be reduced by 10% for the sake of cost comparison. The maximum discount amount able to be included in the calculation is \$3,000".*

10.6 Policy (Review) - Local Procurement

- Leeton NSW - *"Purchases up to \$5,000 with local content will be given a 10% concession - Purchases from \$5,000 - \$15,000 with local content given a 5% concession - Purchases from \$15,000 - \$99,999 with local content given a 3% concession."*
- Mandurah WA – *"The following levels of preference will be applied under this policy:*
 - a) *Where purchase is up to \$9,999 (excluding GST)*
 - *3% - to businesses located within the City*
 - *2% - to businesses located within the other non-metropolitan Peel Region Council districts*
 - b) *Where purchase is between \$10,000 and \$49,999 (excluding GST)*
 - *2.5% - to businesses located within the City*
 - *1.5% - to businesses located within the other non-metropolitan Peel Region Council districts*
 - c) *Where purchase is greater than \$50,000 (excluding GST)*
 - *2% - to businesses located within the City.*
 - *1% - to businesses located within the other non-metropolitan Peel Region Council districts.*

The maximum price reduction allowed for the levels of preference will be \$50,000."

The other mechanism used to provide a benefit to local suppliers is by allocating a local preference as a selection criterion. Examples include:

- Lismore NSW - *"Local content will be weighted at minimum of ten percent (10%) of the selection criteria. The local content weighting can be higher than 10% if considered appropriate for the goods and services being procured."*
- Wyong NSW – *"The policy will apply to all procurement with a definable cumulative value greater than \$20,000 (ex GST) that is to be sourced from a single supplier. Offers must be sufficiently detailed to enable Council to assess the level of Local Content included. To support assessment of the level of Local Content contained in Offers, Council may provide pro-forma templates to bidders for completion and/or require bidders to provide necessary detail in another form(s). A weighting will be applied to each evaluation criterion. Local Content will have a mandatory weighting of 10% of the total evaluation criteria. Weights applied to price and non-price criteria will have a maximum cumulative weighting of 90%."*

Wyong complicates matters by capping the "maximum adverse financial implication" of the policy by applying a sliding percentage tailing out to a maximum of \$50,000 adverse impact for services, \$20,000 for goods and \$35,000 for works.

- Gold Coast Qld - *"The issue and receipt of quotations to Gold Coast businesses or businesses with a branch office on the Gold Coast in the first instance is mandated for contracts less than \$200,000. Evaluation criteria for tenders specifically include a 15 percent weighting for local business and industry to be apportioned on a sliding scale to local, regional, intrastate, interstate and overseas suppliers."*

10.6 Policy (Review) - Local Procurement

Evaluation criteria for tenders include a two percent weighting related to the Gold Coast Business Awards. Invitations to suppliers include a schedule of questions to establish local credentials and safe work practices".

- Cairns Qld - *"A local preference selection criteria with a weighting of no more than 10% (of the selection criteria total) will be utilised in the evaluation process, and where price, performance, quality, suitability and other selection criteria are evaluated equal, then;*
 - 1) *Council may accept a tender submission or offer from a local supplier in preference to a comparable tender submission or offer from a non-local supplier even if the tender submission or offer from the non-local supplier has been assessed as more favourable in terms of one or more of the assessment criteria applied (including, but not limited to, price), so long as the overall differences are not substantial, and so long as it is clear that the selected local supplier can meet Council's requirements at an acceptably high standard which is generally comparable to that of other offers.*
 - 2) *Local preference is not simply a 10% price benefit to a local supplier, eg where their price is 10% higher than a competitor's price, but rather a quantitative measurement that can be utilised in recognition of location of supplier and the associated benefits that this provide to Council, such as;*
 - *creation of local employment opportunities*
 - *more readily available servicing support*
 - *more convenient communication for contract management.*
 - *economic growth within the local area*
 - *benefit to Council of associated local commercial transactions"*

The Ballina Chamber of Commerce and Industry submission proposes Council apply a local content weighting of 15%, with any businesses based in Ballina Shire receiving a score of 15, a business with an established office in Ballina receiving 10 and a business located in an adjoining local government area receiving a 5.

These are all examples of viable options for consideration by Council.

Sustainability Considerations

- **Environment**
Environment, social and economic impacts are all part of any procurement assessment.
- **Social**
As above
- **Economic**
As above

10.6 Policy (Review) - Local Procurement

Legal / Resource / Financial Implications

The major financial implication of a local preference policy would be the possibility of a premium being paid for local suppliers. The offset to this would be the benefit to the local economy.

Consultation

Research has been undertaken on options used by other councils. If a policy is supported the recommendation would be to exhibit the policy for public comment prior to formal adoption.

Options

The options range from taking no further action to the adoption of a comprehensive local preference policy.

In respect to the no further action option, Council can retain the status quo, which generally has worked reasonably well in respect to the engagement of local suppliers. The criteria in Council's existing *Tendering and Quotations – Evaluation Criteria* Policy recognises that social and community outcomes are an important part of any assessment and this allows staff to assess local suppliers at a higher level, as compared to other service providers.

The risk of applying a more detailed local procurement policy is that it starts to further complicate assessments, potentially leads to more subjectivity and could potentially result in Council ending up with an increase in the number of challenges or complaints to our assessment processes.

In respect to the taking action option the first issue is to define local. As outlined in the information section of this report there are a number of definitions available. It is agreed that the first priority should be to Ballina Shire, however at the same time due to the high interconnectivity of the Northern Rivers the term local could possibly be expanded to the NOROC footprint, or a part thereof.

The second issue is to determine how any weighting is to be applied to businesses that meet the agreed definition of local. Council needs to be careful in applying any weighting as too high a figure could totally distort the market price and lead to significant increases in the purchase price for services supplied to Council. A number of methods have been canvassed in this report and the Ballina Chamber of Commerce submission includes a further method.

In order to make any policy workable Council should keep it as simple as possible to avoid disputes and to ensure consistency in its application.

Before selecting a preferred option method it is helpful to have an understanding of the make up of Council's current purchase transactions. The latest information available for the 2012/13 financial year is as follows.

10.6 Policy (Review) - Local Procurement

Table Two - 2012/13 Procurement Transactions Analysis

Type of Transaction	Number	% of Total Number	Value (\$'000)	% of Total Value
Purchasing Cards	3,982	24	537	1
< \$1,000	9,753	58	2,636	3
\$1,001 to \$10,000	2,401	14	7,359	8
\$10,001 to \$50,000	443	3	9,727	11
\$50,001 to \$150,000	99	1	8,631	9
>\$150,000	89	1	62,631	68
Total	16,767	100	91,521	100

A review of these transactions indicates that the majority of the purchases made on purchasing cards relate to items such as consumables, travel, stationery, small parts etc. A large number of these purchases are already being made locally, although certain items, for example accommodation, will be from suppliers that cannot be provided locally.

Purchases < \$1,000 are similar to purchasing cards in that they relate to small consumables that will typically be purchased locally, unless not available.

In respect to purchases for the \$1,000 to \$10,000 range, the transaction listing indicates that this covers a wide range of services from contract payments to suppliers, to the straight purchase of goods. A large number of these suppliers appear to be from locally based businesses.

The \$10,000 to \$50,000 range is somewhat similar to the \$1,000 to \$10,000 range as it represents a wide range of services, with many of the suppliers having only been used once or a relatively few times during the year.

The \$50,000 to \$150,000 range includes approximately 40 suppliers and the majority of suppliers have only been used once during the year for a major purchase. Examples include Vacjet (purchased vacuum excavation equipment) and Shade n Net (Missingham Park shade shelter).

The payments over \$150,000 relate to substantial contracts, which for 2012/13 included the Ballina Surf Club (Bennett Constructions), wastewater treatment plant upgrades (Haslin Constructions) and Wollongbar Sports Fields (Peachey Constructions). The supplier will normally have been through a tender process which was approved by the elected Council.

What this expenditure dissection highlights is that 98% of the procurement transactions are under \$50,000 however this only represents 23% of the total value.

This analysis of the activity is useful in that it can guide us on what options we wish to pursue in respect to local procurement. If we want to focus on all transactions, particularly below \$50,000, then the methodology needs to be relatively simple due to the high volume of transactions during the year.

10.6 Policy (Review) - Local Procurement

On the other hand for transactions over \$50,000 (or even \$10,000) more resources could be committed to the local supplier analysis, as it will not be quite as time consuming due to the low level of transactions. Typically contracts for \$50,000 and above are subject to a more formal evaluation process involving an assessment of a number of subjective (i.e. experience, resource levels, track record) criteria along with price. The respondents are then provided with a score out of 100. This is the process followed for tenders reported to the elected Council.

A Possible Option

Due to the large number of transactions below \$50,000 one option could be to apply a straight local concession for the smaller transactions and then a more detailed higher weighting for local as part of the evaluation for higher value transactions.

For example with the majority of transactions being under \$50,000 Council could apply a straight concession of 5% for locally based businesses: i.e.

Purchases up to \$50,000 with local content will be given a 5% concession when comparing prices.

In respect to local, under this option the preference would be to define local content as a business based (i.e. with an office) in Ballina Shire.

The logic behind this approach is:

- As this is a new change the preference is to commence with a lower concession (i.e. 5%) to allow us to monitor the outcomes. If the feedback is that 5% is working satisfactory then we can maintain this figure, or alternatively if the feedback is that the concession is too high or low we can adjust accordingly
- If the 5% is applied up to \$50,000 this provides a maximum benefit of \$2,500 to a local supplier, which is a more than reasonable advantage
- If the figure is 5% is agreed the preference is to only apply it to Ballina Shire, primarily as the 5% figure means that any other concession would be along the lines of 2% or 3% for other businesses in the NOROC region. This level of concession was considered to be too low to justify on a cost / benefit basis. The preference is to focus on Ballina Shire initially.

For contracts over \$50,000 it is then proposed that Council allow a 5% contingency (or margin) for evaluations to recognise the benefit of local suppliers. For example if a local supplier scored 80% out of 100 and the non-local supplier scored 84% the 5% contingency would allow staff to accept or recommend to Council the local supplier, if it was considered to represent the overall best value to Council.

The 5% is one option with other options considered being a 10% margin. Generally 10% was considered to be too large a variance in an evaluation of this type, particularly as there is often a social and community impact weighting in the initial evaluation.

10.6 Policy (Review) - Local Procurement

An updated tender evaluation policy has been included as an attachment to this report to reflect how these changes would be included in a Council policy. A copy of that policy, now renamed Local Procurement Policy, is attached for review. If Council is supportive of the draft policy it is recommended that it be placed on exhibition for public comment.

It is important to acknowledge that there are many other options that could be considered for this policy. For example the proposal from the Ballina Chamber of Commerce is another option, albeit that it was considered to place too high a weighting on local suppliers.

Another proposal that was close to being recommended was for contracts over \$50,000 to provide a weighting benefit for adjoining local government areas. The postcode analysis highlighted a strong interdependence between Lismore and Ballina local government areas (LGAs).

Therefore instead of having the 5% contingency for Ballina Shire one option was to provide 10% for Ballina Shire and 5% for adjoining LGAs; i.e. Lismore, Byron and Richmond Valley. Ultimately this was not recommended as it required a 10% contingency for Ballina Shire which is a very large margin in a score out of 100. This type of margin could potentially discourage non local suppliers from bidding for Council contracts.

The recommendation that follows is to approve the exhibition of the draft policy for public comment. However rather than adopting the policy without reporting back to Council if there are no submissions, which is standard practice, it is recommended that the policy be resubmitted after exhibition to ensure that Council is comfortable with the proposal. There are a number of issues outlined in this report and it is considered appropriate for the policy to be reconsidered after an exhibition period to ensure the elected Council is fully conversant and supportive of the changes proposed in the document.

RECOMMENDATIONS

1. That Council approves the exhibition of the draft Procurement Policy as attached to this report.
2. That Council receive a further report on this policy following the closure of the exhibition period to consider any submissions received and any other matters of interest that may arise during the exhibition period.

Attachment(s)

1. Letter from Ballina Chamber of Commerce & Industry
2. Draft Local Procurement Policy

10.7 Concealed Water Leak Write Off - 1 King Lane Ballina

10.7 Concealed Water Leak Write Off - 1 King Lane Ballina

Delivery Program Governance and Finance

Objective To obtain approval from Council to write off water consumption charges under Council's Concealed Water Leaks Policy where the amounts to be written off exceeds the General Manager's delegated authority. This approval relates to two claims on separate properties.

Background

Council adopted a Concealed Water Leaks Policy at its February 2011 Ordinary Meeting (Resolution no. 240211/15) to provide property owners with a level of financial relief against higher than normal water consumption charges arising as the result of a concealed water leak.

Providing the applicant meets the criteria contained within the policy, Council will provide a once only reduction of water consumption charges. The policy provides for a two part reduction, Part One whereby the water consumption attributed to the leak is charged at the lower of the two step tariff and Part Two allows for 50% of the consumption charges to be cancelled up to a maximum of 250 kilolitres(kl).

The Concealed Water Leaks Policy provides the General Manager with delegation to authorise applications received under this policy and the General Manager has provided the Rating and Customer Service Co-ordinator delegated authority to determine applications under this policy.

Council has provided delegated authority for the General Manager to write off debts to a maximum of \$1,000 per debt. Any write off not covered by specific Local Government legislation must be carried out by Council resolution unless the General Manager has been provided with such delegation. Amounts proposed to be written off that require Council approval are in accordance with Clause 131 of the Local Government (General) Regulation 2005 (LGGR) and Section 607 of the Local Government Act 1993 (LGA).

This claim has been approved under the Concealed Water Leaks Policy however the total financial relief is greater than the General Manager's delegated authority and accordingly requires approval by Council.

Key Issues

- Amount of write off and background

Information

On 11 February 2013 tenants of the property reported to the managing agent (McGraths) that they could hear the sound of running water and also noticed water pooling on a concrete path adjacent to the front door. The pooling of water only became noticeable once the extended period of wet weather had subsided.

10.7 Concealed Water Leak Write Off - 1 King Lane Ballina

Plumbers were employed to investigate and found a leaking pipe under and inside the footing under a concrete slab which required excavation of the concrete slab to allow repair. Final repairs were completed on 13 February 2013.

This claim meets the criteria for financial assistance within Council's Concealed Water Leaks policy due to the leak being concealed under a concrete slab.

The Concealed Water Leaks Policy guidelines allow for the water consumption charges adjustment to be calculated in two parts as follows:

Part 1 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 the leak usage has been determined to be 830 kilolitres with 759 kilolitres being charged at the higher Step Two rate of \$2.66 instead of the lower Step One rate of \$1.77. This part of the adjustment totals \$675.51.

Part 2 adjustment – *The water consumption charges will be adjusted to 50% of the increase in consumption determined by Council to be above normal consumption to a maximum of 250 kilolitres.*

In this case the total leak usage was determined to be 830 kilolitres with 50% of this being 415 kilolitres which exceeds the Part 2 maximum allowable of 250 kilolitres. Therefore this part of the adjustment is for the maximum allowable of 250 kilolitres and equates to \$442.50.

The total of the Part One and Part Two write off is \$1,118.01.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The policy is designed to provide some equity in respect to the management of concealed water leaks.
- **Economic**
There is a loss of revenue if the charges are written off.

Legal / Resource / Financial Implications

Revenue of \$ 1,118.01 will be foregone, plus the consumption will impact on Council's contribution to the bulk water supply authority in the following year.

Consultation

Significant consultation with the applicants has been undertaken. All applicants are educated about the importance of checking their water supply to prevent future wastage. The policy allows for only one concealed water leak write off per person. This information is provided verbally and in writing.

10.7 Concealed Water Leak Write Off - 1 King Lane Ballina

Options

Council may decide whether to approve the write off amounts or not. The recommendation is to approve the write offs as they are in accordance with Council's adopted policy.

RECOMMENDATION

That Council approves the write off totaling \$1,118.01 in water consumption charges for 1 King Lane Ballina in accordance with Council's Concealed Water Leaks Policy and pursuant to clause 131 of the Local Government (General) Regulation 2005, as detailed within this report.

Attachment(s)

Nil

10.8 Rates and Charges Write Offs - 2012/13

10.8 Rates and Charges Write Offs - 2012/13

Delivery Program Financial Management

Objective To provide Council with details of the rates and charges written off during the 2012/13 rating year.

Background

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 approved by Council resolution, unless the General Manager has been provided with delegated authority by the Council.

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

Furthermore, Council adopted the Concealed Water Leaks policy on 24 February 2011, and this policy provides the General Manager with delegated authority to approve any water charges written off in accordance with the policy's guidelines.

The General Manager has also provided the Rating and Customer Service Coordinator delegated authority to write off interest amounts, pursuant to section 567 of the LGA, up to the value of \$100 per assessment as well as delegated authority to approve any water charges written off in accordance with the Concealed Water Leaks policy.

Sub clause (6) of clause 131 also requires the General Manager to inform the Council of any amounts written off under delegated authority. This report complies with that clause.

Key Issues

- Compliance with clause 131 (6) of the LGGR.

Information

In accordance with clause 131 of the LGGR, details of the 2012/13 rates, charges, and interest, written off under delegated authority, are provided in table one. Detailed information regarding individual assessments is recorded in Council's rating files.

Although not required under clause 131 of the LGGR, further tables detailing amounts written off during 2012/13 have also been provided for information purposes.

All rates, charges and interest written off during the period 1 July 2012 to 30 June 2013, totalling **\$18,670.34**, are required to be included in Council's annual report (clause 132 LGGA).

10.8 Rates and Charges Write Offs - 2012/13

The majority of the amounts written off relate to concealed water leaks. The remainder of the write offs relate to postponed rates and very minor amounts that are not economical to collect.

In respect to the postponed rates Council is required to write rates off where the property meets certain criteria (refer to notes in table two).

Table One - Write-offs - Under General Manager's Delegated Authority

Assessment	Amount	Description
298 Assessments	\$146.77	Small balances (less than \$1.00 per assessment) uneconomical to collect written off at end of year - Section 567 LGA.
Assessment 101416	\$175.23	Water charges written off in accordance with Council's Concealed Water Leaks policy. 6 Amy Place WEST BALLINA
Assessment 106115	\$969.38	Water charges written off in accordance with Council's Concealed Water Leaks policy. 30-52 Crane Street BALLINA
Assessment 110588	\$92.04	Water charges written off in accordance with Council's Concealed Water Leaks policy. 5 Boatharbour Road WEST BALLINA
Assessment 122098	\$259.34	Water charges written off in accordance with Council's Concealed Water Leaks policy. 31 Compton Drive EAST BALLINA
Assessment 129066	\$251.34	Water charges written off in accordance with Council's Concealed Water Leaks policy. 6 Camoola Avenue BALLINA
Assessment 129511	\$198.28	Water charges written off in accordance with Council's Concealed Water Leaks policy. 4 Carrington Street BALLINA
Assessment 149870	\$185.85	Water charges written off in accordance with Council's Concealed Water Leaks policy. 23 Horizon Drive WEST BALLINA
Assessment 156982	\$320.37	Water charges written off in accordance with Council's Concealed Water Leaks policy. 6 Marine Street BALLINA
Assessment 157849	\$99.12	Water charges written off in accordance with Council's Concealed Water Leaks policy. 16 Skinner Street BALLINA
Assessment 168523	\$125.67	Water charges written off in accordance with Council's Concealed Water Leaks policy. 19 Pine Avenue EAST BALLINA
Assessment 181953	\$123.25	Water charges written off in accordance with Council's Concealed Water Leaks policy. 6 Broadwater Place WEST BALLINA
Assessment 191233	\$312.75	Water charges written off in accordance with Council's Concealed Water Leaks policy. 4 Tomki Place EAST BALLINA
Assessment 205228	\$781.59	Water charges written off in accordance with Council's Concealed Water Leaks policy. 15 Byron Street LENNOX HEAD
Assessment 208705	\$343.09	Water charges written off in accordance with Council's Concealed Water Leaks policy. 55 Fig Tree Hill Drive LENNOX HEAD

10.8 Rates and Charges Write Offs - 2012/13

Assessment	Amount	Description
Assessment 211790	\$100.89	Water charges written off in accordance with Council's Concealed Water Leaks policy. 7 Henderson Place LENNOX HEAD
Assessment 221216	\$838.34	Water charges written off in accordance with Council's Concealed Water Leaks policy. 61 Stewart Street LENNOX HEAD
Assessment 221907	\$452.37	Water charges written off in accordance with Council's Concealed Water Leaks policy. 2 Stewart Street LENNOX HEAD
Assessment 223836	\$427.62	Water charges written off in accordance with Council's Concealed Water Leaks policy. 25A Sunrise Crescent LENNOX HEAD
Assessment 253336	\$947.13	Water charges written off in accordance with Council's Concealed Water Leaks policy. 1329 Teven Road ALSTONVILLE
Assessment 262149	\$219.48	Water charges written off in accordance with Council's Concealed Water Leaks policy. 62 Alston Avenue ALSTONVILLE
Assessment 262335	\$724.10	Water charges written off in accordance with Council's Concealed Water Leaks policy. 24 Alston Avenue ALSTONVILLE
Assessment 265422	\$150.30	Water charges written off in accordance with Council's Concealed Water Leaks policy. Unit 1/4 Clare Street ALSTONVILLE
Assessment 270655	\$129.21	Water charges written off in accordance with Council's Concealed Water Leaks policy. 10 Green Street ALSTONVILLE
Assessment 271693	\$769.35	Water charges written off in accordance with Council's Concealed Water Leaks policy. 76 Main Street ALSTONVILLE
Assessment 272110	\$283.20	Water charges written off in accordance with Council's Concealed Water Leaks policy. 130-134 Ballina Street ALSTONVILLE
Assessment 274544	\$440.36	Water charges written off in accordance with Council's Concealed Water Leaks policy. 28 Mellis Circuit ALSTONVILLE
Assessment 278700	\$157.53	Water charges written off in accordance with Council's Concealed Water Leaks policy. 8 Richland Court ALSTONVILLE
Assessment 281096	\$256.65	Water charges written off in accordance with Council's Concealed Water Leaks policy. 114 Tanamera Drive ALSTONVILLE
Assessment 284141	\$126.92	Water charges written off in accordance with Council's Concealed Water Leaks policy. 27 Whipps Avenue ALSTONVILLE
Assessment 289400	\$162.02	Water charges written off in accordance with Council's Concealed Water Leaks policy. 45 Midway Avenue WOLLONGBAR
Assessment 334417	\$273.04	Water charges written off in accordance with Council's Concealed Water Leaks policy. 280 North Creek Road LENNOX HEAD
Assessment 272291	\$391.49	Water charges written off in accordance with Council's Concealed Water Leaks policy. 158 Ballina Road ALSTONVILLE
Assessment 289468	\$202.07	Water charges written off in accordance with Council's Concealed Water Leaks policy. 4 Mimosa Court WOLLONGBAR
Total:	\$11,436.14	

10.8 Rates and Charges Write Offs - 2012/13

Table Two - Write-offs – Approved by Council during 2012/13

Assessment	Amount	Description
Assessment 121212	\$1,406.18	Water charges written off in accordance with Council's Concealed Water Leaks policy. Approved by Council on 25/10/12 meeting (resolution 251012/17). 72 Marom Creek Road MEERSCHAUM VALE
Assessment 174809	\$1,190.30	Water charges written off in accordance with Council's Concealed Water Leaks policy. Approved by Council on 25/10/12 meeting (resolution 251012/17). 105 River Street BALLINA
Assessment 239714	\$1,272.62	Water charges written off in accordance with Council's Concealed Water Leaks policy. Approved by Council on 25/10/12 meeting (resolution 251012/17). 165 Pimlico Road PIMLICO
Assessment 115588	\$1,278.21	Water charges written off in accordance with Council's Concealed Water Leaks policy. Approved by Council on 27/06/13 meeting (resolution 270613/27). 38B Smith Drive WEST BALLINA
Total:	\$5,147.31	

Table Three - Write-offs – Postponed Rates - Required by LGA Legislation

Assessment	Amount	Description
6 Assessments	\$2,086.89	Year six write off of postponed ordinary rate and interest charges - Section 595 LGA - Postponements typically relate to a single dwelling house that is zoned for multiple occupancy - The Valuer General supplies a land value for the highest potential use of the land. Upon application for postponement the Valuer General supplies an attributable value (i.e. extra value due to subdivision or higher use potential) and Council levies but postpones the attributable component. Interest is also charged - After five years the postponed amount and interest is written off. If the entitlement to postponement ceases at any time, any amounts not written off become due.
Total:	\$2,086.89	

Table Four – Historical Write-off Comparative Information

Write Off Type	2011/12		2012/13	
	Count	Amount	Count	Amount
Total Write Offs	345	\$22,746.32	342	\$18,670.34
Concealed Water Leaks	20	\$8,129.27	38	\$16,436.68
Small Balances	309	\$164.28	298	\$146.77
Postponed Rates	6	\$1,912.82	6	\$2,086.89

Note: 2011/12 included a write off of \$12,539.95 for 10 assessments caused as a result of Council receiving incorrect water meter readings from our meter reading contractor.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable
- **Economic**
There is a loss of income in any write-off, albeit that the percentage written off is extremely small as compared to the total rates and charges levied.

Legal / Resource / Financial Implications

Revenue to the value of \$18,670.34 has been foregone.

Consultation

This information is included in the Council's annual report.

Options

This report is provided for information purposes only.

RECOMMENDATION

That Council notes the \$11,436.14 rates, charges, and interest written off under delegation of the General Manager for the 2012/13 rating year, pursuant to clause 131 of the Local Government (General) Regulation 2005, as outlined within this report.

Attachment(s)

Nil

10.9 Conduct Review Panel

10.9 Conduct Review Panel

Delivery Program Governance

Objective To confirm the membership of Council's Conduct Review Panel.

Background

The Conduct Review Panel is a panel of independent people established by Council who deal with conduct complaints lodged in respect to the Councillors and the General Manager. All NSW councils must have a panel in place as prescribed in the model Code of Conduct published by the Division of Local Government (DLG)

At the September 2012 Ordinary meeting Council resolved to write to the existing members of the previous Conduct Review Panel to seek confirmation that they would like to remain panel members. Only one member withdrew. This resulted in the following members:

- Inspector Greg Moore (not allowed, due to his employment, to accept payment for this service)
- Mr Gary Faulks
- Mr Peter Cordery
- Mr Donald Scott
- Mr Kim Holwell
- Mr Dennis O'Sullivan
- Mr Andrew McGinley

In January 2013 the DLG produced an updated Model Code of Conduct that outlined new procedures that had to be followed in respect to the appointment of Conduct Review Panel members

The details of those procedures, as per Part 3, of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW (published by the DLG - March 2013) are as follows:

- *The council must by resolution establish a panel of conduct reviewers.*
- *The council may by resolution enter into an arrangement with one or more other councils to share a panel of conduct reviewers.*
- *The panel of conduct reviewers is to be established following a public expression of interest process.*
- *An expression of interest for members of the council's panel of conduct reviewers must, at a minimum, be advertised locally and in the Sydney metropolitan area.*
- *To be eligible to be a member of a panel of conduct reviewers, a person must, at a minimum, meet the following requirements:*
 - a) *an understanding of local government, and*
 - b) *knowledge of investigative processes including but not limited to procedural fairness requirements and the requirements of the Public Interest Disclosures Act 1994, and*

10.9 Conduct Review Panel

- c) knowledge and experience of one or more of the following:*
 - i) investigations, or*
 - ii) law, or*
 - iii) public administration, or*
 - iv) public sector ethics, or*
 - v) alternative dispute resolution, and*
- d) meet the eligibility requirements for membership of a panel of conduct reviewers under clause 3.6.*
- A person is not be eligible to be a member of the panel of conduct reviewers if they are:*
 - a) a councillor, or*
 - b) a nominee for election as a councillor, or*
 - c) an administrator, or*
 - d) an employee of a council, or*
 - e) a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or*
 - f) a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or*
 - g) a person who has a conviction for an indictable offence that is not an expired conviction.*
- A person is not precluded from being a member of the council's panel of conduct reviewers if they are a member of another council's panel of conduct reviewers.*
- A panel of conduct reviewers established under this Part is to have a term of up to four years.*
- The council may terminate the panel of conduct reviewers at any time by resolution.*
- When the term of the conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.*
- A person who was a member of a previous panel of conduct reviewers established by the council may be a member of subsequent panels of conduct reviewers established by the council.*

When Council considered the adoption of the DLG's updated Model Code of Conduct at the January 2013 Ordinary meeting, it was reported that Council's current panel members were originally selected using the procedures outlined in Part 3 of administrative procedures, with the only exception being that we did not advertise in the Sydney metropolitan area (fourth bullet point).

10.9 Conduct Review Panel

Council subsequently resolved as follows (part resolution 240113/14):

3. *That Council approves an expression of interest process for nominees for Council's Conduct Review Committee Panel, with existing members offered the opportunity to reapply. That prior to calling for expressions of interest that Council write to the Division of Local Government seeking an exemption from re-advertising for panel members having recently reaffirmed our existing panel.*

The response from the Division of Local Government (copy attached) stated that so long as the expression of interest (EOI) can be accessed by persons in the Sydney metropolitan area there is no need to advertise in a metropolitan newspaper. The relevant paragraph from the DLG response is as follows:

At the outset I would like to clarify that the new Model Code Procedures do not specifically require that the expression of interest for the appointment of a panel of conduct reviewers be advertised in a metropolitan newspaper. The Procedures simply state that the expression of interest must be advertised locally and in the Sydney metropolitan area. Provided the expression of interest is advertised in a way that can be accessed and responded to by persons in the Sydney metropolitan area, this requirement will be met.

Based on this liberal interpretation Council wrote to all the existing panel members to determine whether they met all the criteria in the new Model Code of Conduct and whether they wished to remain on our panel. The following members subsequently confirmed they wished to remain on the panel and that they met all the criteria:

- Inspector Greg Moore
- Gary Faulks
- Peter Cordery
- Kim Holwell
- Andrew McGinley

Mr Don Scott resigned and Mr Dennis O'Sullivan did not respond therefore both of these members are removed from the panel.

Whilst Council was conducting this process early this year, NOROC resolved to conduct an EOI process to allow constituent councils to appoint a regional panel of conduct reviewers.

The report that now follows provides an update on the outcomes from the NOROC EOI process.

Key Issues

- Outcomes from NOROC process
- Number of members that Council wishes to appoint to our Conduct Review Panel

10.9 Conduct Review Panel

Information

The NOROC EOI was co-ordinated by the NOROC Executive Officer, with staff from Byron, Richmond Valley, Rous and Tweed councils acting as the evaluation panel.

As a result of the EOI process 48 submissions were received and evaluated.

The following listing, in no apparent order, is the preferred composition of the panel of conduct reviewers for NOROC councils:

Nominee	Organisation	Locality
Michael L Enders	Michael L Enders	Woolgoolga
Peter Brown	Peter Brown	Baulkham Hills
Bruce Clarke	Allygroup Consulting	Sydney
Emma Broomfield	Locale Consulting	Woolgoolga
Sharon Lee	Complete Community Consulting P/I	Toombul QLD
Mitchell Morley	In Consult	Sydney
Shane White	Pinnacle Integrity	Copacabana
Belinda Nolan	Pinnacle Integrity	Copacabana
Alison Cripps	Cripps Consulting	Lane Cove
Brent James Stephens	Consult HR	Mooloolaba QLD
Kathy Thane	Train Reaction P/L	Balmain
Peter Mulhall	Investigation Associations Aust	Liverpool
Gary Faulks (1)	Gary Faulks	Ballina
Lloyd Graham	Lloyd Graham	Frenchs Forest
Peta Tumpey	Tress Cox Lawyers	
Kath Roach	SINC Solutions	Glebe
Joanne Browne	Joanne Browne	Wavell Heights
Greg Wright	Wright Associates	Picton

(1) Existing member of Ballina Shire Council's Conduct Review Panel

All councils in NOROC now have a choice as to whether they wish to include these individuals in their panels. Some NOROC councils are adopting the panel without change whereas some are including additional members based on experience with their existing panels.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The Code of Conduct and the Conduct Review Panel have been established to assist in ensuring that councillors and General Manager's confirm to appropriate standards of behaviour.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

There is no direct legal, resource or financial implications arising from this report. Under the new Model Code of Conduct all NSW councils had to adopt a new Conduct Review Panel by September 2013.

10.9 Conduct Review Panel

Consultation

An EOI process must be conducted to appoint members to the Conduct Review Panel.

Options

There are four options available to Council:

- a) Retain our existing panel and not appoint any new members from the NOROC process
- b) Replace our existing panel with the NOROC panel
- c) Expand our existing panel to include the NOROC panel
- d) A combination of a), b) and c) where Council selects members from both panels.

Even though Council already has a Conduct Review Panel in place the preferred option is c). There is no real down side to expanding our existing panel to include the NOROC panel as this just provides a broader range of members and increases our options if and when a complaint is submitted to Council.

Also if Council obtains feedback from the other NOROC councils that certain individuals are performing well as panel members, this then allows Council to select those individuals if the opportunities arise.

Pleasingly Council has only had one Code of Conduct complaint, in recent years, that has required forwarding to a panel member, and if that trend continues it should minimise the need for the use of any panel members.

RECOMMENDATION

That Council confirms its Conduct Review Panel membership is as follows:

Existing Members

- Inspector Greg Moore
- Gary Faulks
- Peter Cordery
- Kim Holwell
- Andrew McGinley

NOROC Panel

- Michael L Enders
- Peter Brown
- Bruce Clarke
- Emma Broomfield
- Sharon Lee
- Mitchell Morley
- Shane White
- Belinda Nolan
- Alison Cripps

10.9 Conduct Review Panel

- Brent James Stephens
- Kathy Thane
- Peter Mulhall
- Gary Faulks (existing panel member)
- Lloyd Graham
- Peta Tumpey
- Kath Roach
- Joanne Browne
- Greg Wright

Attachment(s)

1. Division of Local Government - Response to Request for Exemption

10.10 NEWLOG - Financial Statement 2012/13

10.10 NEWLOG - Financial Statement 2012/13

Delivery Program Governance and Finance

Objective To provide Council with an overview of the Draft Financial Performance and Financial Position of North East Weight of Loads Group (NEWLOG)

Background

NEWLOG operates as a resource sharing co-operative of the eight member councils (Ballina, Byron, Clarence Valley, Kyogle, Lismore, Richmond Valley, Tenterfield and Tweed) and with financial assistance from the Roads and Maritime Services (RMS) under the terms of a Memorandum of Understanding.

Its purpose is to enforce Mass Limits on heavy vehicles operating within the member councils' areas to reduce damage caused to the road network by overloading. Ballina Shire Council is currently the administrative council, managing the group's operations and employing NEWLOG staff.

Enforcement is carried out by fixed and mobile patrols over the area's local, regional and state road network utilising mobile and static weigh operations. Weigh in Motion (WIMO) operations are carried out in selected locations based on logistic and access factors.

The inspectors operate as two crews with two inspectors in each vehicle. Processing of breaches and the associated administration is carried out by the team members.

The Group operates under a Memorandum of Agreement with the RMS, which was last due to expire on 30 June 2011, but was subsequently extended pending a review by the RMS of the Weight of Loads program until 31 December 2011. Due to the protracted time taken by RMS to finalise the Review, the MOU was extended on a month to month basis until the review's completion. A draft of the program review was received in September 2012, and a draft MOU has also been received which would continue until June 2014.

Member councils have executed a Deed of Agreement which details the management and functions of NEWLOG. This Deed of Agreement expired on 1 July 2012, and has by agreement been extended on a month to month basis until the final MOU is executed with RMS.

The RMS has delegated certain functions under "The Roads Act and Road Transport (General) Acts and Regulations" to member councils and in turn member councils have delegated the necessary functions to Ballina Shire Council (the "Administrative Council") to undertake these functions on their behalf by NEWLOG.

Key Issues

- Financial Performance and Position of NEWLOG
- Position of Member contribution accounts

Information

For many years NEWLOG has operated in a financially viable manner based on income from fines, member contributions and contributions from the RMS. In 2012/13 based on the Draft Financial Report income was down on previous years whilst expenses were higher. In comparison to 2010/11 income from fines was down by 11%.

Once member contributions are brought to account there was a loss of approximately \$40,000. The loss has been financed from reserves and the net equity of NEWLOG has reduced to \$231,000.

A loss in a single year is not a major concern however the table below shows that operational deficits have become the norm with a noticeable escalation over the last two years.

Table One: NEWLOG Equity (\$)

30/6/09	30/6/10	30/6/11	30/6/12	30/6/13 (Draft)
298,000	297,000	294,000	271,000	231,000

If the negative trend continues corrective action will be necessary in the next few years. Corrective action could take the form of increased contributions from both members and the RMS.

The net equity of Tenterfield Shire Council only just remains positive following the 2012/13 operations. Another loss in 2013/14 will likely see their share of equity go into the negative unless their contribution is increased.

The attachments to this report provide the financial reports for 2012/13.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable
- **Economic**
NEWLOG provides an important role in overseeing weight limits on our major roads.

Legal / Resource / Financial Implications

NEWLOG is a joint venture between seven local government authorities. Equity has fallen for the second year running and unless fine income increases members will need to consider raising contributions going forward.

Consultation

No official consultation has taken place with the RMS or the NSW Government

Options

This report is for information and noting.

RECOMMENDATION

That Council notes the contents of this report on the draft NEWLOG Financial Statement for 2012/13.

Attachment(s)

1. Statement of Comprehensive Income
2. Statement of Financial Position
3. Member Contribution Accounts

10.11 Budgets Carried Forward and Reserve Movements

10.11 Budgets Carried Forward and Reserve Movements

Delivery Program Financial Management

Objective To advise Council of works carried forward to the 2013/14 financial year and also of the transfers to reserves included in the finalisation of the 2012/13 results.

Background

At the conclusion of the 2012/13 financial year there were a number of projects that were either incomplete or not commenced for a variety of reasons (i.e. project on-going over two financial years, wet weather, timing etc).

The first section of this report is to advise Council of those works and to obtain approval to carry funding forward to the 2013/14 financial year. The second section of this report then provides details on funds that have been transferred to reserves for future use. These items relate to either Council's business operations or to internal reserves that assist in financing the ongoing operations of Council.

The figures presented in this report are preliminary and may vary following end year adjustments. For example the accounting treatment for the BBRC grant refunds is still to be finalised and this will affect the general, water and wastewater operations.

Key Issues

- Council approval of the works carried forward
- Council approval for the reserve transfers

Information

It is important for budgeting and monitoring purposes that any incomplete projects and the matching funding are carried forward to the next year. This ensures that the next year's budget reflects the totality of the works program.

Works to the value of approximately \$14 million are recommended to be carried forward and table one provides details of the various projects. All of these projects have previously been approved by Council and the designated funding source will be carried forward with the project.

10.11 Budgets Carried Forward and Reserve Movements

Table One - Summary of Items Carried Forward

Description	Dollars	Comment
Strategic and Community Facilities		
Strategic Services		
Heritage Sharing Story	7,800	Project in progress
Planning Proposals - Rezoning	72,700	Various ongoing projects
Captain Cook Park Master Plan	54,500	Project in progress
Koala Study	44,400	Project in progress
Community Facilities		
Northern Rivers Car Pool	11,300	Grant received – Project underway
Tourism		
Interpretative Signs	5,000	Works in progress
Marquee Hire	2,500	Surplus to provide for new marquees
Destination NSW Grant	12,800	Unexpended marketing campaign
NSW Dept of Trade Grant	12,000	Regional Visitor Training Grant
Group Total	223,000	
Development and Environmental Health		
Development Services		
Electronic Housing Code Project	21,600	Grant received and funds unexpended
Public and Environmental Health		
DECC Water Efficiency	5,300	Works not commenced
Shaws Bay Plan and Actions	15,000	Brought forward to allow review of Shaws Bay Mgmt Plan
Regulatory Control Services		
Animal Shelter	473,800	Tender approved and underway
Group Total	515,700	
Civil Services Group		
Asset Management		
Depot Energy Efficient Lighting	57,000	Approved towards end of year
Depot Upgrade	33,800	Works in progress
Administration Centre Energy Efficient Light	44,000	Approved towards end of year
Administration Centre Repairs	31,500	Works in progress
Naval Museum Roof / Review	10,000	Architect reviewing options
Road Safety Grant Projects	3,000	Ongoing projects
Third Party Flood Modelling	6,000	Ongoing projects
Lennox Head Surf Club	50,000	Tender presented to July meeting
Asset System Implementation	105,000	Implementation underway
Building Upgrades	64,000	Works incomplete as at 30 June
Stormwater and Environmental Protection		
Coastal Hazard Study	148,100	Works in progress
Ballina Flood Risk	93,400	Works in progress
Ballina Flood Actions	25,000	Works in progress
Emergency Action sub plan	8,700	Ongoing projects
Third Party Modelling	16,600	Ongoing projects
Blackwater Research Project	120,000	Funding forwarded in July 2013
Newrybar Flood Model	10,500	Works not commenced
Stormwater Capital Coogee Street	151,000	Works in progress
Stormwater Capital Urban Lanes	8,000	Works in progress
Stormwater Capital Trecise Place	85,000	Works in progress
Stormwater Capital Grant Street	135,800	Works in progress
Stormwater Capital Quays Dredging	50,000	Works in progress
Roads and Bridges		
Roads Capital Tuckombil Road	30,000	Works in progress
Roads Capital Ross Lane / Coast Road	93,600	Works in progress
Roads Capital Coast Road Seg 242	52,500	Works in progress
Roads Capital Swift / Grant Street	4,200	Works in progress
Roads Capital Uralba Road	234,000	Works in progress
Roads Capital Rifle Range Road	141,000	Works in progress
Roads Capital Hutley Drive	32,000	Works in progress
Roads Capital Chickiba Drive	295,000	Works in progress
Roads Capital Tamar Street	266,000	Works in progress
Roads Capital Yellow Creek Bridge	14,600	Completed – retentions to be paid
Roads Capital Teven Bridge	26,500	Completed – retentions to be paid
Roads Capital Eltham Bridge	13,400	Completed – retentions to be paid

10.11 Budgets Carried Forward and Reserve Movements

Description	Dollars	Comment
Ancillary Transport Services		
Footpaths and Shared Pathways	511,900	Majority for coastal shared path
Wardell Town Centre Upgrade	378,000	Works in progress
East Wardell Boat Ramp	219,000	Works in progress
Wardell Hall	20,000	Works in progress
Ballina Town Centre Upgrade	40,000	Works in progress
Emigrant Creek Pontoon	26,000	Works in progress
Open Spaces and Reserves		
Newrybar Septic	15,000	Works in progress
Capital Pat Morton Toilets	30,700	Works in progress
Coastal Reserves POM	2,300	Works not commenced
Disability Training	7,100	Grant funds for training
Ballina Entrance Trees	65,000	On-going program
Capital Missingham Park	29,200	Works in progress
Vegetation Management		
Coast Road Landslip Revegetation	22,000	Ongoing project
Pine Avenue Revegetation	16,400	Ongoing project
Various Grant Based Works	211,300	Works in progress
Sporting Fields		
Saunders Field Extension	79,000	Works in progress
Williams Reserve Fencing	8,000	Works in progress
Wollongbar Sports Fields	99,900	Works in progress
Cemeteries		
Alstonville Extension	10,000	Not commenced
Rural Fire Service		
Hazard Reduction	25,900	Works in progress
Fleet Management		
Capital Acquisitions	1,120,000	Vehicle purchases still to be finalised
Landfill and Resource Recovery		
Biochar Project	522,000	Works in progress
Organics Processing Pad	10,000	Works not commenced
Cover Recycling Area	49,000	Works not commenced
Civil Services Group Total	5,976,900	
General Manager's Group		
Financial Services		
Financial Assistance Grant	1,789,000	Payment received in advance
Governance		
Community Donations	5,800	Acquittals in process
Libraries		
Library Special Projects	60,700	Grant funded projects
General Manager's Group Total	1,855,500	
Commercial Services Unit		
Community Property		
Sharpes Beach Masterplan	5,000	Works in progress – legal payment
Coastguard Tower	129,000	Works in progress
Ballina Surf Club	1,718,000	Works in progress
Kingsford Smith Master Plan	18,000	Works in progress
Regional Sports Centre	383,000	Kingsford Smith
Commercial Property		
Fawcett Café Toilets	65,000	Works in progress
Fawcett Café Maintenance	16,300	Works in progress
Commercial Services Unit Total	2,334,300	
Water Services		
Pipeline Rehabilitation Study	58,000	Works in progress
Recycled Water Distributions	458,000	Works in progress
Water Total	516,000	
Wastewater		
Gravity Pipe Study	60,000	Works in progress
Pumping Stations Upgrade	112,500	Works in progress
Trunk Mains	1,469,000	Works in progress
Reuse Sports Fields	376,000	Works in progress
Telemetry Program	25,000	Works in progress
Recycled Water Environment Assessment	12,000	Works in progress
Lennox Treatment Plant	543,000	Works in progress

10.11 Budgets Carried Forward and Reserve Movements

Description	Dollars	Comment
Wastewater Total	2,597,500	
Totals	14,018,900	

Table two outlines funds transferred to reserve to meet future commitments. These commitments may be in the form of known liabilities, future works or working capital for a business.

Figures relating to business operations such as domestic waste, landfill and resource recovery, plant, cemetery, quarry etc. represent the net movement of that activity for the year, which is then transferred to or from the reserve. Quite often transfers to operational areas that are non profit, such as the Community Gallery, represent savings to budget from the 2012/13 year, which can then be applied to additional works in 2013/14.

Table Two - Summary of Transfers to / (from) Reserve

Description	Amount \$	Comment
Strategic and Community Facilities		
Strategic Services		
Section 94 Plans Review	2,000	Funds for on-going review of the plans
Sustainability Reserve	16,800	Energy credit to assist with extra projects
Strategic Projects Reserve	108,800	On-going activities sourced from unexpended budgets
Section 94 Contributions and Interest	3,109,200	Actual contributions plus interest
Community Facilities		
Lennox Head Community Centre	30,000	Surplus on budget for improvements
Community Gallery		
Gallery Reserve	6,000	Surplus on budget for Improvements
Crown Land Rental	12,000	Council has not been billed for 50% of rent
Group Total	3,284,800	
Civil Services		
Asset Management		
Emergency Services Reserve	8,000	Improvement works
Section 94 Plans Reserve	19,100	As per Strategic - Review of plans
Community Buildings Reserve	12,500	Allowance for future works
Sustainability Reserve	10,100	Allowance for projects
Stormwater and Environmental Protection		
Canal Dredging	15,400	Reserve to enable meaningful project every four years
Ancillary Transport Services		
Sharpes Beach Car Park Rent	22,900	Council has not yet been billed
Commercial Opportunities Reserve	36,500	Internal loan repayment for street lighting
Roads and Maritime Services		
Civil Contingency Reserve	103,800	Surplus from RMS maintenance contract and roads budget
Sports Fields		
Sports Fields Capital Reserve	18,000	Unexpended funds
Cemeteries		
Cemeteries Reserve	(51,500)	Net cash reduction for the year – Includes \$75,000 for Entry Treatment Program
Landfill and Resource Recovery		
Operations Reserve	84,200	Net cash increase for the year
Domestic Waste Management		
Operations Reserve	533,000	Net cash increase for the year
Fleet Management		
Plant Reserve	5,000	Net cash increase for the year
Quarry Operations		
Quarry Reserve	199,700	Net cash increase for the year
Group Total	1,016,700	

10.11 Budgets Carried Forward and Reserve Movements

Description	Amount \$	Comment
General Manager's Group		
Financial Services		
Infrastructure Revaluation	8,000	Assist with on-going asset revaluations
Governance		
Elections Reserve	25,000	Annual election allowance
Human Resources and Risk Mgmt		
Employees Leave Entitlement Reserve	313,000	Net increase to reserve to fund liabilities
Group Total	346,000	
Commercial Services Unit		
Commercial Property		
Crown (Property Rents)	72,000	Income from crown reserve properties
Wollongbar Sports Field Reserve	101,000	Interest on grant
Ross Street Land Sale Reserve	1,605,000	Future works Lennox Lake precinct
Ballina Section 94 Car Park Plan	103,000	Property rental
Community Infrastructure Reserve	(664,000)	Net decrease to reserve. Numerous movements including: Transfers to: property rentals \$852,000, land sale \$250,000, S94 recoupments \$631,000, interest \$54,000. Transfers from: rental property expenses \$71,000, loan payments \$507,000, capital expenditure \$1,874,000 (Surf Club, LHCC, Lennox Fire Shed, Sports Centre, Coastguard Tower)
Commercial Opportunities Reserve	122,000	Net increase to reserve. Numerous movements including: Transfers to: interest \$67,000, loan repayments \$111,000. Transfers from: Fawcett café \$36,000, Skennars Sports Field \$20,000.
Industrial Land Reserve	176,000	Net increase to reserve. Numerous movements including: Transfers to: interest \$178,000, rental income \$298,000, land sales \$682,000. Transfers from: land development expenses \$534,000 and dividend to general fund \$448,000.
Flat Rock Park		
Flat Rock Reserve	18,800	Net cash increase for the year
Airport		
Airport Reserve	4,107,000	Net cash increase for the year (due to unexpended LIRS Loan)
Total	5,640,800	
Water Supply		
Refurbishment Reserve	(188,000)	Net reduction to the reserve
Section 64 Reserve	372,000	Net increase to the reserve
Wastewater Services		
Refurbishment Reserve	(5,341,000)	Net decrease to the reserve
Section 64 Reserve	(2,215,000)	Net decrease to the reserve

Other Matters

General Fund Working Capital

The March review forecast a reduction to working capital of \$100,000 and the end year movement, prior to finalisation of end year adjustments, was an increase of \$15,000 (overall improvement of \$115,000).

The report to the July 2013 meeting highlighted the final operating results, however from a cash perspective, the larger changes included:

10.11 Budgets Carried Forward and Reserve Movements

- salaries \$200,000 less than forecast. This saving is a combination of staff taking more leave than forecast and delays in replacing staff who have left the organisation
- interest on investments exceeded estimates by \$260,000 due mainly to capital expenditure not occurring as forecast and
- legal costs were down on forecast by \$70,000 which includes a reimbursement of costs incurred of approximately \$20,000.

The extra cash was 'applied' as follows:

- transfer to the leave entitlements reserve \$300,000. See comment below.
- Ballina Town Centre refurbishment \$200,000. Council was due to take up a loan of \$500,000 to fund the Town Centre Works however we have managed to avoid borrowing these funds. The project has been completed \$150,000 under budget which left \$350,000 that was due to be financed from external borrowings. The revised strategy is to transfer \$150,000 from the Civil works contingency reserve and a reduction to working capital of \$200,000.

The improvement to the cash position was a welcome outcome. It has enabled the Leave Entitlements Reserve to be strengthened and assisted to the avoid raising external borrowings, which improves our financial position.

Fleet Management

The 2012/13 budget included proposed borrowings to \$1 million to expand the fleet. Capital purchases during the year were less than anticipated and the loan was not taken up. Fleet operations produced a cash surplus of \$1.2 million in 2012/13 and capital purchases were also approximately \$1.2 million leaving the reserve balance at \$865,000 being \$5,000 more than the start of the year.

The 2013/14 budget will be increased by \$1,120,000 as proposed acquisitions from last year are brought forward. The carry forward is less than the unexpended budget from 2012/13 as it is proposed to try to avoid the loan borrowings.

Wastewater

The amount carried forward as works in progress in table one, exceeds the net amount of unexpended capital works in the 2012/13 budget. This is because three projects exceeded the available 2012/13 budget and these amounts will now be deducted from the 2013/14 budget; i.e. works completed in advance of forecast. Hence 2013/14 budgets will be reduced in respect to the Inflow Infiltration Contract (\$380,000), Recycled Water (20,000) and Ballina Recycled Water Facility (778,000).

10.11 Budgets Carried Forward and Reserve Movements

Employee Leave Entitlements (ELE) Reserve - General Fund

Staff have been encouraged to take leave entitlements in recent years to reduce the overall Council liability. This has contributed to more wages being charged to the leave entitlements expense and less to the operational area, than has typically been the case. Also there have been delays in replacing staff which has contributed to a general saving of actual expense to budget throughout office based staff of approximately \$200,000. However the leave entitlements cash expense has exceeded budget by \$115,000.

The actual cash cost for leave taken in 2012/13 was approximately \$2.4 million whilst there was an accrued cost of approximately \$300,000. The accrued cost is the liability faced by the organisation for leave not taken but owed.

The intent is to transfer \$313,000 to this reserve which will 100% fund the year's accrued expense. This means that there will be a net increase to the reserve of \$293,000 as \$20,000 was transferred from the reserve to pay for the organisation review consultant during 2012/13.

The estimated end year reserve balance will be \$2,007,000. The leave liability will be approximately \$7.5 million. Therefore the cash reserve on hand will fund 27% of the liability which is satisfactory. Benchmarks suggest that a cash fund of 20% to 30% of liability is adequate depending on the age profile of staff. The older age profile of Ballina's staff indicates that our reserve should be at the higher end of the benchmark.

Sustainability Considerations

- **Environment**
Many of the projects have environmental, social or economic outcomes.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

There are no net financial implications from this report as the report details movements between years and surplus funds going into reserves.

Consultation

Provided for public information.

Options

This report is designed to ensure Councillors are informed on the transfers to reserves and works carried forward. The options are to approve the carry forwards and reserve transfers or not approve the adjustments. As they relate largely to previously approved projects the recommendation is to approve the adjustments outlined in this report.

10.11 Budgets Carried Forward and Reserve Movements

RECOMMENDATION

That Council approves the projects carried forward and reserve movements as outlined in tables one and two of this report.

Attachment(s)

Nil

11.1 Lennox Head Markets - Review of Location Options

11. Civil Services Group Reports

11.1 Lennox Head Markets - Review of Location Options

Delivery Program Open Spaces and Reserves

Objective To report on the outcomes of a consultation regarding the options to relocate the Lennox Head market.

Background

Council resolved the following motion at the April 2013 meeting.

Council undertake a formal consultation process with key stakeholders and the broader community to investigate the option to relocate the regular Lennox Head Community Market to a site closer to the town centre.

The background section of the April report is reproduced below.

The current site for the regular Lennox Head Community Market (the market) on the eastern road adjacent to Lake Ainsworth has some constraints. The construction of the Lennox Head Cultural and Community Centre (LHCCC) has provided an alternate option as a venue that can be used to conduct the market.

Siting of the market and using Williams Reserve for this purpose has previously been a matter of considerable community interest. The purpose of this report is to invite the Council to determine whether or not it would like to establish a consultation process to examine the question of a potential relocation of the market.

This report has been prompted by feedback from residents and businesses that support the concept of the LHCCC being the preferred location for the market. It is also acknowledged other key stakeholders object to the proposal.

The purpose of this report is to advise Council of the outcomes of the consultation undertaken in response to the resolution above.

Key Issues

- Protection of Lake Ainsworth
- Market sustainability

Information

Based on the range of opinions in the feedback Council had previously received on this issue, it was decided an independent facilitator with a fresh perspective would be useful to lead the consultation process. Ms Tracey Stinson from Sumbios Consulting was appointed to this task.

11.1 Lennox Head Markets - Review of Location Options

To date the consultation has only included the key stakeholders. It was considered important to start the consultation with those potentially most affected, or most interested, in this matter to ensure all the issues were fully understood and shared.

A consultation process was established which included some preliminary telephone discussions between the facilitator and the stakeholders. After these preliminary communications a workshop was conducted.

Attached to this report is a summary report of this facilitation process. The key points that emerged from the discussion include the following.

- Community concerns remain in respect of the environmental health of Lake Ainsworth and this includes the impact of the road on the Lake. However it was also recognised that these risks remain unchanged if the market was relocated.
- The Williams Reserve/LHCCC site is not considered as attractive as a marketing tool for the markets when compared to the Lake Ainsworth site. Having regard to the increase in the number of markets in the region competing for stall holders, holding the market at a unique and pleasant location such as the Lake is important. Lack of shade, total available space, and atmosphere are concerns that would make the Williams Reserve site relatively less competitive with other markets compared to the Lake site.
- Other sites did not enjoy significant or any support. The costs of traffic control and mixed levels of support are issues for the Ballina Street site. The previous assessment of the foreshore site identified a number of constraints for this location.
- It was recognised that the markets need to be relocated temporarily during peak holiday times, major surf club events and flooding, however the frequency of these events does not justify permanent relocation compared to the benefits of the existing site for other times.
- The shared understanding of the issues from the different groups in the workshop would indicate that there is an improved basis to successfully operate the market at Williams Reserve during the temporary relocation periods. Should the Council support the status quo, it is recommended that the market organiser develop and implement some communication protocols with community groups, in particular the Combined Sports Association and the Country Women's Association, to ensure the use of Williams Reserve does not unreasonably impact on these groups.

The attached report provides a more detailed summary of the comments and findings from the workshop. Also attached is a letter from Lennox Head Residents Association who has reviewed their position following the workshop. Council has also received a petition in favour of the retention of the market at the current site. A copy of this petition has been provided under separate cover.

11.1 Lennox Head Markets - Review of Location Options

The recommendations from the report are reproduced below.

1. Maintain the Lennox Market at the current location.
2. Relocate the market to the Community Centre and Williams Reserve when the road beside the lake is flooded and during the peak summer period.
3. Council require the Market Co-ordinator to facilitate the development of a partnering agreement between key stakeholders directly impacted when the market is relocated to the Community Centre and Williams Reserve.
4. Council review the Management Plan for the lake and surrounding areas to identify mitigation measures that may be able to be accelerated to assist with the protection of the lake and riparian zone

Sustainability Considerations

- **Environment**

The potential impact of the market on the environment is an important consideration in the management and location of the market, particularly in respect of Lake Ainsworth option having regard to the sensitive nature of this area.

- **Social**

Markets provide opportunities for social interaction and entertainment.

- **Economic**

Markets attract visitors who may stay in the area and support other businesses. Markets also provide opportunities for small businesses to operate in low cost environments.

Legal / Resource / Financial Implications

The recommendation to this report does not have any legal, resource or financial implications. Should Council determine to relocate the markets there may be additional costs to either Council or the Market Co-ordinator, however these costs have not been reviewed in any detail.

Consultation

The Council has conducted a process to consult with key stakeholders. The question to be considered now is whether or not the Council conducts a broader consultation as per the second part of its resolution. This is discussed below.

Options

The options available to Council are as follows.

1. Take no further action.
2. Determine a relocation site for the market.
3. Undertake the second stage of consultation being to consult with the broader community.

11.1 Lennox Head Markets - Review of Location Options

The feedback from the key stakeholders is that there is little support for change and with some further planning and communication, improvements can be made to how the markets operate. On this basis it is recommended that Council does not take any further action on this matter at this point in time. If the Council is inclined to relocate the markets, it is recommended that a final decision only be taken after further consultation (option three).

The recommendations in the attached report in relation to the management of the Lake and the management of the market when relocated to Williams Reserve are also included in the following as recommendations to this report.

RECOMMENDATIONS

1. That Council, based on the feedback from the key stakeholder consultation workshop, take no further action in respect of considering options to relocate the Lennox Market from its current location.
2. That Council confirms its support for the current practice to relocate the market to the Community Centre and Williams Reserve when the road beside the lake is flooded and during the peak summer period.
3. That Council require the Market Co-ordinator to facilitate the development of a partnering agreement between key stakeholders directly impacted when the market is relocated to the Community Centre and Williams Reserve.
4. That Council review the Management Plan for the Lake and surrounding areas to identify mitigation measures that may be able to be accelerated to assist with the protection of the lake and riparian zone.

Attachment(s)

1. Report Lennox Head Market Location Consultation
2. Lennox Head Residents Association - Letter
3. Petition - Lennox Head Market Location (Under separate cover)

11.2 East Ballina Cemetery - Concept Master Plan

11.2 East Ballina Cemetery - Concept Master Plan

Delivery Program Open Spaces and Reserves

Objective To advise Council of the outcome of the exhibition of the draft East Ballina Cemetery Concept Master Plan and seek the adoption of the plan.

Background

At the April 2013 Council meeting Council resolved as follows:

That Council endorses the draft East Ballina Cemetery Master Plan for the purposes of a public exhibition.

Two submissions were received in response to the public exhibition. Copies of these submissions are included as Attachment One. A further copy of the Master Plan is included as Attachment Two.

Key Issues

- Planning for the future of the East Ballina Cemetery
- Priorities and funding

Information

The following table provides a summary of the comments received.

Submission Comment	Staff Response
The proposed landscaping at the main entry to the cemetery will add to the maintenance costs for the cemetery.	The proposed landscaping at the main entrance at the top of the hill relies mainly on two areas of mass plantings in front of the existing entry walls and a more formal setting out of the area around the existing table and shelter. The landscaping proposed is low maintenance and on balance it is not considered that it will impact heavily on the ongoing maintenance costs of the cemetery.
Did not support the provision of the toilet at the entry to the cemetery.	Neither of the respondents supported the provision of a small single unit toilet having regard to the risks of anti social behaviour and vandalism. As it is proposed that the toilet would be available only for staff to use and for funeral directors to open during funerals the toilet should not result in an increase in vandalism or overnight camping, excluding the risk of graffiti. The toilet is also planned to include an adjacent covered area where a plan of the cemetery can be located. Consideration will be given to the design of the toilet to ensure that it blends in to the surrounding setting. Alternative locations for the toilet were investigated however the conclusion of staff is that this site is preferred as it is close to services and is accessible to visitors to the cemetery and Council staff.
Retain the table and shelter	Seating is proposed in the plan and as this is a

11.2 East Ballina Cemetery - Concept Master Plan

Submission Comment	Staff Response
	concept plan changes to the precise detail of the seating can be determined when the area is landscaped.
Relocate main entrance to the entrance adjacent to the RSL section of the cemetery.	The cemetery has two entrances and visitors use either entrance depending on which section of the cemetery they are accessing. Traditionally the entrance at the top of the hill is the formal entrance and there is space in this location to enable landscaping to be provided. The proposals in the plan do not change these arrangements and therefore will not generate any new impacts on the adjacent residents.
Do not install any more niche walls up the hill (near existing walls)	No new niche walls are planned along the eastern boundary of the cemetery as they are difficult to access in this location.

Having regarded the submissions and the above responses it is considered reasonable for Council to adopt the plan without change. Responses to the submissions will provide details of the information outlined above.

Staging of Works

The works in the Master Plan will be funded from the Cemetery Reserve as funds are available. The suggested priority for the works is as follows:

Project	Comment	Cost (Ex GST)
1. Construction of the Eastern Path	This work is urgently required as access to the niche walls is very difficult for older people.	33,117
2. Setting out of new burial areas so that they are ready for use	This work can be carried out as part of normal work duties from existing budgets as soon as possible.	1,680
3. Preparation of the new ANZAC burial area	This work can be carried out as part of normal work duties from existing budgets as soon as possible.	1,932
4. Tree planting, installation of bollards and closing of roads	This work will provide structure for the cemetery and protect existing graves from damage from vehicles.	45,960
5. Landscaping and installation of signage at Entry One - The Main Entrance	These projects could be carried out individually or together. The provision of a toilet on site for staff and funeral attendees is desirable.	51,972
6. Installation of toilet at Entry One - The Main Entrance		40,000
7. Landscaping and installation of signage at Entry Two - The RSL Entrance		16,318
8. Callitris Forest Memorial Walk – construction of paths and bush regeneration	This project will provide an alternative option for the placement of ashes.	29,703
9. Development of Area 12 – terraced niche walls and bushland walk	This work will not be required for some time as the newly constructed niche walls will provide niches for a number of years.	415,784

The construction of an Eastern Path is a priority as it will provide improved access to an important part of the cemetery and enhance the sale potential of the remaining vacant niches along the path.

11.2 East Ballina Cemetery - Concept Master Plan

Sustainability Considerations

- Environment**
 Planned and considered options for burials and interment of ashes will assist in minimising the future space required for cemeteries.
- Social**
 The provision of cemeteries with appropriate burial options will meet the needs of the community.
- Economic**
 The cost effective provision of Council services is important for economic prosperity and development.

Legal / Resource / Financial Implications

If Council adopts the Master Plan, then annually available funds from the cemetery reserve can be allocated to enable the implementation of the plan. Council's long term financial plan provides the following forecast balances for the cemetery reserve.

Table One - Financial Plan – Cemetery Operations - 2013/14 to 2017/18 (\$'000)

Item	13/14	14/15	15/16	16/17	17/18
Operating Revenues	380	391	403	415	428
Operating Expenses (ex dep)	284	293	302	311	321
Net Result	96	98	101	104	107
Less Dividend to Council	50	50	50	50	50
Less Entry Treatment Work	75	0	0	0	0
Net Cash Movement	(29)	48	51	54	57
Closing Reserve Balance	91	139	190	244	301

As can be seen from these figures the overall cemetery operations do not make a large cash surplus on operations which means there is limited funding available for capital improvements. Council has also recently sourced \$150,000 from this reserve (\$75,000 in 2012/13 and \$75,000 in 2013/14) to finance the Ballina Entry Treatment works.

Recognising the limitations on funding and acknowledging that East Ballina is only one of the cemeteries owned and operated by Council (others include Wardell, Alstonville, Rous and Tintenbar) a possible forward financial plan for the proposed works could be as follows:

Table Two – Program of Capital Works – East Ballina Cemetery (\$)

Item	13/14	14/15	15/16	16/17	17/18
Construction of the Eastern Path	35,000				
Tree planting, installation of bollards and closing of roads		50,000			
Landscaping and installation of signage at Entry One - The Main Entrance			55,000		
Installation of toilet at Entry One - The Main Entrance				45,000	
Landscaping and installation of signage at Entry Two - The RSL Entrance					18,000
Callitris Forest Memorial Walk					32,000

11.2 East Ballina Cemetery - Concept Master Plan

The figures in table two have been rounded upwards to provide a small contingency along with future cost increases. This program results in a revised reserve balance as follows:

Table Three – Revised Reserve Balance – Cemetery Operations (\$)

Item	13/14	14/15	15/16	16/17	17/18
Opening Reserve Balance	120	56	54	50	59
Cash Movement as per Table One	29	48	51	54	57
Less Capital Expenditure	35	50	55	45	50
Closing Reserve Balance	56	54	50	59	66

This program of works would be subject to annual review by Council; however it provides a useful guide for the future. Funds are still available in the reserve for works in the other cemeteries, albeit that the recent installation of the niche wall at Alstonville, means that the majority of any planned capital works are now completed.

Staff Resources

A recent review of staff resources has been undertaken for Council's Open Spaces and Reserves Section.

Currently there is one staff member generally allocated to the cemetery, however with some frequency, other staff are required to attend the cemetery to support this officer. Some inefficiencies are embedded in this practice because of vehicle availability, rosters and other issues when a crew attends, as on some occasions this is more resource than is actually required. The time for all of these staff is charged to cemetery budget when they are working there.

Furthermore, Council is attempting to develop a more programmed response to the inspection and maintenance of our playground assets. Currently a single officer is undertaking this work, however the operation of this program has identified the work can be more effectively completed with a crew of two.

Council provided an above CPI increase to the Open Spaces budget for 2013/14 and it is now recommended that Council approve the creation of a permanent additional position of skilled labourer for the Open Spaces and Reserve Section. This would be the first permanent increase in staff resources in recent years for this section, excluding trainees and apprentices which are temporary positions. This position will largely be dedicated to the cemeteries along with assisting playground maintenance and other Open Spaces maintenance works.

The entire workload for Open Spaces and Reserves continues to grow as more and more parks, playing fields, roundabouts etc are constructed or dedicated to Council. As a rough guide some of the extra workload that has been placed on this section in recent years include:

Shire Wide

- Increased emphasis on asset protection zones (APZ)

Lennox Head

- Aspect North Estate Stormwater Pond
- Coastal Grove Estate

11.2 East Ballina Cemetery - Concept Master Plan

- Elevations Estate
- Gradwell Reserve
- Ross Lane Roundabout

Ballina

- Boeing Avenue
- Campbells Common
- Ferngrove Estate
- Tamarind Drive Roundabouts
- Unara Parkway Reserve
- Kentwell Community Centre
- Teven Interchange Roundabout
- Angels Beach Estate Roundabout
- Angels Beach Estate

Alstonville / Wollongbar

- Alstonville By-Pass
- Alstonville Gateway Entrance
- Plateau Drive Estate
- Wollongbar Gateway Entrance

Wardell

- Wardell Wharf Precinct

The recommendation for an additional position does not require a change in budget as the position can be accommodated within the existing funding.

Consultation

The draft East Ballina Cemetery Master Plan has been placed on exhibition and two responses were received.

Options

1. Adopt the East Ballina Cemetery Master Plan as exhibited
2. Amend and then adopt the plan
3. Decline to adopt the plan

In respect to the additional staff resource the options are to support or not support this request.

Based on the contents of this report it is recommended that the Master Plan be adopted without amendment. It is also recommended that Council endorse the capital works program as per table two of the report.

In respect to the additional staff resource the demands on the Open Spaces Section continue to grow and with new sports fields planned for Wollongbar next year, along with the possibility that the Pacific Pines fields will come on line in the not too distant future, it is recommended that Council approve the additional resource.

11.2 East Ballina Cemetery - Concept Master Plan

RECOMMENDATIONS

1. That Council adopts the East Ballina Cemetery Master Plan as exhibited and as attached to this report.
2. That Council endorses the following program of capital works, as per table two of this report, for inclusion in our long term financial plan, including the allocation of funds in the 2013/14 budget:

Item	13/14	14/15	15/16	16/17	17/18
Construction of the Eastern Path	35,000				
Planting, bollards / closing of roads		50,000			
Landscaping - The Main Entrance			55,000		
Toilet - The Main Entrance				45,000	
Landscaping - Entry Two					18,000
Callitris Forest Memorial Walk					32,000

3. That Council authorises the creation of a new position of Labourer within the Open Spaces and Reserves Section.

Attachment(s)

1. East Ballina Cemetery Draft Master Plan Comments - Margaret Fryer
2. East Ballina Cemetery Draft Master Plan Comments - Gwen Waterford
3. East Ballina Cemetery Draft Master Plan

11.3 Ewaste Collection Contract

11.3 Ewaste Collection Contract

Delivery Program Waste Management

Objective To obtain Council approval to enter a five year contract for Ewaste services.

Background

The Federal Government has introduced a product stewardship scheme for computers and televisions. The program acknowledges that those involved in producing, selling, using and disposing of products have a shared responsibility to ensure that those products or materials are managed to reduce the impact on the environment and on human health and wellbeing.

The implementation of the scheme required suitably equipped contractors to register with the Government to act as collection and processing agents with a view to expanding the number of units that are being recycled each year. They have established a target of recycling 80% of all units sold by 2021/22.

The scheme offers residents an opportunity to recycle computers and television at minimal cost with the disposal and processing costs covered by the Government, and the cost of operating the collection centre to be borne by the organisation managing the site.

The purpose of this report is to obtain Council approval to enter a five year contract with one of the approved providers.

Key Issues

- Award a contract that is in the best interest of Council
- Terms and condition of the contract

Information

DHL was one of the successful contractors accepted by the Federal Government to undertake the collection and processing of Ewaste.

Council has previously expressed an interest in becoming a site for the drop off of computers and televisions and staff have been able to negotiate favorable conditions, whereby DHL will pay \$80 per tonne to meet the operating costs of Council managing the drop off centre, which is to be situated at the Waste Management Facility.

The drop off centre will be managed within the current staff resources and the centre will be located at the transfer centre. There will be no extra operating cost for Council from providing this service and essentially Council will be receiving an \$80 per tonne contribution towards the Ewaste. The Council will also be avoiding existing haulage and disposal costs. A condition in the arrangements is that Council does not charge a fee for the collection as cost recovery is achieved with the payment from the contractor.

11.3 Ewaste Collection Contract

The \$80 per tonne is fixed for the term of the contract and the advice from Council's Manager – Water and Waste is that this is considered to be a reasonable market price for this service.

Sustainability Considerations

- **Environment**

The implementation of a Product Stewardship Scheme for televisions and computers will ensure the materials vested in the units are recycled.

- **Social**

The provision of this service will provide social benefit to residents of Ballina Shire by giving them fee relief and providing an outlet for the disposal of end of life computers and televisions.

- **Economic**

The adoption of the Product Stewardship scheme will reduce disposal and processing costs to Council and residents, whilst providing an economic incentive to recover end of life computers and televisions.

Legal / Resource / Financial Implications

DHL has agreed to provide the cages to facilitate the drop off and transport and Council have put together procedures to ensure the work is undertaken in a safe and efficient manner. There will be no additional resources required to manage the drop off centre as this function is already staffed.

Council will receive payment of \$80 per tonne toward operating costs for all units salvaged, thus contributing toward the overall site operating costs. This payment will be in lieu of gate fee income. Council also avoids the current costs associated with haulage and disposal of this product.

Consultation

Council has consulted with the other councils in the region when determining the best option for Ballina and the region.

Options

Council can continue to dispose of our computers and televisions in the demolition waste currently being disposed of with Veolia in South East Queensland, however the opportunity of this offer is that it will reduce costs to Council and enable Council to offer a service for free to residents.

Council may choose to accept the offer as presented by DHL for the provision of the Product Stewardship Agreement to act as a Collection Agent for end of life computers and televisions for five years on the basis of the contract as offered. The preferred option is to accept this contract as it is considered to provide the best value outcomes to the community.

11.3 Ewaste Collection Contract

RECOMMENDATIONS

1. That Council authorises the General Manager to sign a contract with DHL to act as a Collection Agent under the Federal Product Stewardship Scheme for end of life computers and televisions for a term of up to five years.
2. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

11.4 Wastewater Treatment Plants Upgrade - Update

11.4 Wastewater Treatment Plants Upgrade - Update

Delivery Program Water and Wastewater

Objective To provide an update on the upgrade of the Ballina and Lennox Head Wastewater Treatment Plants.

Background

At the February 2011 meeting Council considered a report detailing the tender assessment for a contract for the upgrade of the Ballina and Lennox Head Treatment Plants.

At that meeting, Council resolved to accept the tender of Haslin Constructions Pty Ltd for RFT/Contract Number 0902774 being for the Design and construction of an MBR Waste Water Treatment Plant (WWTP) at Ballina, and a Recycled Water Plant at Lennox Head WWTP for an amount of \$45,437,315 including GST.

Given the size of this contract, reports have been provided on a quarterly basis to ensure Council is able to monitor the project.

Key Issues

- To inform Council of the progress of the works within the Contract.

Information

Work Completed for Reporting Period

The work completed during the reporting period for the West Ballina site includes the following;

- The new MBR wastewater treatment plant is now in service, with all incoming sewage being treated in the new plant
- The operation of the plant is being fine-tuned by the Contractor, with this component of the works to be soon handed over to Council
- The chemical storage areas and dosing systems are completed and are in service
- The UV plant is complete, however is not be placed in service until recycled water is ready to be supplied
- The old plant has been decommissioned and demolished
- The internal access roads have been constructed, however will not be sealed until other works are complete
- The sludge handling and storage buildings are complete
- The ebb-tide and recycled reservoirs concrete construction is complete, with the roofs being installed
- Training of Council operating and maintenance staff is occurring.

For the Lennox Head site, the following site works occurred during the reporting period.

11.4 Wastewater Treatment Plants Upgrade - Update

- The new ocean discharge UV is in service
- New foundations and concrete flooring have been constructed in the existing building
- The new mechanical and electrical components of the recycled water plant have been installed in the building (with the exception of the membranes), the joining pipework completed
- Electrical cabling and connection works are currently occurring – power to the new switchboards has been achieved
- The Recycled Water concrete reservoir is fully completed
- The foul water pump station is complete
- The chemical storage area and dosing systems to the existing aeration tanks are now in service
- The emergency generators have been installed, but are not yet commissioned.

Cost of Work Completed

\$45,732,125 inclusive of GST.

Approved Variations

	Details	Cost (incl. of GST)
1	Modifications to inlet works to divert all flows through the manual bar screen to the storm detention pond.	\$17,532.90
2	Supply and Install an Isolating Valve to the existing bund in the Chemical Delivery area.	\$677.60
3	Supply Biofilter in lieu of Deodorising Bed	- \$51,615.00
4	Deletion of additional Amenities Building at the Lennox Head RWP location	- \$24,603.48
5	Concept Design for revised Effluent Streams due to requirement of NOW	\$33,250.80
6	Currency Fluctuation (as per Contract Conditions)	- \$39,311.00
7	Re-inclusion of Telemetry requirements for the sites	\$51,515.75
8	Back-up Level sensor for the Inlet Works	\$9,168.17
9	Disabled Access due to change in BCA	\$173,212.60
10	10. Install Electrical conduits and Cable pit for PS controls At Lennox	\$8,765.86
11	DA Certificate requirements	\$16,976.30
12	LP Sewer Connection to WWTP	\$10,502.80
13	Effluent Streams Modifications	\$2,275,488.02
14	Supply temporary Ferric tank and Convert existing Ferric tank to Alum	\$50,045.90
15	Additional Ballina Is main diversion and valving	\$21,225.82
16	Future RO return main and electrical conduits	\$28,941.14
17	Relocation of grease waste facility sampler and associated equipment	\$38,081.12
18	Supply and install PRV in existing RW system	\$26,199.71
19	Administration building security upgrade	\$16,988.40
20	Delay costs associated with the Effluent streams Modification variation	\$319,200.00
21	Access ladders for Pump Stations/Tanks	\$30,286.30
22	Automatic Greasing system for Belt Press	\$17,659.95
23	Salinity Reduction Options Report	\$21,973.60
	Total	\$3,052,163.26

Progress to Schedule

11.4 Wastewater Treatment Plants Upgrade - Update

The current contract completion date is 20 September 2013. Progress is currently to schedule, however it is noted that with further extensions due to inclement weather likely, a completion date for the contract is expected to be toward the end of October 2013.

The new Ballina plant is being constructed in two stages. Firstly the new WWTP component was constructed and placed in service – then the old plant was decommissioned and demolished so that the remainder of the works can be completed. The second component includes the sludge handling facilities, along with the recycled water reservoir and pump station, the ebb-tide discharge reservoir, remaining road and site civil and electrical works.

Other Issues

1. The NSW Office of Water (NOW) will approve the recycled water scheme through its Section 60 requirements. To achieve approval, the treatment process requires validation that it will produce recycled water to the required quality and then verified by a testing regime prior to approval. NOW sets this testing regime and this can only be completed when all construction work is complete and all systems are proven. Recycled water cannot be made available to urban dual reticulation until all testing, reporting, audits and approvals have been completed. A program for this work is currently being established.
2. The sewer network in the low lying areas of Ballina is subject to infiltration of salt water. Council has been completing a lining program of much of the network as part of its Asset Management Strategy to ensure longevity of the system. This program had three objectives.

Firstly, the relining is a form of asset renewal addressing age and conditions issues.

Secondly, was to reduce operating costs by reducing the amount of water pumped and treated from the reduction in infiltration.

The third objective was to see if we could reduce the amount of salinity infiltration, and hence reduce the salinity of the recycled water that will be produced. Unfortunately the salinity has not reduced at the Ballina WWTP to the levels that Council has adopted as part of its Urban Water Management Strategy for the supply of recycled water.

Therefore, Council is now producing an Options Report on the salinity to determine a strategy to manage or reduce it. Increased levels of salinity limit the value and acceptance of recycled water for irrigation purposes having regard to the potential impact on some lawns and plants.

Sustainability Considerations

- **Environment**
Timely construction of the contract works will ensure the WWTP's in Ballina and Lennox Head have adequate capacity and the environment is protected from the risk of overflows. The upgrade of the facilities and reuse of effluent will assist in improving discharge qualities and the water quality in the estuaries.
- **Social**
The upgrade of the WWTP's will accommodate growth and provide an alternative source of high grade recycled water which will limit the need to upgrade alternative means of water supply thus putting back the costly upgrades such as dams and desalination.
- **Economic**
The construction of the WWTPs will allow capacity in the network to further develop the Ballina and Lennox Head areas in a timely manner.

Legal / Resource / Financial Implications

For the Haslin Constructions contract, there have been twenty three approved variations to date for a sum of \$3,052,163.26. As detailed there was a significant variation required for the changes to the effluent streams. It is anticipated that further variations will be within the contingency for this contract and no variation would currently be required to the budget.

Consultation

This report is provided for the public record.

Options

This report is for information only.

RECOMMENDATION

That Council notes the contents of the progress report on the upgrade of the Ballina and Lennox Head Waste Water Treatment Plants.

Attachment(s)

Nil

11.5 Tender - Design of Lennox Head Surf Club and Precinct

11.5 Tender - Design of Lennox Head Surf Club and Precinct

Delivery Program Asset Management

Objective To award the tender for the review and design of the Lennox Head Surf Club and Lake Ainsworth Precinct

Background

Council initially advertised a registration of interest (ROI) for suitable consultants to undertake a review and design of the Lennox Head Surf Club and the eastern precinct of Lake Ainsworth.

Council received 34 submissions to the ROI and staff then shortlisted three highly qualified and experienced consultancy companies.

Tender documentation was subsequently provided to the three companies in June 2013 with tenders closing 30 July 2013. The documentation provided for the consultants to provide pricing for two options, either to refurbish the current surf club or to design a new surf club, along with the need to implement the Lake Ainsworth Master Plan for the eastern precinct of the Lake.

Stage one of this contract will require the successful tenderer to undertake a review of the existing surf club building and consult with the various stakeholders to determine the viability of the existing building. In addition, the consultant will be required to undertake planning for the integration of the refurbished/new building with planned improvements to the eastern side of the Lake Ainsworth precinct in accordance with the Lake Ainsworth Master Plan.

Key Issues

- Award the contract in accordance with the Local Government (General) Regulation 2005
- Engage a suitably qualified and experienced consultant for the works in accordance with the project brief

Information

A summary of the tender pricing is provided below:

Tenderer	Option A – Refurbishment of Surf Club	Option B – Replacement of Surf Club
Complete Urban Pty Ltd	\$166,080	\$278,770
PDT Architects	\$334,742	\$353,970
Guyster Bailey Architects Pty Ltd	\$367,600	\$389,580

The tender evaluation panel assessed each of the tenders against the stated evaluation criteria and a summary of ranking follows:

11.5 Tender - Design of Lennox Head Surf Club and Precinct

Option A – Refurbishment of Surf Club Building

Evaluation Criteria	Complete Urban Pty Ltd	PDT Architects	Guymer Bailey Architects Pty Ltd
Total Price – 40%	40%	10.0%	5.0%
Conformity with Project Objectives – 10%	5.0%	1.0%	8.0%
Precinct Concept Design – 30%	18.0%	8.0%	19.0%
Methods for Project Delivery – 20%	13.0%	8.0%	18.0%
Total	76.0%	27.0%	50.0%

Option B – Replacement of Surf Club Building

Evaluation Criteria	Complete Urban Pty Ltd	PDT Architects	Guymer Bailey Architects Pty Ltd
Total Price – 40%	40%	29.2%	24.1%
Conformity with Project Objectives – 10%	5.0%	1.0%	8.0%
Precinct Concept Design – 30%	18.0%	8.0%	19.0%
Methods for Project Delivery – 20%	13.0%	8.0%	18.0%
Total	76.0%	46.2%	69.1%

Complete Urban Pty Ltd has provided the lowest priced conforming tender and has scored highest in the evaluation for both options. Details on Complete Urban can be found on their web site; i.e. www.completeurban.com.au

Projects that the firm has completed of this nature include:

Curl Curl Sports Club – Internal refurbishment
Collaroy Surf Club – Alternations and additions
Kirra Surf Club - Design
Wyong Surf Clubs – Replacement / refurbishment of five surf clubs
Surfers Paradise Foreshore Amenities
Macintosh Island Public Amenities

Their proposal states, in part, that:

Consideration of all aspects of the project

Whilst there are a number of issues across the precinct, COMPLETE URBAN have identified that the main issues with the current precinct can be grouped into 3 broad areas:

- 1. Poor Surf Club building condition – This is an architectural issue*
- 2. Poor Landscape/public open space amenity around Lake Ainsworth – This is a landscape/urban design issue*
- 3. Poor road network (traffic and drainage infrastructure) – This is a civil engineering issue*

11.5 Tender - Design of Lennox Head Surf Club and Precinct

A successful design solution for the surf club and the surrounding precinct will require a coordinated response to each of these issues. COMPLETE URBAN are a multidisciplinary firm providing Architectural, Landscape and Civil Engineering expertise for Local Governments. Our unique experience means in these three areas means we will be able to provide advice to Ballina Shire Council that considers all three key aspects of the project in a holistic manner. We are specialists at integrating architectural, landscape and civil design solutions in public realm locations.

Their submission also acknowledges the need for compatibility with the Lake Ainsworth Master Plan.

Sustainability Considerations

- **Environment**
The area including the Lake Ainsworth precinct is an environmentally sensitive area and all design works will need to be compatible with the area.
- **Social**
The surf club and improvements to the Lake Ainsworth precinct has the potential to become a major meeting area and tourist precinct.
- **Economic**
Enhancements to the surf club and the Lake Ainsworth precinct has the potential to increase tourism to the area.

Legal / Resource / Financial Implications

Council has funding of \$350,000 in the 2013/14 budget for this project, and \$50,000 was allocated in the 2012/13 budget, of which approximately \$5,000 was expended.

Council received \$1,355,000 from the sale of land at Ross Street, Lennox Head and subsequently resolved that these funds will be applied to this project.

With only \$5,000 expended to date this leaves approximately \$1,350,000 available.

Consultation

A public process was undertaken to call for registrations of interest and a tender process was then completed for the three shortlisted firms.

Options

Under the Local Government (General) Regulation 2005, Council must either accept the tender that “appears the most advantageous” or decline to accept any tenders.

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

11.5 Tender - Design of Lennox Head Surf Club and Precinct

2. Council may award the contract to Complete Urban Pty Ltd to undertake the review and design of the Lennox Head surf club.

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 tender assessment indicates that a reliable market has been established and the assessment by the evaluation panel has determined the preferred tenderer.

The final contract sum will be determined by the scope of works undertaken by Complete Urban Pty Ltd.

Stage 1 of the contract will require Complete Urban Pty Ltd to undertake a review of the existing structure and report back to Council with options to either refurbish the existing building or to replace the entire building. Based on the options report, Council will then determine the scope of works for Stages 2 – 5.

A summary of the proposed stages, along with the tender figure for both options, is as follows (all figures ex GST):

Stage 1 – Review and Consultation - \$13,530

Stage 2 – Concept Designs - \$26,690 or \$40,255

Stage 3 – Design Development and Planning Approvals - \$35,300 or \$56,350

Stage 4 – Detailed Design and Documentation - \$50,185 or \$103,335

Stage 5 - Contract Administration and Site Supervision - \$40,375 or \$65,300

The contract states that stages four and five will be implemented subject to Council sourcing funding to allow the works to proceed. If no funding is allocated by Council then these stages will not be implemented.

The recommendation to this report is to accept the tender for the maximum amount of \$278,770 which is the tendered sum for the option to replace the building. This amount is the maximum to be paid under the tender, subject to approved variations, with the actual sum paid being dependant on the outcome of the two main options.

RECOMMENDATIONS

1. That Council accepts the tender from Complete Urban Pty Ltd, up to a maximum amount of \$278,770, for the review and design of the Lennox Head Surf Club and Surrounding Precinct.
2. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

11.6 Local Traffic Committee Report - August 2013

11.6 Local Traffic Committee Report - August 2013

Delivery Program Asset Management

Objective Consideration of items referred to the Local Traffic Committee meeting held in August 2013

Background

The Local Traffic Committee (LTC) met on 14 August 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 nine business items of which three 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) **Special Event – Jim’s Group Movember Mowathon**

The Committee reviewed a request seeking approval for the Jims Group Movember Mowathon Fundraising Walk to pass through Ballina Shire. The recommendation is for Council to approve the application subject to the event being conducted within the conditions of approval from the NSW Police and RMS.

b) **Request Gazettal Update of 4.6m High Routes in the Shire**

The Committee reviewed a request from the RMS to amend the 4.6 metre route approvals in Ballina Shire following the construction of the Alstonville and Ballina Bypasses. The recommendation to amend the route changes set out in the information from the RMS was endorsed by the Committee.

c) Special Event – The Inaugural Prawn Festival

The Committee reviewed a request seeking approval to close Missingham Bridge for a fireworks display between 7.45pm to 8.15pm on 16 November 2013. The recommendation to approve the road closure subject to the event being conducted in accordance with the submitted traffic control plan and the requirements of Section 116 of the Roads Act was endorsed.

Sustainability Considerations

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

Legal / Resource / Financial Implications

Council has statutory requirements in terms of the management of its delegations from the RTA, including the management of the LTC. There is no resource or financial implications directly associated with the recommendations to this report.

Consultation

Public participation in LTC processes is determined by the RMS Guidelines for the Management of Local Traffic Committees. Council has determined to use its meeting code arrangements for public access wherever it is consistent with the guidelines.

Options

The Council can either accept or reject the recommendations. Council's acceptance or rejection of the recommendations is reported to the next meeting of the TLC.

In rejecting a recommendation it is the preferred practice to advise the LTC of the Council's reason for the rejection and invite the Committee to reconsider the matter having regard to the comments of Council, Following that process, if that matter remains unresolved, Council can elect to refer the matter to the Regional Traffic Committee.

RECOMMENDATIONS

1. The Council approves the application from Jims Group to conduct a Movember Mowathon Fundraising Walk on 26 November 2013, subject to the event being conducted in accordance with the conditions of approval from the NSW Police and RMS.
2. That Council approves the request from the RMS to amend the 4.6 metre route approvals in Ballina Shire following construction of the Alstonville and Ballina Bypasses, and endorse the schedule of changes set out in the information provided by the RMS.
3. That Council approves the closure of Missingham Bridge from 7.45 pm to 8.15 pm on 16 November 2013 for the Prawn Festival, subject to the closure being conducted in accordance with the submitted traffic control plan and the requirements of Section 116 of the Roads Act.

Attachment(s)

1. RMS Road Gazettal Schedule
2. Traffic Control Plan - Prawn Festival

12. Public Question Time

12. Public Question Time

13.1 Notice of Motion - Street Lighting - Parklands Drive, Alstonville

13. Notices of Motion

13.1 Notice of Motion - Street Lighting - Parklands Drive, Alstonville

Councillor Cr Keith Johnson
Cr Wright
Cr Worth

We 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 installation on Waverley Place/Smith Drive, West Ballina be deferred to 2016/17.

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.

The Delivery Program is set out below:

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

Staff Comment

This matter was considered as a notice of motion at the June 2013 Ordinary meeting and was lost. As the motion was negated, it can only be reconsidered, within three months of the June meeting, if the notice of motion contains three signatures. This motion therefore complies with the Local Government Act. If the motion is again lost it cannot be considered again for a period of three months.

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 installation on Waverley Place/Smith Drive, West Ballina be deferred to 2016/17.

13.2 Notice of Motion - Fluoridation

13.2 Notice of Motion - Fluoridation

Councillor

Cr Williams

I move

That Ballina Shire Council advise Rous Water that it no longer supports the fluoridation of the water supply.

Councillor Comment

At its most recent meeting Lismore Council reconsidered its position on fluoridation of the water supply with the following Notice of Motion being adopted.

"That given the lack of evidence of community support and strong opposition, Council advise Rous Water it does not support the fluoridation of the water supply."

Given that Rous Water must now consider its options in response to the Lismore decision, I believe it is an appropriate time for Ballina Shire Council to also reconsider its position following the elections last September. I was asked more questions about my stance on fluoridation than any other issue during the campaign.

My personal view is reflected in the above motion.

It is based primarily on ethical criteria rather than some anti-science belief that fluoride is evil.

I accept the science that clearly says there will be a reduction in caries as a result of fluoridation. I believe this is unarguable.

I know that local government has been at the forefront of most major public health improvements throughout Australian history. The provision of sanitation, garbage services, health inspectors and most importantly clean, safe, drinking water have been the foundations of Australia's health achievements.

I believe that the dental health benefits that can be achieved by fluoridation are more appropriately delivered through a comprehensive dental health care and education program, in the same way as almost all other health services. Fluoridation is simply a cheaper way to achieve the same health outcomes.

It is my view that our responsibilities as a local government do not include conducting what essentially amounts to a "mass medication program". This is the central ethical question for me.

13.2 Notice of Motion - Fluoridation

I would also note that there has been some media commentary linking opposition to fluoridation to an anti-vaccination stance. I do not support this. As the father of a young child, I strongly encourage following the approved vaccination program and wish there was a far higher vaccination rate in this area.

As in the case of fluoridation, I accept the science. I believe however there is a substantial difference between supporting an active vaccination program and seeking to inoculate a population through the water supply.

It should also be understood by the community that in the case of vaccines, there is no effective alternative.

In the case of fluoridation, there are a range of other, less intrusive options, to achieve these health outcomes.

COUNCILLOR RECOMMENDATION

That Ballina Shire Council advise Rous Water that it no longer supports the fluoridation of the water supply.

Attachment(s)

Nil

14.1 Environmental & Sustainability Committee Minutes - 7 August 2013

14. Advisory Committee Minutes

14.1 Environmental & Sustainability Committee Minutes - 7 August 2013

Attendance

Cr David Wright (Mayor - in the chair), Jeff Johnson, Sharon Cadwallader (arrived at 4.02 pm), Keith Williams, Keith Johnson, Susan Meehan (arrived at 4.04 pm), Ken Johnston, Paul Worth, Cr Ben Smith (arrived at 4.46 pm) and Robyn Hordern (arrived at 4.26 pm).

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Matthew Wood (Acting Strategic and Community Facilities Group Manager), Simon Scott (Strategic Planner) and Sandra Bailey (Secretary) were in attendance.

There were four people in the gallery at this time.

1. Apologies

An apology was received from Cr Ben Smith.

RECOMMENDATION

(Cr Keith Williams/Cr Keith Johnson)

That such apology be accepted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader, Cr Susan Meehan, Cr Robyn Hordern and Cr Ben Smith

2. Declarations of Interest

Cr Paul Worth – declared an interest in Item 4.1 – Cumbalum Precinct A – Planning Proposal. (Nature of Interest: non significant, non pecuniary – he is a developer in the Shire and Ardill Payne & Partners have been a consultant of his for the past 20 years). He will be remaining in the meeting while the matter is discussed and voting on the matter.

Cr Sharon Cadwallader arrived at the meeting at 04:02 pm.

3. Deputations

- **Bill Payne** – spoke in relation to Item 4.1 – Cumbalum Precinct A – Planning Proposal.

Cr Susan Meehan arrived at the meeting at 04:04 pm.

14.1 Environmental & Sustainability Committee Minutes - 7 August 2013

- **Chris Pratt** – spoke in relation to Item 4.1 – Cumbalum Precinct A – Planning Proposal.

Committee of the Whole

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Keith Williams)

That Council move into Committee of the Whole.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Robyn Hordern and Cr Ben Smith

Cr Robyn Hordern arrived at the meeting at 04:26 pm.

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Susan Meehan)

That Council move out of Committee of the Whole.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Ben Smith

4. Committee Reports

4.1 Cumbalum Precinct A - Planning Proposal

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Susan Meehan)

1. That the Council endorses the Cumbalum Precinct A Planning Proposal.
2. That, subject to the landholders agreeing to a deed of agreement (or similar mechanism) identifying that development applications will not be lodged until a development control plan and developer contributions plans are in place or six months has elapsed after the land is rezoned (i.e. following Minister's approval), Council refer the Precinct A Planning Proposal to the Department of Planning and Infrastructure to be finalised.
3. That Council amend the relevant developer contributions plans to provide for collection of contributions towards Precinct A playing fields and community facilities, including consideration of provision for access and parking.
4. That Council commence the preparation of a development control plan for Cumbalum Precinct A that addresses those matters set out in clause 6.3 of the Ballina Local Environmental Plan 2012.
5. That Council advise the proponents that further consideration of land identified as being noise affected and unsuitable for residential zoning is subject to the lodgement of a separate planning proposal.

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6. That Council advise the proponents that matters relating to small lot rural residential development will be considered separately by the Council, in due course.
7. That Council as part of the preparation of the Section 94 plan review the apportionment of the Ross Lane and Cumbalum interchange costs between CURA A and CURA B.

Cr Ben Smith arrived at the meeting at 04:46 pm.

FOR VOTE - Cr David Wright, Cr Sharon Cadwallader, Cr Keith Williams, Cr Keith Johnson, Cr Susan Meehan, Cr Ken Johnston, Cr Paul Worth, Cr Robyn Hordern and Cr Ben Smith
AGAINST VOTE - Cr Jeff Johnson

MEETING CLOSURE

5.05 pm

RECOMMENDATION

That Council confirms the minutes of the Environmental & Sustainability Committee meeting held 7 August 2013 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

14.2 Facilities Committee Minutes - 7 August 2013

14.2 Facilities Committee Minutes - 7 August 2013

Attendance

Cr Ben Smith (in the Chair), Jeff Johnson, Sharon Cadwallader, Keith Williams, Keith Johnson, Susan Meehan, Ken Johnston, Paul Worth, Robyn Hordern and David Wright.

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Chris Allison (Contracts and Projects Co-ordinator) and Sandra Bailey (Secretary) were in attendance.

There were five people in the gallery at this time.

1. Apologies

Nil

2. Declarations of Interest

Nil

3. Deputations

Nil

4. Committee Reports

4.0 Committee of the Whole

RECOMMENDATION

(Cr Keith Williams/Cr Keith Johnson)

That Council move into Committee of the Whole.

FOR VOTE - All Councillors voted unanimously.

RECOMMENDATION

(Cr Susan Meehan/Cr Sharon Cadwallader)

That Council move out of Committee of the Whole

FOR VOTE - All Councillors voted unanimously.

4.1 Marine Rescue Centre - Design Update

RECOMMENDATION

(Cr Ken Johnston/Cr Keith Williams)

1. That Council endorses option two, as outlined in this report, to relocate the Marine Rescue Search & Rescue Co-ordination Centre to the east and refurbish the existing toilet facilities, as the preferred design option for this project.
2. That Council ensure that cyclists can ride through the area without having to dismount.
3. That Council investigate the need for a backup search and rescue co-ordination base.
4. That the total project budget includes the restoration of the carpark in that location.

FOR VOTE - All Councillors voted unanimously.

MEETING CLOSURE

6.15 pm

RECOMMENDATION

That Council confirms the minutes of the Facilities Committee meeting held 7 August 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 July 2013 Ordinary meeting:

<u>Date</u>	<u>Function</u>
26/7/13	Meeting re Prawn Festival with Organising Committee
27/7/13	Ballina Surf Club Opening
28/7/13	A Feast for Doll Lovers – Crawford House
30/7/13	Coastal Kids Concert – Ballina RSL
30/7/13	Councillor Briefing – The Richmond Room
1/8/13	Opening of Bunnings – Ballina
2/8/13	NOROC Meeting – Ballina Chambers
2/8/13	Town and Gown Art Exhibition – Lennox Head School Hall
4/8/13	Festival of the Horse – North Teven – RDA
6/8/13	Councillor Briefing on Commercial Activities on Public Land Policy
6/8/13	Alstonville/ Wollongbar Chamber of Commerce
7/8/13	Environmental & Sustainability Committee – Cumbalum A –
7/8/13	Facilities Committee
12/8/13	Jetstar Milestone at Airport
12/8/13	Meeting Le Ba
13/8/13	Citizenship Ceremony – Ballina Surf Club
13/8/13	Briefing Coastal Zone Management Plan
13/8/13	Briefing – Wollongbar Sporting Fields
14/8/13	RRCC – Meeting
14/8/13	Meeting Electrical Trades Delegation
14/8/13	Meeting Wollongbar Progress Association
15/8/13	Meeting Wollongbar Rugby Club
16/8/13	Meeting Dr Lyn Walker – re Lake Ainsworth
16/8/13	Gallery Launch – Northern Rivers Community Gallery
16/8/13	Supa North – Smokey Joe's Cafe - Ballina RSL
17/8/13	Launch of book by Gary Faulks
17/8/13	Gala Tourism Awards – Ramada
18/8/13	Alstonville Anglican Church – stone unveiling
18/8/13	Alstonville Cricket Club Annual meeting
18/8/13	Scope Changeover Luncheon – Twenty Nine Restaurant
18/8/13	Vietnam Veteran's Day Ballina Memorial Park
19/8/13	General Manager's Review – RRCC
21/8/13	Wardell Progress Association - Wardell
22/8/13	August Council Meeting

RECOMMENDATION

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

Attachment(s)

Nil

16. Questions Without Notice

16. Questions Without Notice

17. Confidential Session

17. Confidential Session

Nil Items