



## **Notice of Commercial Services Committee Meeting**

Notice is hereby given that a Commercial Services Committee Meeting will be held in the Ballina Shire Council Chambers, 40 Cherry Street, Ballina on **Tuesday 17 September 2013 commencing at 4.00 pm.**

### **Business**

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

A handwritten signature in black ink, appearing to read 'Paul Hickey', with a long horizontal line underneath.

Paul Hickey  
**General Manager**

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

**2. Declarations of Interest**

**3. Deputations**

## **4.1 Flat Rock Tent Park - Update**

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### **4. Committee Reports**

#### **4.1 Flat Rock Tent Park - Update**

**Delivery Program** Commercial Services

**Objective** To provide an update on Flat Rock Tent Park and to confirm the option period for the management contract.

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#### **Background**

Flat Rock Tent Park is situated on operational land at East Ballina and is managed by on-site managers under contract. The Park currently has 87 unpowered camp sites, an on-site office/residence/kiosk and two amenities buildings.

The purpose of this report is to provide an update on the operations of the Tent Park along with reviewing the option period for the existing management contract.

#### **Key Issues**

- Financial performance of Flat Rock Tent Park
- Management contract option

#### **Information**

Flat Rock Tent Park has been operating since the late 1970's at East Ballina. The park currently has 87 unpowered camp sites with two amenities buildings and an on-site residence/office/kiosk.

The current managers of the Park were awarded the contract following a tender process in February 2011. The contract with DK Hally Corporation Pty Ltd is for a period of three years expiring on 28 February 2014 with an option period of two years. This option is exercisable by Council.

The current managers have performed very well receiving a number of positive comments from customers of the Park about the high level of service provided along with the very well maintained grounds and facilities. The managers have also demonstrated an ability to continually improve occupancy levels as well as improving the appeal and amenity of the Park. This means there is no hesitation in approving the two year option for this contract.

The managers have actually requested that Council extend the option period from two to three years as this provides greater certainty for their efforts.

The issues that need to be considered in respect to this proposal are:

- The original tender was for three years, with the two year option, however the tender and contract includes the following clause:

## 4.1 Flat Rock Tent Park - Update

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*18.1 At the end of the original term and before the further option term the Council may in its absolute discretion vary the terms and conditions of this agreement*

- An argument could be drawn that the option period could be extended based on the wording of clause 18.1, although the primary reason for the clause is to amend any details within the contract that may require improvement or correction at the end of the initial contract period
- The 2013/14 Council budget for the management contract is \$145,000, which is exclusive of GST. Once GST is included the annual payment to the contractor will be in the vicinity of \$160,000, which is above the \$150,000 threshold for tendering. This means if Council applied clause 18.1 to extend the contract term it could be breaching the tender requirements of the Local Government Act
- If Council did wish to extend the term by one year it would then need to use the extenuating circumstances clause of the Local Government Act, which allows councils not to go to tender where there are extenuating circumstances. There are not considered to be any extenuating circumstances that justify the use of this exception.

### **Legal / Resource / Financial Implications**

In 2009/10 the Park borrowed \$92,000 from internal reserves to fund construction of the new amenities building. This loan has now been paid out in the 2012/13 financial year leaving the Park with a reserve of \$39,500, operating result for the last three years are as follows:

<b>Item</b>	<b>2010/11 (\$)</b>	<b>2011/12 (\$)</b>	<b>2012/13 (\$)</b>
Income	309,643	331,427	354,669
Expense	294,907	273,788	283,942
Surplus	14,736	57,639	70,727

DK Hally Corporation commenced at the Park in February 2011 during a time of very adverse weather conditions that occurred at the beginning of 2011. Since that time surplus levels have improved. One of the more pleasing aspects of the operation of the current managers is their ability to save operating expenses, which in turn continues to improve the viability of the Park.

As their contract payment is linked to income there is not the incentive for the manager to reduce costs, but even without this incentive the managers are doing an excellent job in minimising expenses. The actual contract payment is based on an annual retainer plus 15% of income from tourist sites. The annual retainer was \$84,000 for years one and two and then increased to \$86,000 in year three.

A number of operational issues are also being reviewed as part of the overall ongoing management of the Park. To improve the financial performance of the Park during the cooler and wetter months of the year a management decision was made to permit caravans into the Park (specific sites only). However, there is an ongoing perception that the Park is only a tent park due to its name i.e. "Flat Rock Tent Park".

## **4.1 Flat Rock Tent Park - Update**

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As part of the review, staff are currently investigating altering the name of the Park to "Flat Rock Camping Ground" (or similar) to appeal to a broader section of the market and reduce the seasonality of income.

### **Consultation**

Council staff have been in discussion with the managers of the Park regarding the management agreement and request for variation.

### **Options**

1. Council can vary the management agreement with DK Hally Corporation Pty Ltd and offer an option period from two to three years.

Although Council staff would like to support the current managers with this option, it is considered that the circumstances do not justify Council over-riding the Local Government Act tender regulations. If the manager wanted greater certainty the only real option would be for them to advise Council not to exercise the option and Council could then call tenders for a longer period (i.e. three to five years).

2. Council can advise DK Hally Corporation that they wish to exercise their option period for two years only.

This option is recommended as it complies with the current management contract.

3. Council can advise DK Hally Corporation that they will not be offering the option period and going out to tender for a new management contract.

This option is not recommended as the managers have done a great job in the Park and are continually approving the amenity of the Park.

In respect to option two the proposal is to offer the option based on the retainer plus 15% of tourist site income. In respect to the retainer amount it is considered fair and reasonable that it be indexed by CPI for the remaining two years.

### **RECOMMENDATIONS**

1. That Council approves the two year option extension for the management of the Flat Rock Tent Park to DK Hally Corporation Pty Ltd.
2. The terms and conditions of this extension are to be based on the existing management contract (i.e. retainer plus commission of 15% on tourist income). The existing retainer is to be indexed by CPI for the two year option period.
3. Council approves the Council seal to be attached to the management contract.

### **Attachment(s)**

Nil

## 4.2 Operational Land, Skennars Head - Options

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### 4.2 Operational Land, Skennars Head - Options

**Delivery Program** Commercial Services

**Objective** To present Council with options on selling or rezoning Council operational land, being Lot 11 DP 1181479 at Skennars Head Road, Skennars Head.

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#### **Background**

On 26 March, 2013 the Commercial Services Committee considered the attached report which recommended the sale of Lot 11 DP 1181479. This was the second report on this proposal, the previous report being presented to the Commercial Services Committee meeting on 18 December, 2012.

The meeting of the 18 December 2012 resolved to defer the proposal to sell the site subject to receiving an independent planning report on rezoning options.

Council staff subsequently engaged planning consultants CivilTech to prepare a Rezoning Options Report on the site which was presented to the Commercial Services meeting of 26 March 2013. The Summary and Conclusion from that CivilTech Report is noted as follows:

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

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

Taking this advice into account, the recommendation in the Commercial Services report of 26 March, 2013, was to authorise the sale of the site by way of public auction.

The Commercial Services Committee rejected this recommendation and resolved:

1. *That Council take no action at this time.*
2. *That the General Manager provides a report identifying the actions needed to overcome the present perceived obstacles to rezoning as residential.*

Pursuant to that resolution Council staff subsequently engaged planning consultants CivilTech to prepare a further Rezoning Options Report for the site. A copy this report dated 4 July, 2013 is **attached**.

This report considers CivilTech's latest Rezoning Options Report and makes recommendations accordingly.

## 4.2 Operational Land, Skennars Head - Options

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### Key Issues

- Legislation and planning strategies affecting the site
- Cost of initiating the rezoning process

### Information

The Conclusion, Options and Recommendation of the CivilTech Rezoning Options Report are quoted below.

#### 6.1 Conclusion

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

*The land is also identified as Regionally Significant Farmland (Non-contiguous) which therefore activates Section 117(2) Direction 5.3. Any Planning Proposal will need to demonstrate compliance with the Far North Coast Regional Strategy and Section 4 of the Northern Rivers Farmland Protection Project.*

*Whilst Council staff have indicated that they are unlikely to support the rezoning, the elected Council can overrule the staff and decide to proceed with the rezoning. However, it then needs to be approved by the Department of Planning and Infrastructure. This course of action, should Council decide to proceed, has the potential to set a precedent in the Shire and Council's actions in relation to the land are likely to come under scrutiny.*

#### 6.2 Options

1. *Council does not proceed with the rezoning and either retains the land or authorise the sale of the land by way of public auction.*
2. *Council proceeds with the rezoning and prepares a Planning Proposal to seek a Gateway determination from the Minister (or delegate).*

#### 6.3 Recommendation

*It is recommended that Council adopt Option 1 and not proceed with the rezoning proposal given the inconsistencies with adopted strategic planning documents, the precedent that will be created by proceeding with the rezoning and the difficulties that may arise in demonstrating consistency with Section 117(2) direction 5.3.*



## **4.2 Operational Land, Skennars Head - Options**

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The issue that Council faces is that the resolutions to date seem to effectively imply that despite the current zonings and restrictions for this land, on the surface it appears that the land could be suitable for residential development. It can be argued that the current zoning is more a legacy of the land's prior use as farmland and that the environmental constraints, without undertaking further detailed examination, may be limited.

Therefore from an efficient use of land perspective there could be some merit in pursuing residential development on the site.

The real issue with this line of thought is the precedent being set by Council, in that residential development of this land is inconsistent with all of our strategic land use documents. This means that if Council wishes to pursue the development option it needs to carefully assess the message being sent to the community, and particularly the immediate neighbours, who have no expectation that the land will be fully developed for residential housing.

### **Legal / Resource / Financial Implications**

The CivilTech Rezoning Options Report indicates that under the current planning instruments and legislation the chances of rezoning the site for residential subdivision are remote.

Should Council resolve to proceed with rezoning of the Site and authorises the preparation of a Planning Proposal to seek a Gateway determination from the Minister (or delegate), CivilTech advise the cost of preparing and lodging a Planning Proposal would be in the order of \$6,250 + GST. This cost estimate excludes the cost of specialist studies such flora, fauna, contamination etc. which would not be undertaken unless a Gateway Determination is granted. The cost of these studies could vary from \$20,000 to \$50,000 dependent on the level of issues identified on the Site.

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

### **Consultation**

Any planning proposal would be subject to community consultation.

### **Options**

#### **Option 1**

Council authorises the sale of the site being Lot 1 DP 1181479.

This Option is recommended given CivilTech's advice that the chances of rezoning the Site for residential purposes are remote due to the provisions of prevailing planning instruments and legislation.

If Council resolves to sell the site it is recommended that it be offered for sale by way of public auction through a local real estate agent. If the land fails to sell at public auction it would be placed on the market for sale by private treaty at a price to be determined following on from the public auction process.

## **4.2 Operational Land, Skennars Head - Options**

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

There is not considered to be any strategic value in retaining the Site. The site is the residue of land purchased to expand the Skennars Head sports fields. Proceeds from the sale of the site will assist in offsetting the cost of the initial land acquisition.

### **Option 2**

Council proceeds with the planning proposal of the site and authorises the expenditure of funds up to \$8,000 for the preparation a Planning Proposal to seek a Gateway determination from the Minister (or delegate). The funds for this work would need to be sourced from the Commercial Opportunities Reserve. If the Minister, or delegate, gave their approval to proceed, Council would then need to allocate up to \$50,000 for the additional studies.

This Option is not recommended as independent planning advice, along with the feedback from our own Strategic Services staff, is that the chances of rezoning the site for residential subdivision are remote given the provisions of the current planning instruments and legislation. However this remains a valid option for Council to pursue and from a more efficient use of existing land perspective this could well be the option Council wishes to initiate.

The actual resolution from the March 2013 meeting is for the General Manager to identify the actions to overcome the perceived obstacles to rezoning as residential.

In response to this resolution the action to overcome any obstacles, real or perceived, is to commence the rezoning process. That process, like any rezoning, will then require further investigations and studies to be undertaken into the site, along with consultation with the broader community. To even obtain an approval to proceed with the rezoning will cost approximately \$8,000 with an approval to proceed then requiring top up funding of up to \$50,000, if not more.

Importantly with any rezoning Council can, at any time, resolve not to continue the process.

If the rezoning is ultimately approved Council will have the choice of selling the land undeveloped or developing the land ourselves.

If this is the preferred option the wording for the alternate recommendation would be as follows:

1. Council authorises the General Manager to prepare a Planning Proposal for the residential development of Lot 1 DP 1181479.
2. Council authorises an initial allocation of \$8,000 from the Commercial Opportunities Reserve to fund this work.

**RECOMMENDATIONS**

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

**Attachment(s)**

1. Report to Commercial Services Committee on 18 December 2012
2. Locality Plan
3. CivilTech Rezoning Options Report 26 July 2013

### 4.3 Surplus Land - Skennars Head

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#### 4.3 Surplus Land - Skennars Head

**Delivery Program** Commercial Services

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

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#### **Background**

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

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

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

#### **Key Issues**

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

#### **Information**

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

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

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

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

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

### 4.3 Surplus Land - Skennars Head

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#### Legal / Resource / Financial Implications

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

#### Consultation

A public auction process is proposed.

#### Options

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

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

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

#### RECOMMENDATIONS

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

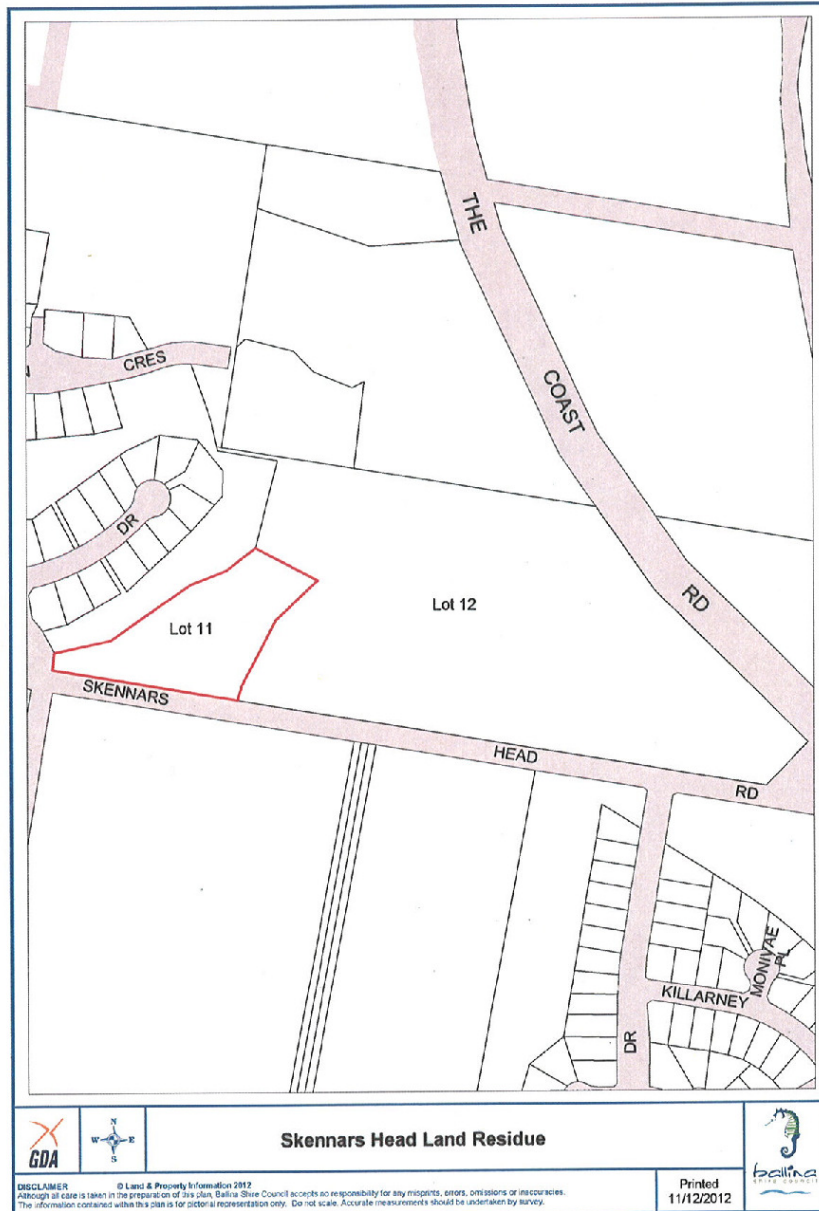
#### Attachment(s)

1. Site Plan
2. Locality Plan



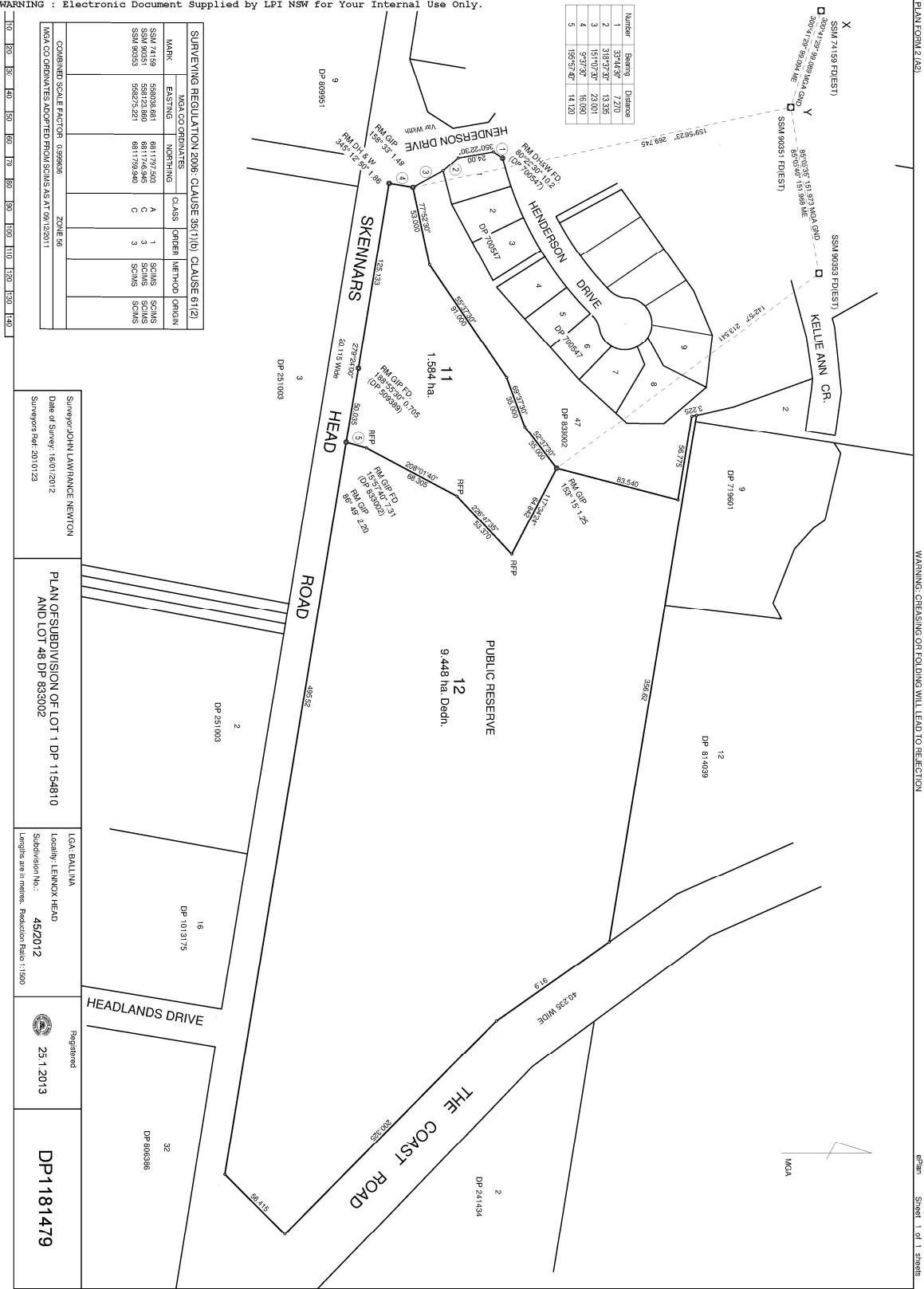
## 4.2 Operational Land, Skennars Head - Options

### 4.3 Surplus Land - Skennars Head.DOC



# 4.2 Operational Land, Skennars Head - Options

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## Rezoning Options Report

Lot 11 DP1181479  
Skennars Head Road, Skennars Head

Updated 4 July 2013

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*Adrian Zakaras*  
Town Planner, CivilTech

Ref No 1260



**DISCLAIMER**

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

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

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

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



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## PROPERTY SUMMARY

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



## 1. Introduction and Subject Site

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

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

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

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

- Introduction and Subject Site;
- Legislation applicable to the site;
- Council Liaison;
- Gateway Process;
- Impediments to Rezoning;
- Conclusion, Options and Recommendation.



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



### 2. Legislation Applicable to the Site

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

- **Ballina Local Environment Plan 2012**

As shown in Attachment 1, the land is identified as “Deferred Matter” under the Land Zoning Maps (Sheet LZN\_005D) of the Ballina Local Environmental Plan 2012 (BLEP 2012). Clause 1.3 states that the BLEP 2012 does not apply to land identified as Deferred Mater on the Land Zoning Maps.

- **Ballina Local Environment Plan 1987**

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

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

- **Ballina Shire Growth Management Strategy 2012**

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

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

Attachment 4 of this report shows that the land is identified as “Regionally Significant Farmland (Non-contiguous)” under this strategy. As a result, Section 117(2) Direction 5.3 – Farmland of State and Regional Significance on the NSW Far North Coast applies to any Planning Proposal (see discussion below on this 117(2) Direction).

- **Far North Coast Regional Strategy**

The land is identified as being located within the “Environmental Assets and Rural Land, National Parks and State Forests” under Sheet 3 of this Strategy (see Attachment 5). Therefore, rezoning of the site for residential purposes is



inconsistent with this strategy as the land is not located within an area mapped as "Proposed Future Urban Release Areas".

- **117(2) Direction – 5.3 - Farmland of State and Regional Significance on the NSW Far North Coast**

As mentioned above the land is identified as Regionally Significant Farmland (Non-contiguous). 117(2) direction 5.3 - Farmland of State and Regional Significance on the NSW Far North Coast applies to any Planning Proposal for land mapped a significant farmland.

Clause (4) of this Direction states that:

*A planning proposal must not:*

- (a) *rezone land identified as "State Significant Farmland" for urban or rural residential purposes.*
- (b) *rezone land identified as "Regionally Significant Farmland" for urban or rural residential purposes.*
- (c) *rezone land identified as "significant non-contiguous farmland" for urban or rural residential purposes.*

Clause (5) of this Direction states:

*A planning proposal may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning or (an officer of the Department nominated by the Director-General) that the planning proposal is consistent with:*

- (a) *the Far North Coast Regional Strategy, and*
- (b) *Section 4 of the report titled Northern Rivers Farmland Protection Project - Final Recommendations, February 2005, held by the Department of Planning.*

A detailed report on each of these strategies would need to be prepared to accompany any Planning Proposal prepared for the site to rezone it for residential uses. Whilst this has not been undertaken as part of this subject report, it is evident that demonstrating compliance with the Far North Coast Regional Strategy and Section 4 of the Northern Rivers Farmland Protection Project would be difficult given the fact the land is not identified for future urban use under any other strategy.



### 3. Council Liaison

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





## 4. Gateway Process

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

The gateway process has the following steps:

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

source:

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



## 5. Impediments to Rezoning

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The following section outlines the perceived impediments to rezoning and the possible solutions to these perceived impediments.

### 5.1 Legislative/strategic impediments

As mentioned above, the land is not identified for future residential uses in either the Ballina Shire Growth Management Strategy 2012 or the Far North Coast Regional Strategy. Council has no plans to update the Ballina Shire Growth Management Strategy in the near future and there are no known plans to update the Far North Coast Regional Strategy.

Overriding these two strategies may have future implications for Council in regards to other land owners who own land with similar circumstances to the subject site also requesting their land to be rezoned.

Section 117(2) Direction 5.3 - Farmland of State and Regional Significance on the NSW Far North Coast is also an impediment to the rezoning of the site for residential purposes for the reasons discussed above under the relevant heading. In order to overcome this impediment, detailed discussion on the proposals compliance with the Far North Coast Regional Strategy and Section 4 of the Northern Rivers Farmland Protection Project would need to be included in the Planning Proposal.

### 5.2 Environmental impediments

No specific studies have been undertaken in regards to identifying any potential environmental issues presented by the land. However, the land is clear, vacant grazing land and no significant environmental impediments are evident to prevent the land being used for residential purposes.

Specific studies such as Flora and Fauna Assessment and Traffic Impact Assessment may be required during the rezoning process. Should Council decide to proceed, detailed discussions with Council's strategic planning staff as to the level of information sought should be undertaken.

### 5.3 Community impediments

Given the public scrutiny afforded to the boundary adjustment subdivision to create the subject land (and to increase the area of the existing Skennars Head Sporting Fields) any rezoning proposal is likely to be objected to by the adjoining residents.



## 6. Conclusion, Options and Recommendation

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### 6.1 Conclusion

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

The land is also identified as Regionally Significant Farmland (Non-contiguous) which therefore activates Section 117(2) Direction 5.3. Any Planning Proposal will need to demonstrate compliance with the Far North Coast Regional Strategy and Section 4 of the Northern Rivers Farmland Protection Project.

Whilst Council staff have indicated that they are unlikely to support the rezoning, the elected Council can overrule the staff and decide to proceed with the rezoning. However, it then needs to be approved by the Department of Planning and Infrastructure. This course of action, should Council decide to proceed, has the potential to set a precedent in the Shire and Councils actions in relation to the land are likely to come under scrutiny.

### 6.2 Options

1. Council does not proceed with the rezoning and either retains the land or authorise the sale of the land by way of public auction.
2. Council proceeds with the rezoning and prepares a Planning Proposal to seek a Gateway determination from the Minister (or delegate).

### 6.3 Recommendation

It is recommended that Council adopt Option 1 and not proceed with the rezoning proposal given the inconsistencies with adopted strategic planning documents, the precedent that will be created by proceeding with the rezoning and the difficulties that may arise in demonstrating consistency with Section 117(2) direction 5.3.



## 7. Attachments

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Attachment 1 – Ballina Local Environmental Plan 2012 Land Zoning Map (Sheet LZN\_005D)

Attachment 2 – Ballina Local Environmental Plan 1987 – Land Zoning Map (Sheet 1987\_LEP\_005D)

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

Attachment 4 - Ballina Shire Growth Management Strategy 2012 – State and Regionally Significant Farmland Map

Attachment 5 – Far North Coast Regional Strategy – Sheet 3



## 4.2 Operational Land, Skennars Head - Options

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*Rezoning Options Report  
Lot 1 DP1181479*

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Attachment 1 – Ballina Local Environmental Plan 2012 Land Zoning Map (Sheet LZN\_005D)

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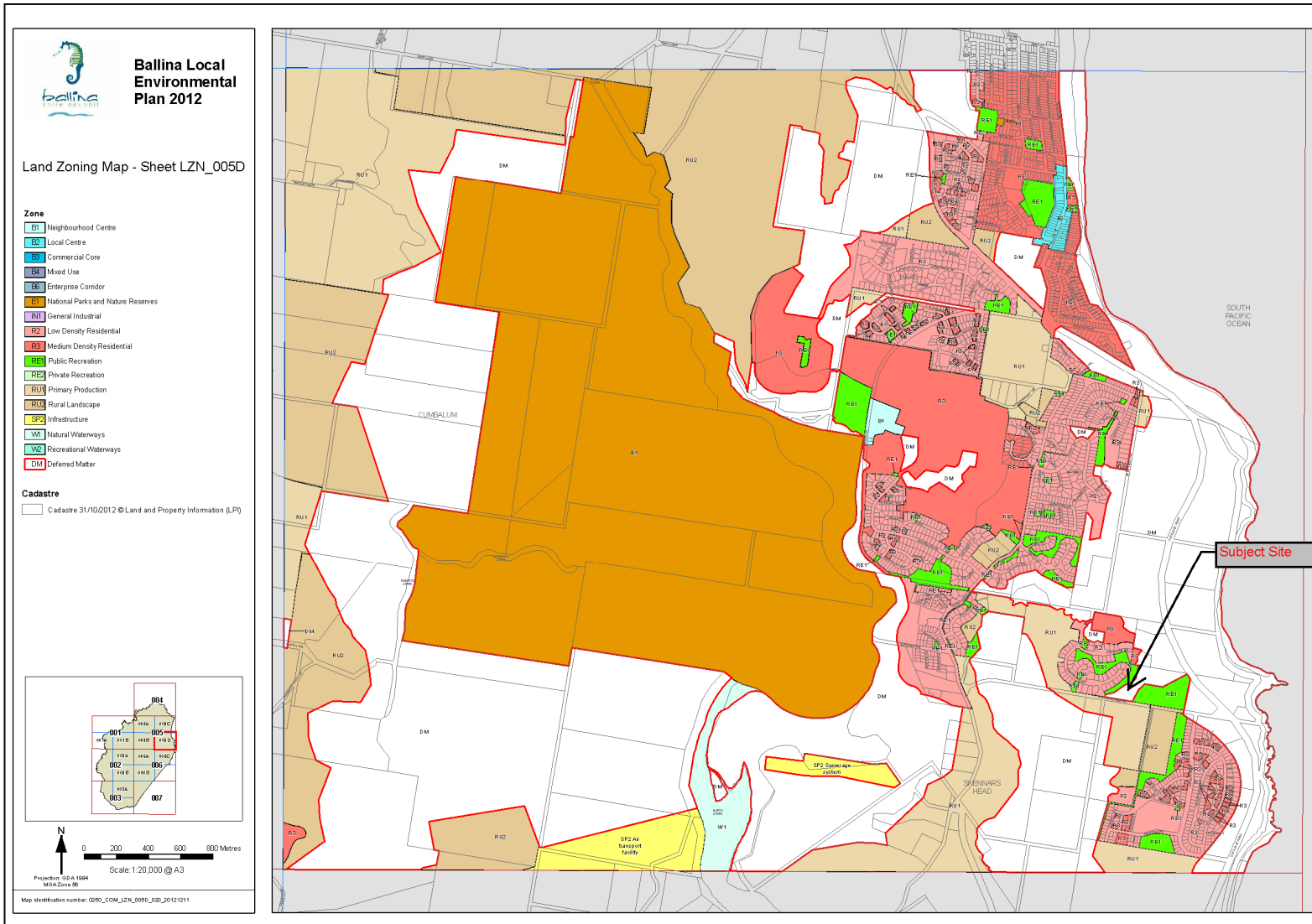
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CivilTech Consulting Engineers



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## 4.2 Operational Land, Skennars Head - Options



## 4.2 Operational Land, Skennars Head - Options

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*Rezoning Options Report  
Lot 1 DP1181479*

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Attachment 2 – Ballina Local Environmental Plan 1987 – Land Zoning Map (Sheet 1987\_LEP\_005D)

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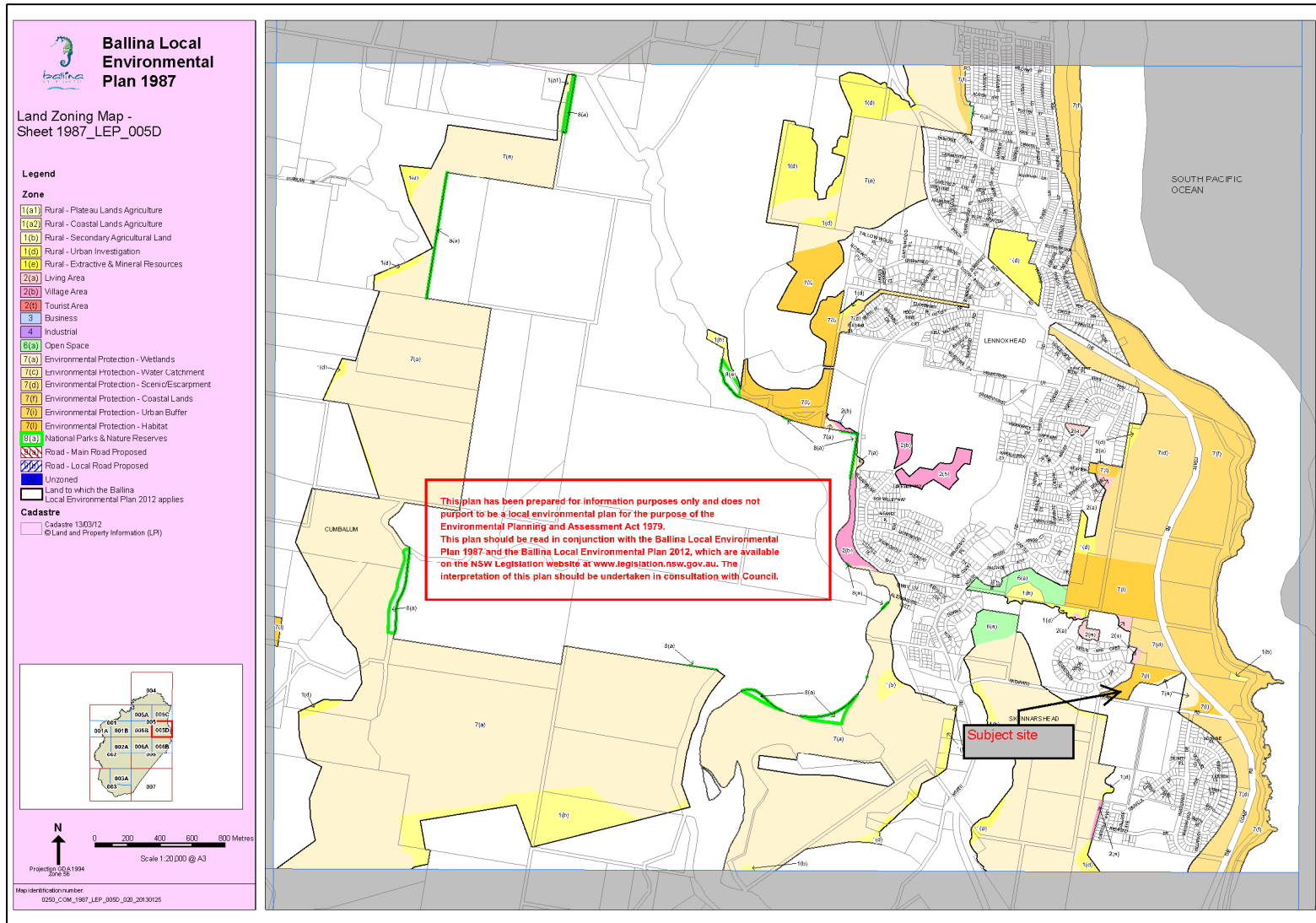
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CivilTech Consulting Engineers



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## 4.2 Operational Land, Skennars Head - Options





## 4.2 Operational Land, Skennars Head - Options

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*Rezoning Options Report  
Lot 1 DP1181479*

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

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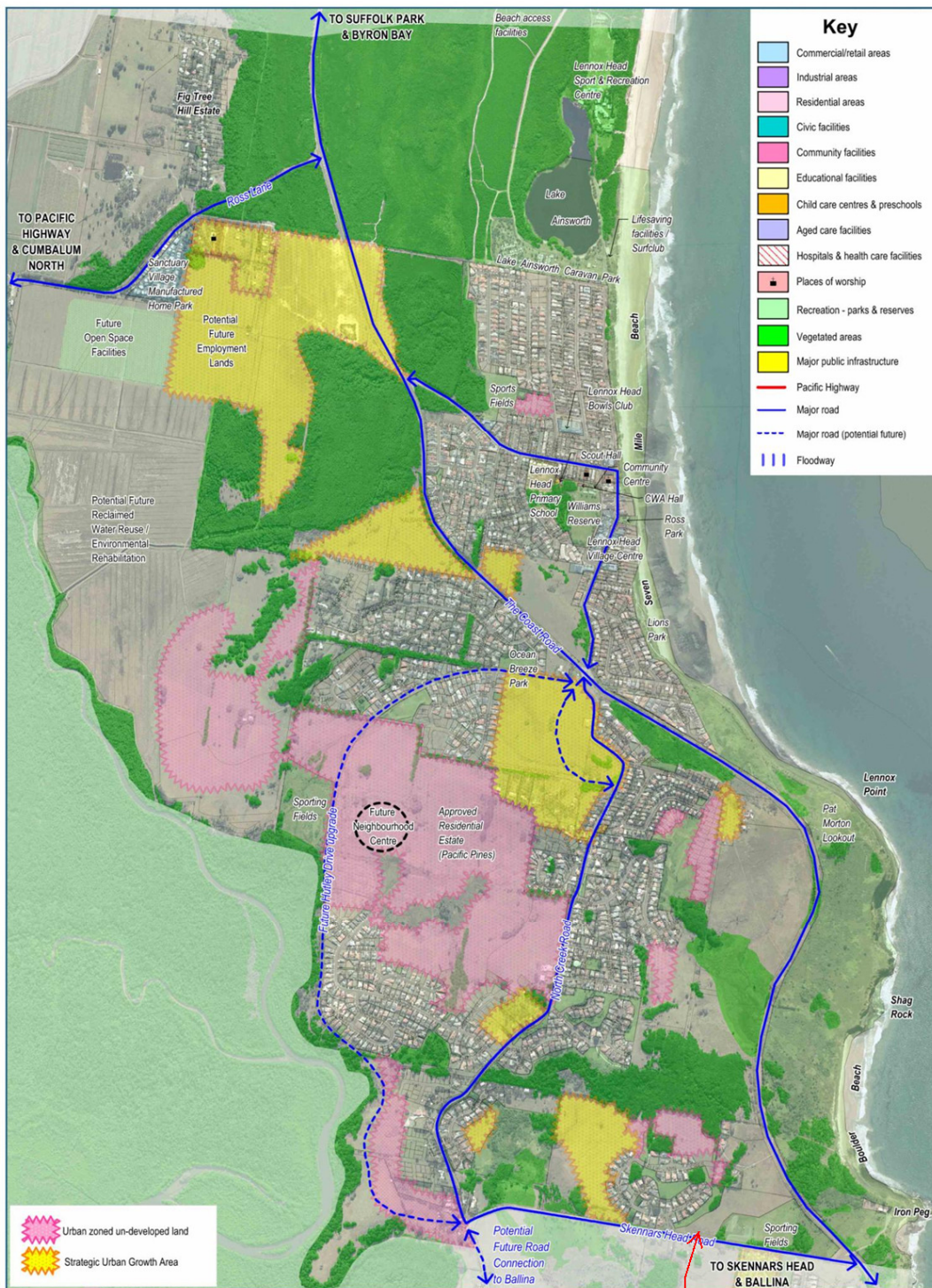
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## 4.2 Operational Land, Skennars Head - Options



## 4.2 Operational Land, Skennars Head - Options

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*Rezoning Options Report  
Lot 1 DP1181479*

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Attachment 4 - Ballina Shire Growth Management Strategy 2012 – State and Regionally Significant Farmland Map

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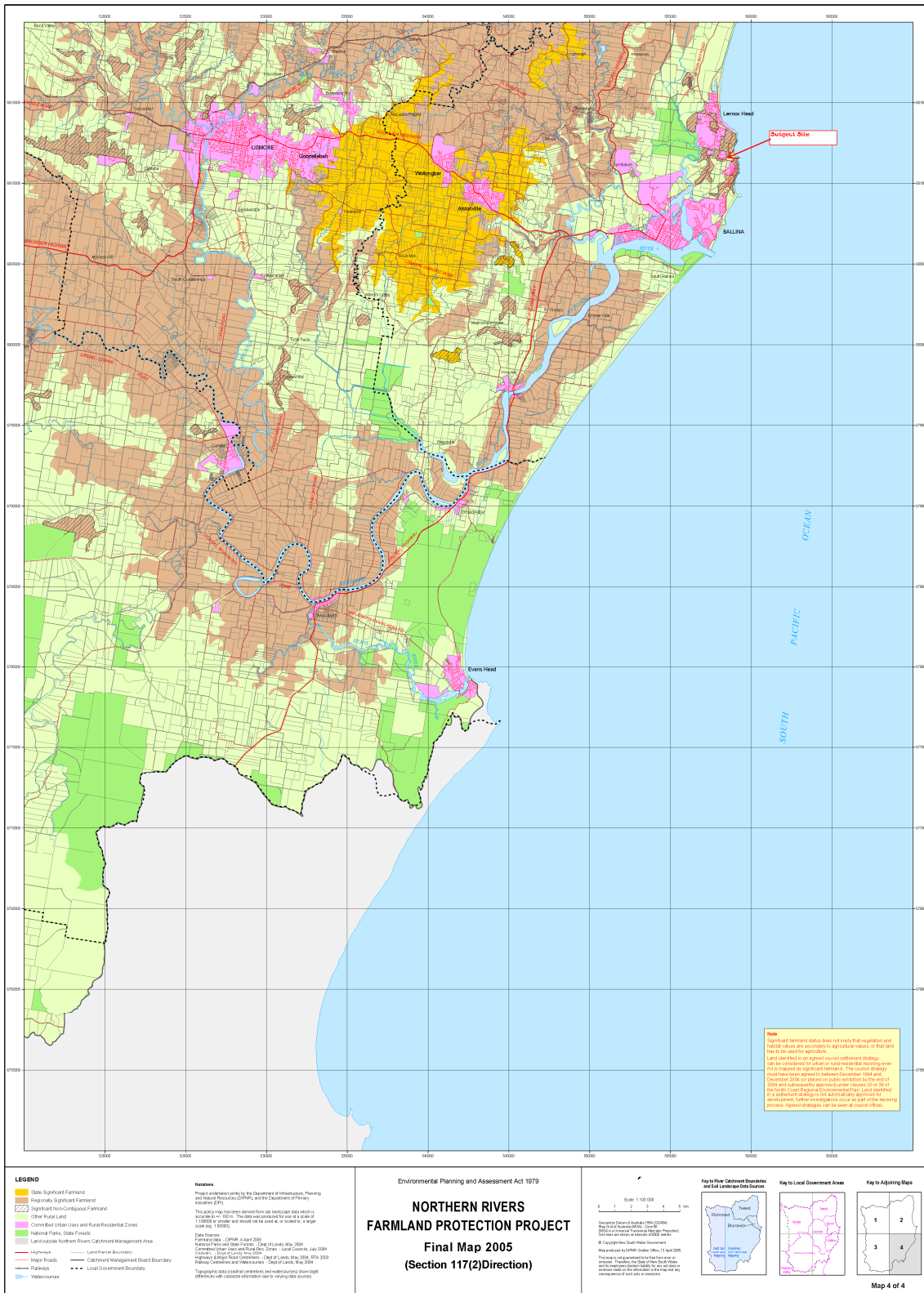
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## 4.2 Operational Land, Skennars Head - Options



## 4.2 Operational Land, Skennars Head - Options

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*Rezoning Options Report  
Lot 1 DP1181479*

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Attachment 5 – Far North Coast Regional Strategy – Sheet 3

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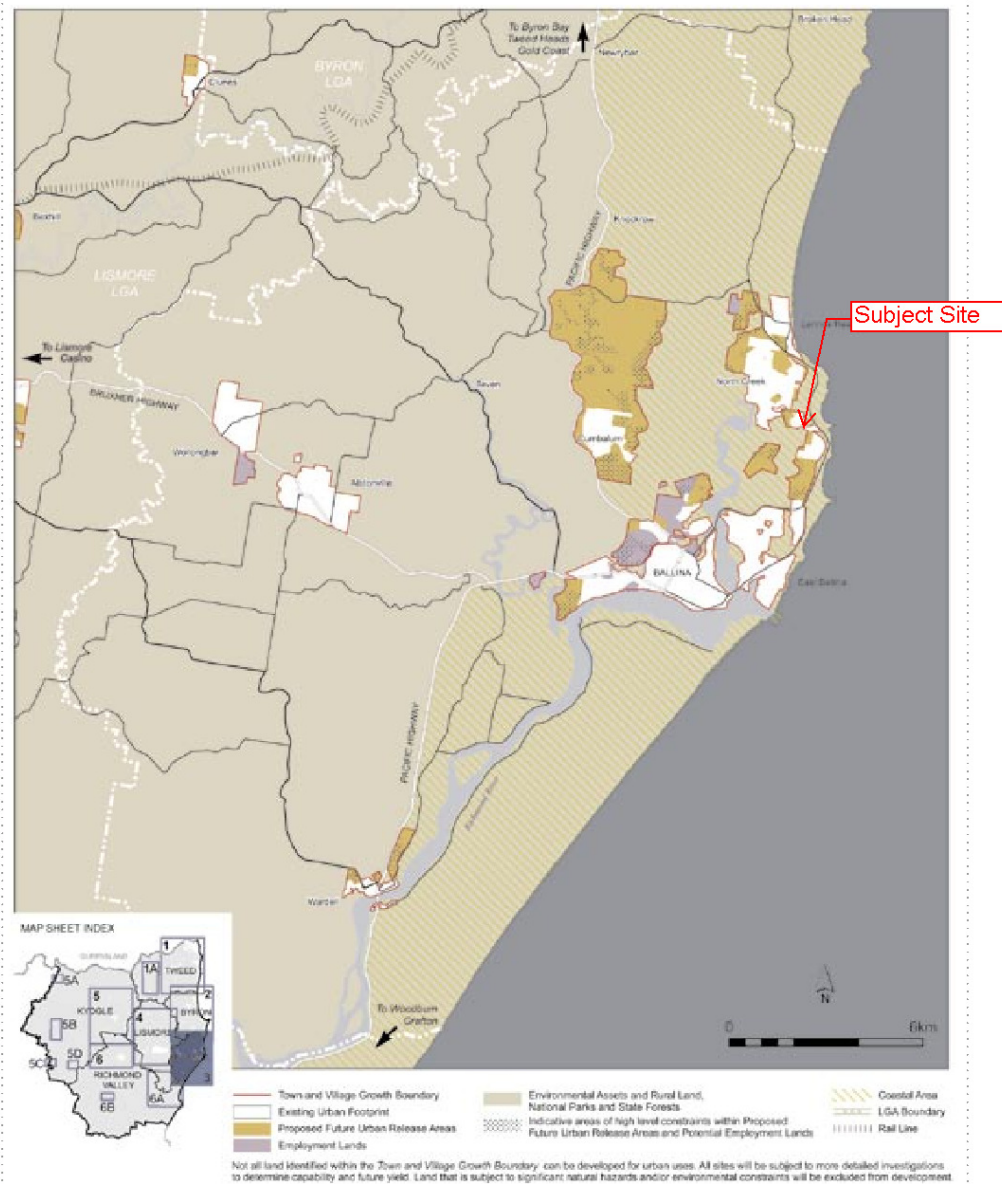
Ref No: 1260

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TOWN AND VILLAGE GROWTH BOUNDARY MAP  
SHEET 3 - BALLINA



### **4.3 Shelly's on the Beach - Request for Rental Relief**

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### **4.3 Shelly's on the Beach - Request for Rental Relief**

**Delivery Program** Commercial Services

**Objective** To determine if Council wishes to grant Fishheads@Byron rental relief for Shelly's on the Beach Cafe, East Ballina.

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#### **Background**

Shelly's on the Beach Café at East Ballina was acquired by Fishheads@Byron ("Fishheads") in 2011. Following acquisition of the café the proprietors lodged a Development Application to demolish and rebuild the café on the current site. Fishheads have not operated the café since purchase as issues related to their development application are still to be resolved.

The purpose of this report is to seek rental relief due to the on-going delays in the redevelopment of the property.

#### **Key Issues**

- Merits of rental relief

#### **Information**

Shelly's on the Beach Café is situated on a beachfront site at East Ballina. The café footprint is partly on Council operational land (Lot 1 DP 1095427; site area 260.3m<sup>2</sup>) and partly upon the adjoining Crown reserve (Reserve No. 1010068; site area 81.7m<sup>2</sup>).

Tenure for Shelly's is by way of a lease from Council and a licence from the Crown.

A number of reports have been placed before the Reserve Trust and Commercial Services meetings with the most recent report being Commercial Services Committee dated 26 February 2013 where it was recommended:

1. *That Council approves the purchase of part or all of the residual crown land as detailed in this report for the purposes of allowing the Shelly's on the Beach Café tenure arrangements to be finalised.*
2. *That Council authorises the extension of the current lease term remaining for Shelly's on the Beach from 12 to 20 years, with options to re-assess the rental value to market at least every five years.*
3. *The funding of this purchase is to be from Council's Commercial Opportunities Reserve.*
4. *That Council authorises the Council seal to be attached to the lease documentation, the sale contract, plans of subdivision and associated documentation.*

### **4.3 Shelly's on the Beach - Request for Rental Relief**

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This decision was endorsed at the Ordinary Council meeting of 28 February 2013.

Subsequent to this meeting Council staff have been negotiating with Department of Trade and Investment, Crown Lands Division NSW to compulsorily acquire the residual of Crown land under the terms of NSW Land Acquisitions (Just Terms Compensation) Act 1991. This process may take some time as amongst other things, the proposal to acquire this portion of Crown land must be placed upon public exhibition.

Following on from their acquisition of the café business, Fishheads lodged a Development Application with Council to redevelop the café. The Development Application was approved by the elected Council however the applicant has not been able to enact the application as the Crown has withheld owner's consent pending the land acquisition process with Council. Fishheads have not operated the café since purchase of the business.

Fishheads have now approached Council requesting rental relief. The current lease term is 5 + 5 + 5 years commencing 1 July 2010 with a rental amount of \$34,797.41pa + GST for the council lease and \$10,922.30pa + GST for the Crown licence.

Fishheads have requested a 100% rent reduction for both the Council rental and the Crown rental amounts until such time as the Crown advises that Fishheads can proceed with redevelopment. It should be noted that Council cannot make a decision of rent relief for the Crown and Fishheads will be advised that any rental relief offered by Council does not include the Crown component. Fishheads would be required to make representation to the Crown for rental relief.

Issues for Councillors to consider include:

- Fishheads have not been operating Shelly's on the Beach since they purchased the business from the previous owner in 2011.
- The development application has been held up due to the Crown requiring Council to compulsorily acquire the crown land component of the site prior to issuing owner's consent.
- Fishheads have also taken on the Fawcett Street Café, which was damaged during the February storms and they have been unable to undertake any works pending settlement of insurance claims and repair works to be undertaken. They also had severe storm damage to their Fishheads restaurant in Byron Bay, which closed the business for approximately six weeks, which has continued to place pressure on their business cashflow.

#### **Legal / Resource / Financial Implications**

Legal

Council has the discretion to grant rental relief over the Council lease to Fishheads for the Shelly's on the Beach Café. In recent times Council has granted rental relief to tenants in the Wigmore Arcade Complex.



### **4.3 Shelly's on the Beach - Request for Rental Relief**

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#### Financial

Granting rental relief will affect Council's revenue stream. However, Council should also recognise that Fishheads are currently experiencing short term financial difficulties that have been caused by circumstances beyond their control.

#### **Consultation**

Council staff have been in negotiation with Department of Trade and Investment, Crown Lands Division NSW regarding the Crown land acquisition and also Ralph Mamone and Mark Sims from Fishheads@ Byron.

#### **Options**

1. Council grant a 100% rental reduction to the amount of \$34,797.41 pa + GST for the Council Lease until such time as the Crown gives consent for Fishheads to proceed with redevelopment of the site. Granting of this rental relief would be subject to a review six months from the date of this report.

This option is recommended as it recognises the fact that Fishheads are currently experiencing short term financial difficulties that have been caused by circumstances beyond their control. Council staff are confident as to the ability and reputation of Fishheads to transform Shelly's on the Beach Café and the Fawcett Street Café into benchmark developments.

2. Council can refuse the request from Fishheads for a rental reduction at Shelly's on the Beach.

This option is not recommended as it places at risk losing tenants from both Shelly's on the Beach Café and the Fawcett Street Café.

Option one has been recommended by Commercial Services however there are major concerns that the six month period is too long a period of time. This provides little in the way of incentive to encourage the tenant to re-open the business. It is also important to recognize that this situation is entirely the making of the tenant due to their proposal to re-develop the business beyond the existing site boundaries. The business could be re-opened relatively quickly on the current footprint. Council has an existing lease for this business therefore there is an onus on the tenant to meet the commitments of that lease.

The comment regarding Fawcett Street café needs to also be balanced with the fact that Council had another operator interested in this business. Therefore another option that Council may well wish to consider is a shorter rental relief period.

In respect to the Council budget, this rental reduction will not directly impact on the working capital result for the year as the property portfolio result is largely transferred to the various property reserves. This means the impact will actually be on the forecast balance of the property reserves.

#### **4.3 Shelly's on the Beach - Request for Rental Relief**

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##### **RECOMMENDATION**

That Council approves a 100% rental reduction to the amount of \$34,797.41 pa + GST for a period of six months to 31 March 2014 for Shelly's on the Beach due to the on-going delay in acquiring the adjoining crown land.

##### **Attachment(s)**

Nil

#### **4.4 Wigmore Arcade Complex - Redevelopment**

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#### **4.4 Wigmore Arcade Complex - Redevelopment**

**Delivery Program** Commercial Services

**Objective** To provide an update on the progress of plans for the redevelopment of the Wigmore Arcade.

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#### **Background**

At the 26 March 2013 Commercial Services Committee meeting a report prepared by property consultants CBRE was tabled regarding the Wigmore Arcade complex. CBRE was engaged to prepare a feasibility report and advise on options such as minor, medium or major refurbishment or re-development of the arcade component of the complex.

The three options identified in the CBRE Report were:

1. Do nothing. This option was not recommended as it may result in vacancies continuing to increase and the complex becoming more rundown.
2. Undertake an interim cosmetic upgrade of the arcade component of the complex. This option was not recommended as CBRE considered it to be a short term measure and would not solve the dated layout of the arcade and would not increase net rental returns, but only help maintain them.
3. Redevelopment of the complex based upon the initial BN Group Concept Plan. This option was recommended by CBRE as they considered it would (amongst other things) increase net maintainable rental income and revitalise the complex and provide and assist in revitalising the CBD.

The Committee acknowledged the recommendations of the CBRE Report and resolved to adopt the following resolution:

1. *That Council confirms that its preferred outcome for the Wigmore Arcade is a redevelopment that:*
  - a) *Creates a contemporary retail development in Ballina CBD*
  - b) *Creates a "meeting place" in the CBD providing strong anchor tenant characteristics*
  - c) *Capitalises on the additional 80 car spaces to be provided at the rear of the centre*
  - d) *Capitalise on increased trade from the re-opening of the Woolworths River Street store which is within 100 metres of the Wigmore Arcade*
  - e) *Maintains rental cash flow throughout the development with River Street tenants able to continue trading with minimal disruption and*
  - f) *Increases economic return from the asset*
2. *That Council approves an allocation of \$50,000 from the Commercial Opportunities Reserve to complete architectural design and quantity surveyor's reports to take the project to development application stage.*

#### 4.4 Wigmore Arcade Complex - Redevelopment

3. *The architectural design is to be based on the concept plan provided by BN Group as outlined in this report, including staging of the project.*

Following the adoption of that resolution by Council, staff engaged the consultants to prepare plans and ancillary documentation for the preparation and lodgment of a development application to redevelop the arcade section of the complex.

The purpose of this report is two fold:

- a) To provide an update on the progress of work to date including, discussions with tenants and recent lease negotiations; and
- b) Seek confirmation as to whether Council wishes to pursue completion of the development application for the redevelopment of the arcade component of the complex, or based on the further information pursue investigations for a cosmetic upgrade of the existing complex.

#### Key Issues

- Costs of redeveloping the arcade component of the complex
- Leasing risk for new shops
- Maintenance of rental cash flow

#### Information

Based on the resolution from March 2013 Council engaged consultants to prepare plans and ancillary documentation for the preparation and lodgment of a development application to redevelop the arcade section of the complex. This work was to be based upon the initial concept plan prepared by the BN Group and presented to Council at the Commercial Services meeting of 18 June, 2012.

The consultants engaged to date are:

BN Group	Architecture design and documentation
NDC	Town planning and surveying
CRG	Traffic management and planning
Ainsworth Consulting	Building heritage
LMT Consulting	Retail property consultant

Since that time two project control meetings have been held and the following tasks have been completed to progress the building design and preparation of a development application.

Consultant	Tasks Completed	Result/Outcome
a) Surveyor	Detailed survey of the existing Complex including the River Street shops, arcade section and carpark to determine topographic levels, building layout, building elevations, lettable areas, services, etc.	Once building envelopes and areas were established, a decision was made to retain the structure of the River Street shops in their current configuration.  Survey data and plans were used in preparing concept plans and town planning advice.

#### 4.4 Wigmore Arcade Complex - Redevelopment

Consultant		Tasks Completed	Result/Outcome
b)	Heritage	Completion of a heritage fabric inspection to provide guidance on design for the redevelopment and or refurbishment of the Complex.	The Report recommended preservation and enhancement of the River Street building façade, and also that the character of the arcade component should be referenced in any future upgrade and or redevelopment of the arcade.
c)	Traffic	Review of traffic and parking generation requirements for the BN Group redevelopment concept and Winton Lane. Undertake an arcade pedestrian count and traffic count on Winton Lane.	Advice on parking requirements and formulation of concept plan for pedestrian crossing on Winton Lane, delivery bays etc.
d)	Town Planning	Review of legislation and planning controls, co-ordination of sub-consultants.	Planning advice to architect to enable progress of building design.
e)	Architect	Site inspections, review of planning advice, heritage consultant report, survey plans and data.	Progress of concept design for review by retail property consultants
f)	Retail Property Consultant	Consultations with existing tenants, negotiations with new tenants, review or revised architectural concept plans.	Preparation of rental cashflow forecasts assuming differing scenarios, i.e. redevelopment of arcade component or cosmetic upgrade.

Part of the design process for any commercial development is to periodically review concept designs to ensure what is being designed can be leased or sold and can be constructed within budget.

Constraints and issues identified in the design process to redevelop the arcade now include:

- Conforming to new minimum finished floor level heights as required under Ballina DCP No.1; i.e. the existing River Street entrance to the arcade is 1.94 metres AHD - If new shops are constructed to replace the existing shops they would be required to have finished floor levels of 2.2 to 2.4 metres AHD. This requirement would create issues between the existing River Street shops and the new shops as well as create major issues in attempting to stage construction and maintain pedestrian access.
- The difficulty in staging redevelopment of the arcade. The floor levels create a problem as does the fact that all major services such as amenities are located on the western side of the arcade. Maintaining access to the amenities for tenants and shoppers will be a major issue to manage.

To minimise costs the amenities would have to remain in the current location. The amenities would have to be closed for a certain period whilst refurbishment works of same are undertaken.

A similar problem would occur in regards to delivery bays and service corridors.

#### 4.4 Wigmore Arcade Complex - Redevelopment

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- Staging of works to redevelop the arcade will present major issues in relocating tenants. For example the butcher is located on the western side and would have to be relocated to the east side if works were to be staged. This presents problems in regards to rehousing cool rooms, delivery areas etc.

Alternatively tenants could completely vacate the arcade whilst all construction and refurbishment works are undertaken. This would be cheaper from a construction viewpoint, however tenants have advised they cannot afford to close their businesses for extended periods.

A distinct reality is that Council could lose the remaining tenants in the existing arcade, and as such have to start from scratch in seeking and securing new tenants. In the prevailing economic environment this would be difficult and may take some time.

- Another issue in relocating tenants is that they would have to fund the cost of new fit-out works which would be difficult, if not unachievable for most as trading over the past few years has been difficult.

Given these circumstances LMT Retail Property Consulting and Council staff have undertaken a review of the redevelopment proposal and placed all consultants on hold till further notice.

LMT Retail Consulting and Commercial Services staff have also been conducting ongoing discussions and rental negotiations with potential and existing tenants over the last few months, which indicate signs of an improvement in confidence and an increased level of enquiry for vacant premises. Potential tenants are still seeking incentives in the form of rent free periods and contributions to fit-out, which are typical of market conditions at present.

In the past few months Daley's Gourmet Meats (butcher) and Serafinos Cafe have taken over adjoining shops to expand their respective businesses with positive results. Sashas Fine Foods is in the process of relocating to new premises in River Street and their shop has been leased to a fresh fruit and vegetable trader. Another long term arcade tenant has also advised of their wish to remain in the arcade and redecorate their premises. This activity can be interpreted as momentum and as such Council should seriously consider capitalising upon it.

To assist in determining what future course of action to take with the Wigmore Complex rental cash flow forecasts comparing the option of a cosmetic upgrade of the Complex versus the option of redevelopment of the arcade have been prepared.

An indicative scope of works for each option is summarised as follows:

##### 1. Cosmetic Upgrade of Arcade – Scope of Works

This option proposes to generally leave the building fabric intact and undertake works of a cosmetic nature over a period of time to enable tenants to continue trading. Plans and a detailed scope of works have not been prepared by consultants, however it is proposed such works would include:

#### 4.4 Wigmore Arcade Complex - Redevelopment

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- Continue the River Street footpath paving through the arcade to the Tamar Street carpark to improve pedestrian flow. These works would also include removal of the step issue into shops that creates problems for the elderly and disabled.
- Upgrade and refurbish the toilets. The current condition of the toilets is a constant source of complaint and criticism.
- Continue the vaulted ceiling of the arcade through to River Street entrance of the arcade to improve natural light and a feeling of space.
- Upgrade arcade lighting.
- Repair and replace the roof sheets as required.
- Install new shop fronts to all of the arcade tenancies to improve lighting and create a feeling of space. New shop fronts will bring an immediate atmosphere of modernisation to the arcade
- Repaint the arcade, front and rear façades the Wigmore Complex to “reimage” and compliment the internal works.
- Undertake the traffic calming and pedestrian crossing works on the Winton Lane entrance to the arcade as recommended by traffic consultant CRG.

A detailed cost estimate for these works has not been prepared, however for the purposes of this analysis an allowance of \$1,000,000 + GST has been made.

#### 2. Redevelopment of Arcade – Scope of Works

This proposal is based upon the plans prepared to date by the BN Group as attached hereto. The plans have not advanced enough to warrant engaging a quantity surveyor to cost same and as such the cost estimate of \$3,000,000 + GST prepared for the initial concept plan as noted in the CBRE Report has been adopted for the purposes of the analysis.

Rental cash flow forecasts comparing these two options are as follows.

#### **Legal / Resource / Financial Implications**

##### Legal

Tenants at the entrance to the arcade and within the arcade are on short term leases and as such there is no impediment to gaining vacant possession to undertaking redevelopment works should Council resolve to do so.

A site and building survey of the Wigmore Arcade Complex was undertaken to determine building envelopes etc. This survey work and review by the Project Architect indicates that the River Street shops can be retained in their current configuration without compromising the designs for redevelopment or refurbishment.

#### 4.4 Wigmore Arcade Complex - Redevelopment

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Now that certainty can be given to River Street tenants, leases have been executed with two new tenants. A sitting tenant has also agreed to take up a long term lease.

If the shops on River Street can be leased, they will provide a stable rental cash flow for the property whether it is refurbished or redeveloped.

##### Resource

If the arcade component of the complex is redeveloped or refurbished, specialist consultants would be needed to assist Commercial Services staff with co-ordination and management of tenants and works.

##### Financial

Rental cash flow forecasts have been prepared to compare the options of a cosmetic upgrade of the arcade or refurbishment and are summarised below; based upon the following assumptions:

##### 1. Cosmetic Upgrade of Arcade – Assumptions

- a) Scope of works; as noted above
- b) Development budget estimate; \$1,000,000 + GST
- c) Rent free periods of three months for new tenants
- d) Rental growth rate of 2.50% p.a.
- e) Increase in property outgoings of 2.50% p.a.
- f) Funding of \$1,000,000 in development works by way of principal and interest loan over a five year term at an interest rate of 5.00% p.a., equating to loan repayment of \$220,000 p.a.

A summary of forecast net rental cash flows is as follows:

Year	Y/E	Est. Net Inc	Loan Payment	Net Cash Flow
1	2014	\$530,223	\$220,000	\$310,223
2	2015	\$594,069	\$220,000	\$374,069
3	2016	\$608,920	\$220,000	\$388,920
4	2017	\$624,144	\$220,000	\$404,144
5	2018	\$639,747	\$220,000	\$419,747
6	2019	\$655,740	\$0	\$655,740
7	2020	\$672,134	\$0	\$672,134
8	2021	\$688,937	\$0	\$688,937
9	2022	\$706,161	\$0	\$706,161
10	2023	\$723,815	\$0	\$723,815
<b>Totals</b>		<b>\$6,443,889</b>	<b>\$1,100,000</b>	<b>\$5,343,889</b>

##### 2. Redevelopment of Arcade – Assumptions

- a) Scope of works as per plans attached to this Report.
- b) Development cost estimate; \$3,000,000 + GST
- c) No rental for the Arcade shops for the year ending 2014 whilst construction takes place.
- d) Rent free periods of up to six months for new tenants



#### 4.4 Wigmore Arcade Complex - Redevelopment

- e) Rental growth rate of 2.50% p.a.
- f) Increase in property outgoings of 2.50% p.a.
- g) Funding of \$3,000,000 in development works by way of principal and interest loan over a ten year term at an interest rate of 5.00% p.a., equating to loan repayment of \$370,000 p.a.

A summary of forecast net rental cash flows is as follows:

Year	Y/E	Est. Net Inc	Loan Payment	Net Cash Flow
1	2014	\$ 314,825	\$370,000	-\$55,175
2	2015	\$ 500,483	\$370,000	\$130,483
3	2016	\$ 649,861	\$370,000	\$279,861
4	2017	\$ 666,107	\$370,000	\$296,107
5	2018	\$ 682,760	\$370,000	\$312,760
6	2019	\$ 699,829	\$370,000	\$329,829
7	2020	\$ 717,325	\$370,000	\$347,325
8	2021	\$ 735,258	\$370,000	\$365,258
9	2022	\$ 753,639	\$370,000	\$383,639
10	2023	\$ 772,480	\$370,000	\$402,480
<b>Totals</b>		<b>\$6,492,568</b>	<b>\$3,700,000</b>	<b>\$2,792,568</b>

This indicative comparative assessment suggests that on a cumulative cashflow basis Option 1 – Cosmetic Upgrade or Refurbishment of the Arcade, is \$2,551,321 better off than Option 2 over a ten year period.

This analysis is based upon rental growth that may exceed or fall short of forecasts. It is unknown how long it may take until CBD retail rentals return to pre GFC levels, however as retail vacancies drop rental growth should follow.

This analysis also indicates that based upon current market rental rates redevelopment of the arcade may be difficult to justify, particularly if construction costs continue to escalate.

Total expenditure to date on this project has been as follows:

Item	2011/12 Budget	2011/12 Actual	2012/13 Budget	2012/13 Actual	2013/14 Budget	2013/14 Actual
Evaluation / Refurbishment	48,000	19,900	78,000	94,500	50,000	50,100
139 River Street					0	54,200

In respect to the Shop 139 renovations this expenditure was approved at the May 2013 Ordinary meeting where Council authorised the General Manager to negotiate a new lease with Budget Eyewear. That report included the following comments in respect to the make good works:

**Fitout works:** Council is required to make good the premises prior to leasing.

*Works include:*

- Demolish interior of shop including removal of asbestos ceiling and removal of floor tiles and removal of 2 X loft areas at the entrance and to the rear of the premises
- Install flush fluorescent troffers to suit open plan
- Water, drainage and sink to be installed

#### 4.4 Wigmore Arcade Complex - Redevelopment

	<ul style="list-style-type: none"> <li>Plaster set and repaint all internal walls</li> <li>Air conditioning to open plan</li> <li>Toilet to the rear of the premises * *(Toilet to be installed to the rear during the refurbishment and redevelopment of the arcade)</li> </ul>
<b>Cost of</b>	Demolition \$16,600 (reduced by \$5,000 if no asbestos)
<b>Lessor</b>	Installation of new equipment and fittings \$28,820
<b>Works:</b>	

The final expenditure is \$54,200 as compared to the estimate in the report of approximately \$45,500.

The undertaking of these works highlighted the poor condition of the existing shop and asbestos removal was also a major part of the renovation, with Workcover at one stage halting work by the contractor to ensure that all appropriate asbestos management plans were in place.

This also reinforces the need to have adequate funding available as, over time, the remaining vacant shops are again re-tenanted.

The current vacancies are:

- 141 River Street – short term lease to Kim Toft
- 149 River Street – now expired short term lease to Australian Labor Party
- 151 and 153 River Street – short term lease to L J Hooker Real Estate
- Shop 1 - vacant
- Shop 3 - vacant
- Shop 6 – short term lease to Friends of the Library
- Shop 7 – vacant
- Shop 8 - vacant

To assist the Commercial Services staff in their negotiations with current and prospective tenants it is recommended that Council provide an allocation of \$20,000 for leasing commissions and \$30,000 for legal fees.

The leasing commissions are needed to pay agents who bring forward prospective tenants and the legal fees are needed to finalise leases. Renovation budgets for individual shops can be approved by Council as part of any report on a prospective tenant. This funding would be sourced from Council's Property Development Reserve which is forecast to have a balance of approximately \$1m at the end of 2013/14.

The other part of the expenditure to date, as per the earlier table, is the total of \$164,500 out of a total budget of \$176,000 expended on both consultancies in respect to the on-going evaluation of any redevelopment and actual refurbishment works.

This expenditure to date can be summarised as follows:

Item	Amount (\$)	Purpose
Ainsworth Heritage	1,490	Assessment of property for heritage purposes
Advertising	5,495	Expressions of interest for redevelopment / sale
Ardill Payne	4,774	Car park development consent enactment
BN Group	21,081	Architect – concept plans etc
CBRE Valuations	15,000	Feasibility assessment
CRG	5,300	Traffic consultants

#### 4.4 Wigmore Arcade Complex - Redevelopment

Item	Amount (\$)	Purpose
North East Electrical	3,378	Shop improvements and rewiring
Goldsmiths	7,930	Remove façade and improvements to shop four
C & M Garage Doors	9,091	New security doors
Lyn Maree Travers	52,200	Negotiations with tenants, include Tamar Street properties, along with cash flow analysis
Newton Denny Chapelle	16,295	Detailed survey
Tim Fitzroy	4,880	Asbestos plan
Other	3,970	Miscellaneous
Council	13,602	Maintenance works and Council fees
<b>Total</b>	<b>164,486</b>	

Finally in respect to the refurbishment or redevelopment options Council's long term financial plan includes \$2.5 million for the redevelopment of Wigmore Arcade in 2014/15. However if the preferred option is the more cosmetic upgrade this expenditure could commence in 2013/14 funded from Council's property reserves.

Council's 2013/14 budget also includes income from the arcade of \$347,000 (\$357,500 in 2014/15) and the cosmetic option could see actual income above these forecasts.

#### Consultation

Discussions and rental negotiations with potential and existing tenants have been undertaken regarding the options of refurbishment or redevelopment. Discussions have also been undertaken with consultants engaged on the Project.

#### Options

##### Option 1

Place on hold preparation of plans and development application for redevelopment of the arcade section of the Wigmore Complex. The General Manager would be instructed to engage consultants to prepare plans and cost estimates to undertake a cosmetic upgrade of the Wigmore Arcade Complex as generally outlined in this report. Upon completion of such works, a detailed report on the proposal be presented to Councillors.

This Option is recommended given changing market conditions and momentum that is starting to build with leasing of vacant shops on the River Street section of the Complex and shops within the arcade. This momentum may increase with construction of the new Tamar Street public car parks and opening of the new Woolworths supermarket on River Street.

##### Option 2

Continue with the preparation of plans and development application for redevelopment of the arcade section of the Wigmore Complex. Upon completion of such works, a detailed report with plans and cost estimates on the proposal be presented to Councillors.

#### **4.4 Wigmore Arcade Complex - Redevelopment**

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This Option is not recommended given changing market conditions and momentum that is starting to build with leasing of vacant shops on the River Street section of the complex and shops within the Arcade. Furthermore the change in market conditions suggests that other options be investigated and considered.

##### **Option 3**

Abandon preparation of plans and development application for redevelopment of the arcade section of the Wigmore Complex. The General Manager be instructed to engage consultants to prepare plans and cost estimates to undertake a cosmetic upgrade of the Wigmore Arcade Complex as generally outlined in this report. Upon completion of such works, a detailed report on the proposal be presented to Councillors.

This Option is not recommended as both development scenarios should be kept open until additional information is obtained and a more informed decision can be made.

The recommendation that follows supports option one, with budgets for works to date and for on-going analysis also recommended for approval.

#### **RECOMMENDATIONS**

1. That based on the contents of this report that Council confirms that its preferred approach for the short-term improvement to Wigmore Arcade is a more cosmetic upgrade as outlined within this report.
2. That Council approves an allocation of \$20,000 from the Property Development Reserve to confirm the exact details and estimated costs of this upgrade with that information to be presented to Council for further review.
3. That Council approves an allocation of \$50,000 from the Property Development Reserve for the payment of commissions and legal expenses related to the on-going negotiations for tenancies for the Wigmore Arcade.
4. That Council approves an allocation of \$55,000 from the Property Development Reserve in respect to the refurbishment works undertaken for 139 River Street.

#### **Attachment(s)**

1. Wigmore Arcade Concept Plans



4.4 Wigmore Arcade Complex - Redevelopment



**PROJECT CONCEPTS**

**ISSUE DATE DESCRIPTION**

As per the brief, the project is a redevelopment of the existing building. The goal is to create a modern, functional, and sustainable space for the community. The design will focus on creating a vibrant, multi-use space that caters to the needs of the local community. The project will include a mix of retail, dining, and community spaces. The design will also incorporate sustainable features such as energy-efficient lighting, water-saving fixtures, and green walls. The project is expected to be completed by the end of 2013.

**Coordinated Reference Drawings**

Discipline	Company
STRUCTURE	
MECHANICAL	
ELECTRICAL	
LANDSCAPE	

**Client**

**Project Manager**

**Architect**

**BN** Architecture  
 Urban Design  
 Management  
 Design  
 Interiors

BN Group Pty Ltd  
 100 Riverside Circuit  
 Collins Street VIC 3000  
 Australia 3000 9478 8078

Tel: 03 9487 0011  
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 info@bnarchitecture.com

**Project**

**WIGMORE ARCADE**

WIGMORE ARCADE - RIVER STREET,  
 BALLINA NSW 2478  
 LOT 4 - LOT 6 D.P. 979543

**Sheet name**

**PERSPECTIVES**

Scale @ A1:  
 Project No.: E1214  
 Drawn By: AC Checked By: PP

Drawing No. | Proj Stage | ISSUE

A80.52 | SK | P1

FOR REVIEW  
 NOT FOR CONSTRUCTION

4.4 Wigmore Arcade Complex - Redevelopment



ISSUE DATE	DESCRIPTION
A	17/09/13 CONCEPT DESIGN
<p>Alterations to the structure and interior fit-out to be used for a new commercial building, including a new dining area, kitchen, and other services. The new building will be used for a variety of commercial purposes, including a new dining area, kitchen, and other services. The new building will be used for a variety of commercial purposes, including a new dining area, kitchen, and other services.</p>	
<p>Coordinated Reference Drawings:</p> <p>Discipline      Company</p> <p>ARCHITECTURE      BN</p> <p>CIVIL      BN</p> <p>Mechanical      BN</p> <p>Electrical      BN</p> <p>Structural      BN</p> <p>Client</p>	
Project Manager	
Architect	
<p><b>BN</b> Architecture                  Urban Design                  Interiors                  Planning                  Quantity Surveying</p> <p>BN Group Pty Ltd      7/411 2 340 0511                  101 Macquarie Street      4/411 2 340 0511                  Sydney NSW 2000      www.bnarchitecture.com.au                  02 9250 8899      info@bnarchitecture.com.au</p>	
Project	
WIGMORE ARCADE	
WIGMORE ARCADE - RIVER STREET, BALLINA NSW 2478	
LOT 4 - LOT 6 D.P. 977245	
Sheet name	
PERSPECTIVES	
Scale @ A1:	
Project No:	S/214
Drawn By: AG	Checked By: JP
Drawing No.	Issue
A80.53	SK - P1

FOR REVIEW  
NOT FOR CONSTRUCTION









