



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 26 September 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

Athletes and Coaches from the North Coast Academy of Sport will be present at the Council Meeting at 9.00 am to formally acknowledge Council's annual donation. The media will also be present.

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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 6. Deputations
 7. Mayoral Minutes
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1. Australian National Anthem

The National Anthem will be performed by Red Inc Choir (Realising Every Dream)

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 22 August 2013 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 22 August 2013.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

8.1 Bicentennial Park - Draft Concept Plan

8. Development and Environmental Health Group Reports

8.1 Bicentennial Park - Draft Concept Plan

Delivery Program Environmental and Public Health

Objective To seek endorsement from Council to place a draft Bicentennial Park concept plan on public exhibition.

Background

During 2012 and early 2013 concerns were raised regarding the condition of Bicentennial Park and its use as an overnight camping/staying site.

Correspondence was received from the Caravan and Camping Industry and local caravan park operators concerned with the use of the park by caravans and motorhomes for staying overnight. Alternatively there was also support for the continuation of the park for overnight stays in the Shire.

Council Rangers have been concerned with the need to regulate overnight camping/staying in the park and also the need to manage the number of regular users that are homeless people living in their vehicles.

Bicentennial Park has been a rest stop on the Pacific Highway for many years and has provided a large area suitable for motorhomes and caravans to maneuver. With the opening of the Ballina Bypass the need for the park to service this need has greatly reduced.

The Roads and Maritime Services (RMS) has recently opened the temporary heavy vehicle rest stop on the southern side of the Ballina Bypass. Signage installed at this site states that 'The construction compound site has been built for temporary use only. Development of a future permanent site is subject to appropriate approvals'.

The activation of the RMS site is interesting considering that the site has, in addition to male and female toilets, picnic facilities, disabled facilities and a tourist information map. These would not normally be found at a truck rest stop.

It is appropriate for Council to now consider the continuing day to day management of Bicentennial Park and to determine how the park should in the future be developed, particularly having regard for the overnight camping/staying issues.

The purpose of this report is to advise Council of the outcomes from a Councillor briefing held earlier this year and to present two design concept options.

8.1 Bicentennial Park - Draft Concept Plan

The concept designs have been prepared in response to the issues raised and demonstrate the importance of a designated vehicle parking area within the park, to protect the adjoining open space and reserve. Additionally the designs will also assist in the policing of the overnight staying/camping prohibition in the park.

Additionally, this report provides recommendations that if eventually accepted and implemented would improve the overall management and co ordination of Bicentennial Park.

Key Issues

- Future use of Bicentennial Park
- Overnight camping/staying in Bicentennial Park

Information

A landscape architect was engaged to prepare a concept plan and to lead discussion in a Councillor briefing to determine what role the park should play in the future for local residents and visitors to the Shire.

The outcomes of the discussions at the briefing were that the future use of the park should include:

- A rest stop for caravans and motor homes
- A stop off point for the bike path that passes through the park and connects Ballina Heights and Ballina and
- A park providing passive open space for residents in the nearby caravan parks.

More intensive development of the park was discussed and the future development of a boardwalk through the wetlands was noted as a potential development.

The Shire has the Richmond River and coastal beaches that offer a range of recreational opportunities and it was considered that the potential of Bicentennial Park to become a destination other than for the purposes listed above was both unnecessary and unlikely.

The issue of overnight staying/camping by caravans and motorhomes was discussed and it was agreed that this practise would not be encouraged. It was however acknowledged that people often stay in this park when they have nowhere else to go.

The NSW State Government's Protocol for Homeless People in Public Places provides a framework for interactions between officials of participating NSW Government organisations (such as councils) and homeless people in public places. Homeless people are to be treated respectfully and appropriately and are not to be discriminated against on the basis of their homeless state.

The Protocol states that a homeless person should be left alone unless:

- they request assistance

8.1 Bicentennial Park - Draft Concept Plan

- they appear to be distressed or in need of assistance
- their behaviour or where they are seeking shelter threatens their or others' safety
- their behaviour is likely to result in damage to property or the environment
- they are a child who appears to be under the age of 16
- they are a young person who appears to be 16 to 17 years old who may be at risk of significant harm or
- they are a child or young person who is in the care of the Director-General of the Department of Family and Community Services or the parental responsibility of the Minister for Family and Community Services.

The Rangers, when they consider it appropriate at the time, will have conversations with people that may appear to be homeless and seek to direct them to organisations that may be able to provide assistance. Many of these people are thankful to Council for their understanding and will move on through the day from the park and only return later in the evening and then leave early the next morning before the Rangers conduct patrols.

The Rangers patrol this park regularly and if a vehicle has stayed more than one night then a warning is issued. If the practise continues, a penalty infringement notice may be issued. At times it is hard to determine if the occupants of vehicles parked are purely stopping for a short rest, or intend to stay overnight.

If the Rangers continue with the current approach then often the circumstances shown in the photograph in attachment three will be observed at Bicentennial Park. The photograph was taken by a Ranger at approximately 7am on a morning patrol on a weekday.

The Rangers endeavor to be consistent in the policing of this area and it is considered to be no different to any other reserve area in the Shire; particularly now that the RMS rest stop is open to the public.

The two design concept options, as indicated in attachments one and two have been provided based on the outcome of discussions in the briefing. Both options have a new, smaller carpark that will continue to enable larger vehicles to stop and rest in the park.

Option one has a drive through design that would enable larger vehicles to enter and leave the park safely. Option two has one entry with a turn around area. Both designs utilise the same area of the park and have similar costs.

The benefit of these designs is that they provide a larger area of open grass which can be maintained to a higher level for recreational use. Vehicles are controlled and contained in a designated area and will not impact on the whole park causing deterioration of the open space as is currently occurring.

Sustainability Considerations

- **Environment**
The formalisation of a designated parking area within the park will assist in the protection of the adjoining open space and reserve.
- **Social**
The provision of safe and accessible parks provides the community with a variety of opportunities to enjoy the Shire's open spaces.
- **Economic**
If Council adopts the recommendation then a future budget allocation will need to be provided.

Legal / Resource / Financial Implications

There may be resource and financial implications should Council wish to implement any improvements suggested in the draft concept plans.

There are legal and operational problems associated with any proposed extended overnight/camping in the park.

Consultation

Various stakeholders have written to Council advising of their position with regard to whether overnight staying and camping should be permitted or not. Council has also received correspondence from residents regarding the condition of the park and a Councillor briefing was conducted to discuss the options for the future management of the park.

Options

1. Council endorses this Council Report and place on public exhibition the design concept plans Options 1 and 2 for Bicentennial Park.
2. Council may resolve to place on public exhibition the design concept plan Option 1 for Bicentennial Park.
3. Council may resolve to place on public exhibition the design concept plan Option 2 for Bicentennial Park.
4. Council may resolve to maintain the current status of Bicentennial Park.
5. Council may resolve to close the park during evening and night periods.
6. Council may resolve to improve signage in Bicentennial Park.

The preferred approach is to place on public exhibition the design concept plans for options one and two and allow the community to provide feedback on the future use for Bicentennial Park. Typically Council may exhibit a preferred concept, however as there is no strong preference at a staff level, the recommended approach is to exhibit both options for public comment.

RECOMMENDATIONS

1. That Council approves the public exhibition of the two design concept plans for Bicentennial Park, as attached to this report.
2. That Council continue to enforce the approach that no overnight staying/camping is permitted in Bicentennial Park.
3. That following the public exhibition period, Council receive a further report on the submissions to the exhibition, along with estimated costs for the proposed works to allow future consideration of a budget allocation for the delivery of the preferred plan.

Attachment(s)

1. Bicentennial Park Concept Plan - Option 1
2. Bicentennial Park Concept Plan - Option 2
3. Photograph of vehicles parked at Bicentennial Gardens

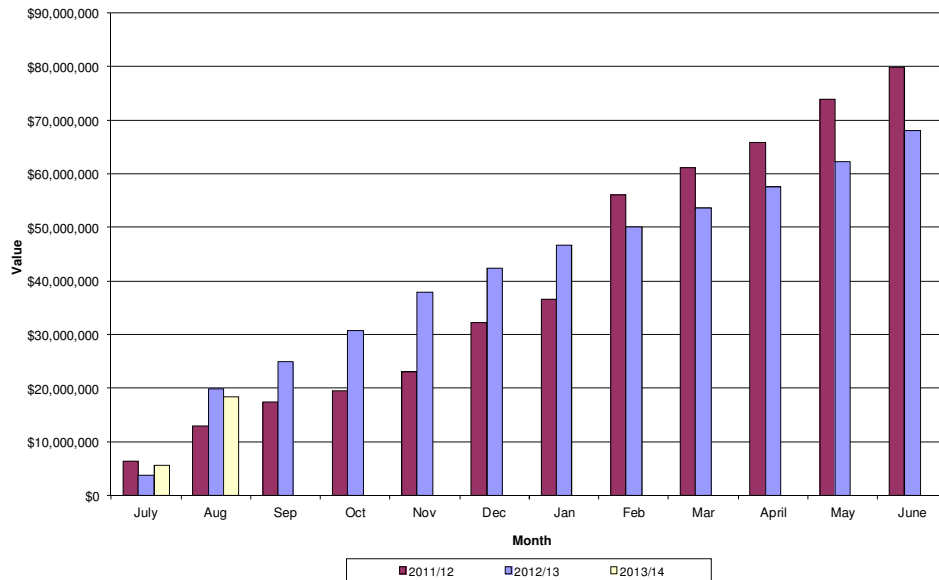
8.2 Development Consent Statistics - August 2013

8.2 Development Consent Statistics - August 2013

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

Number of Applications	Value of Work
37 Other Building Related	\$ 10,224,000
9 Dwelling/Duplexes/Residential Flat Buildings	\$ 2,443,000
2 General Developments	\$ 0
Total Value	\$ 12,667,000

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.



RECOMMENDATIONS

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

Attachment(s)

Nil

8.3 Development Applications - Works in Progress - September 2013

8.3 Development Applications - Works in Progress - September 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	Being Assessed
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	Awaiting Additional Information

8.3 Development Applications - Works in Progress - September 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	Awaiting Additional Information
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	Referred to Govt Dept - NSW RFS
2013/165	20/05/2013 (Application Amended 12/9/2013)	SR Schott	Erection and strata title subdivision of a multi dwelling housing development comprising two additional two storey dwelling and associated works - Lot 13 DP 241450, 28 Byron Street, Lennox Head	Being Assessed
2013/194	3/06/2013	Ballina Shire Council	Lennox Head Shared Pathways - Lot 5 DP 241434, The Coast Road, Lennox	Awaiting Additional Information

8.3 Development Applications - Works in Progress - September 2013

DA No.	Date Rec'd	Applicant	Proposal	Status
2013/195	3/06/2013	Ballina Shire Council	Head 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	Determination Pending
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	Being Assessed

8.3 Development Applications - Works in Progress - September 2013

DA No.	Date Rec'd	Applicant	Proposal	Status
			Subdivision - 88 Main Street, Alstonville	
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	Determination Pending
2013/300	15/08/2013	J Nove	Change of Use to Recreation Facility (Indoor) - 24 Hour Gymnasium - 84 Kerr Street, Ballina	Being Assessed
2013/302	16/08/2013	Newton Denny Chapelle	Proposed subdivision to Create 15 residential Lots and One Residue Lot and Associated Works - 85 Rifle Range Road, Wollongbar	Being Assessed
2013/325	02/09/2013	A & M Simpson	Removal of existing storage shed and erection of new storage shed and offices - 128 Newrybar Swamp Road, Tintenbar	Being Assessed
2013/328	03/09/2013	Ardill Payne & Partners	Proposed 3 Lot Subdivision - 14-18 Elkhorn Parade, Ballina	Being Assessed
2013/336T	10/09/2013	P & G Musolino	To undertake vegetation removal - 95 North Creek Road, Ballina	Being Assessed
2013/340	10/09/2013	Michael Hajjar Surveying	Two Lot Industrial Subdivision - 54 North Creek	Being Assessed

8.3 Development Applications - Works in Progress - September 2013

DA No.	Date Rec'd	Applicant	Proposal	Status
2013/341T	10/09/2013	M McCartney	Road, Ballina To undertake vegetation management works - 11 Amber Drive, Lennox Head	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	Referred to Govt Dept
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	Referred to Govt Dept

Major Development (Determined by Minister)

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

RECOMMENDATIONS

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

Attachment(s)

Nil

9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville

9. Strategic and Community Facilities Group Reports

9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville

Delivery Program Strategic Planning

Objective To advise the Council of the outcomes of the public exhibition and community consultation in relation to BSCPP 12/002 (Robb Street, Alstonville) and seek direction regarding the finalisation of the proposal.

Background

Planning Proposal BSCPP 12/002 involves the rezoning of 6,800m² of land adjacent to the Russellton Industrial Estate at Alstonville. The subject land is part of Lot 1 DP 817406 which has a total area of 15.46 hectares and is in the ownership of Stoville Pty Ltd. A locality plan of the subject site is contained in attachment one. The proposal involves the rezoning of land (6,800m²) currently zoned 7(i) – Environmental Protection (Urban Buffer) Zone under the provisions of the *Ballina Local Environmental Plan 1987* (BLEP 1987) to Zone IN1 under the provisions of the *Ballina Local Environmental Plan 2012* (BLEP 2012).

This planning proposal was previously considered by Council at its Ordinary Meeting held on 26 April 2012 where it was resolved as follows (Minute No. 260412/2):

That Council support the rezoning of part of Lot 1 DP 817406 for industrial purposes and the attached planning proposal be submitted to the Department of Planning and Infrastructure for determination, with the submission also expressing Council's strong recommendation for approval.

The planning proposal was granted an affirmative Gateway determination by the Department of Planning and Infrastructure on 22 June 2012, allowing the proposal to proceed to public notification.

The required public notification and community consultation has now been undertaken and the purpose of this report is to advise Council of the outcomes of this process. This report also seeks Council's direction in relation to whether it wishes to proceed with the submission of the planning proposal to the Minister for Planning and Infrastructure for finalisation.

Key Issues

- Consistency of the planning proposal with planning principles and key strategic land use planning directions
- Outcomes of consultation with public authorities and community engagement
- Progress of the proposed LEP amendment request

Information

External Agency Consultation

The Gateway determination required the planning proposal to be referred to the NSW Department of Trade and Industry (Agriculture) and the NSW Rural Fire Service for comment.

A response has been received from the Department of Trade and Industry (Agriculture), a copy of which is enclosed with the planning proposal included in attachment two. The Department has raised concerns in relation to the planning proposal. As a principle, it is not supportive of development that would threaten or diminish the availability of high quality agricultural land.

In land use planning terms, this general position is strongly supported; however, it would appear that the Department has not had careful regard for the particular and mitigating circumstances applying in this case.

A response was also received from the NSW Rural Fire Service, which raises no concerns with the proposal. A copy of this submission is also enclosed with the planning proposal included in attachment two.

Internal Consultation

Part of the planning proposal includes a voluntary planning agreement (VPA) submitted by the proponent. The VPA seeks to achieve the outcomes of an earlier resolution of the Council which required the proponent to address the following:

- Relocation or removal of the dwelling house on the site
- Integration of the rezoned area into an adjoining industrial lot and
- Provision of a 10m wide landscaped buffer on the eastern and southern boundaries of the rezoned land.

A VPA was endorsed by Council and the Gateway with the original planning proposal. The VPA was referred to Council's legal consultant for review which resulted in the recommendation that a number of modifications be made to the VPA.

These modifications were referred to the proponent in March 2013. The modified VPA was accepted and executed by the proponent in June 2013. It is pleasing to note that the key outcomes sought by the Council will be delivered by the VPA upon the planning proposal being made by the Minister.

The planning proposal was also referred internally to Council's Infrastructure Planning Manager and Manager of Public & Environmental Health. The Infrastructure Planning Manager has raised no issues with the proposal and advises that the rezoned area can be provided with standard urban infrastructure connections, should the rezoning proposal be successful.

Council's Manager of Public & Environmental Health requested additional information from the proponent in relation to a land use conflict risk assessment and to address Council's obligations in relation to the potential contamination of the land, should the rezoning proposal be successful. This information was provided by the proponent to Council's satisfaction.

Public Exhibition

In accordance with the requirements of the Gateway determination, the planning proposal was placed on public exhibition for 28 days from 17 July to 16 August 2013. A total of 36 submissions were received in response to the public exhibition, comprising 34 submissions objecting to the proposal and two submissions in support.

The submissions in support were received from the proponent of the planning proposal (Stoville Pty Ltd) and from the proponent's consultant (Geolink).

A copy of each of the submissions received is included in attachment three. The issues raised in the submissions are addressed in the Submissions Report which is included in attachment four.

Several of the key issues raised in the submissions and addressed in the Submissions Report reflect those matters addressed in the report to the Council's Ordinary Meeting held on 26 April 2012, where it was the recommendation of staff that the planning proposal not proceed. These issues can be summarised as follows:

- The rezoning of land to legitimise a long-standing unauthorised land use is not considered good planning practice.
- The proposal is inconsistent with the relevant State and local strategic planning framework and prevailing ministerial directions.

The issues raised in the submissions made by community members are considered to be highly relevant to the planning proposal and therefore warrant the Council's careful consideration.

Sustainability Considerations

- **Environment**

As identified in previous reports, the rezoning of the subject land is not expected to result in significant ecological impacts. It will, however, encroach into land set aside as urban buffer and that is identified as State Significant Farmland in a non-strategic ad hoc manner.

- **Social**

Some social benefits can be expected through the making of the subject land available for the operations of a highly valued local industry and employer.

- **Economic**

The rezoning will have the effect of allowing the continuation of the existing industrial activity both on and adjacent to the site which will likely result in positive economic benefits for both the proprietor of the industry and the owner of the subject land. As previously reported to the Council, this rezoning proposal needs to be considered in the context of the overall supply of industrial land in the locality, including the adjacent Russellton Industrial Estate land that is yet to be developed.

Legal / Resource / Financial Implications

The rezoning investigations have been undertaken at the proponent's cost, in accordance with Council's schedule of adopted fees and charges.

There are no significant legal, resource or financial implications associated with the completion of the proposed LEP amendment.

Should the Council resolve not to proceed with the planning proposal, consideration will need to be given to appropriate regulatory action in relation to the identified unauthorised land uses on the site and the enforcement of development consent conditions on industrial activities.

Consultation

Consultation has been undertaken with the community and public authorities, through the public exhibition process.

These engagements have been undertaken in accordance with the requirements of the Gateway determination issued by the Department of Planning and Infrastructure and the terms of the *Environmental Planning and Assessment Act 1979* and attendant Regulation.

Options

1. Continue to Support the Planning Proposal

Council has the option to maintain its support for the rezoning of part of Lot 1 DP 817406 for industrial purposes in accordance with its resolution on 26 April 2012. Should the Council be inclined to proceed with this option, an updated planning proposal (see attachment two) would be submitted to the Department of Planning and Infrastructure for final approval.

This will result in the rezoning of the identified 6,800m² area of Lot 1 DP 817406 from Zone 7(i) – Environmental Protection (Urban Buffer) under the *Ballina Local Environmental Plan 1987* to Zone IN1 General Industrial under the *Ballina Local Environmental Plan 2012*.

The position of Council's planning staff remains unchanged from that conveyed in the report to the Council's Ordinary Meeting held on 26 April 2012. That is, the rezoning of the land should not be entertained for a number of reasons.

However, the Council has previously indicated its strong support for the planning proposal as a viable and practical means of rectifying an unacceptable and "messy" situation.

Given the Council's stated position, and notwithstanding the numerous submissions of objection received from community members flowing from the recent public exhibition, the recommendation that follows is that the planning proposal should proceed to finalisation, as that is the last formal position of Council.

2. Discontinue Support for the Planning Proposal

Council has the option to discontinue its support for the rezoning of part of Lot 1 DP 817406. If this option is preferred, the landowner (Stoville Pty Ltd) and the operator of the adjoining industry (JC & RM Fleming), would be advised in writing that Council declines the request for the rezoning and will take no further action in relation to the rezoning of the land.

Written notice would also be conveyed to the Minister for Planning and Infrastructure advising that Council wishes to discontinue the planning proposal to amend the LEP, as detailed in the Gateway determination issued on 22 June 2012.

A decision to proceed with option two may well result in a subsequent staff recommendation for Council (and possibly other Government agencies) to take action to enforce relevant environmental standards and conditions of development consent in relation to the operations of Duraplas (and other industrial activities in the Russellton Industrial Estate) and the unauthorized use of Lot 1 DP 817406 for storage purposes.

In this regard, Duraplas has indicated that its business would not be viable if it cannot operate 24 hours per day, seven days per week.

Ensuring the compliance of industrial activities with environmental standards and conditions of development consent is an alternate means of addressing the existing land use conflict issues in the subject circumstances.

Consequently, should option two be pursued, information with regard to this matter, including possible compliance actions, may form the basis of further reporting to Council through the Development and Environmental Health Group.

As Council weighs up its options it is also important to note that the final decision on the discontinuation of a planning proposal rests with the Minister. In this circumstance, the proponent may request that the Minister proceeds to make the plan regardless of Council's decision.

This could also involve the matter being referred to the Joint Regional Planning Panel (JRPP) for consideration and provision of advice to the Minister.

3. Defer the Planning Proposal

The Council may resolve to defer making a decision on the matter at this time. Given that Council has previously resolved to support the planning proposal, this option is not recommended.

Furthermore, should the decision on the matter be unnecessarily delayed, the proponent may exercise the option to have the matter determined by the Minister as detailed in option two above.

RECOMMENDATIONS

1. That the Council confirms its support for the rezoning of part of Lot 1 DP 817406, containing an area of approximately 0.68 hectares. When finalised, the planning proposal would have the effect of rezoning that area to Zone IN1 General Industrial under the *Ballina Local Environmental Plan 2012*.
2. That the necessary documentation be compiled and forwarded to the Department of Planning and Infrastructure to enable the Minister to finalise this planning proposal.

Attachment(s)

1. Locality Plan
2. Planning Proposal for Robb Street, Alstonville (Final)
3. Public Submissions
4. Submissions Report

9.2 Planning Proposal - Various LEP Amendments

9.2 Planning Proposal - Various LEP Amendments

Delivery Program Strategic Planning

Objective To present the Council with a planning proposal relating to various minor Ballina Local Environmental Plan 2012 amendments and seek direction in relation to the further progress of the matters identified.

Background

Following the making of the Ballina Local Environmental Plan (BLEP) 2012, several minor errors and anomalies that warrant correction have been identified within the plan. As several of the matters relate to alterations or decisions made by the Department of Planning and Infrastructure (DP&I), Council has sought assistance from the DP&I regarding the correction of these matters. Unfortunately, the DP&I is not able to assist Council without Council completing a substantial amount of the work involved. Further, the DP&I has suggested that Council initiate the planning proposal to reduce potential delays associated with the Minister initiating an LEP amendment. Given this, it is considered that Council's management of the amendment is the optimal way to progress the proposed changes.

Considering the relatively minor nature of the proposed amendments and the investigations to date with the DP&I, it is considered appropriate to merge the first two steps of the LEP amendment process in this instance. This merge has resulted in the preparation of a planning proposal (Attachment One) for Council's consideration.

This report provides an overview of the planning proposal and seeks the Council's authorisation for the submission of the proposal to the DP&I for initial Gateway determination.

Key Issues

- Correction of minor discrepancies and update of flood mapping.

Information

The planning proposal intends to amend the BLEP 2012 in the following ways:

- To amend Clause 6.3 of the BLEP 2012 in regard to the exceptions to the requirements for the preparation of a development control plan (DCP) for urban release areas.
- To correct an error in the minimum lot size mapping for land at West Ballina subject to an 800m² minimum lot size standard, rather than the exhibited and resolved 600m² minimum.
- To correct inconsistencies within Clause 3.1 Schedule 2 – Exempt Development – subclauses 9, 11, 12 regarding specific wording to reflect the intent of these subclauses.

9.2 Planning Proposal - Various LEP Amendments

- To facilitate the provision of updated flood mapping in conjunction with Clause 7.3 Flood Planning in accordance with Council's current flood study outcomes.

More specifically, it is proposed that the BLEP 2012 be amended as follows:

Clause 6.3 – Development Control Plan

Council has identified an issue with model Clause 6.3 within the BLEP 2012 in relation to the exceptions to the requirement for a DCP to be in place for urban release areas before development consent can be issued. The problem is identified within Clause 6.3(4)(b) which states:

6.3 Development control plan

(2) Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land

(4) Subclause (2) does not apply to development for any of the following purposes:

(a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots,

(b) a subdivision of land if any of the lots proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose,

(c) a subdivision of land in a zone in which the erection of structures is prohibited,

(d) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.

Part (b) of subclause (4) may be interpreted that this exception extends to any subdivision that incorporates any lots for open space, roads or other public or environmental protection purposes. Lots for these types of uses would be expected in virtually all subdivisions associated with urban release areas due to the scale of such releases. Therefore, the benefit of Clause 6.3 in terms of establishing DCP based requirements could be nullified as a result of the current wording. Staff believe it is important that this issue is addressed promptly, especially given that there are several large urban releases planned in the shire at present (eg Cumbalum)

Council did not prepare this provision. This issue has arisen from Council's adoption of a model clause provide by the DP&I.

Clause 4.1 Minimum Subdivision Lot Size – West Ballina Mapping

Council adopted the BLEP 2012 with the application of a minimum lot size standard for subdivision of 600m² for the majority of residential land at West Ballina. This standard was identified within the exhibited draft Ballina LEP 2011 and the data supplied to the Department of Planning and Infrastructure for finalisation of Council's mapping, in association with the removal of 'E' zones from the current instrument.

The published map on the NSW legislation website as prepared by the Department, is at variance to the Council's adopted standard, in that an 800m² minimum lot size has been applied to land at West Ballina, rather than the envisaged 600m² standard. The effect is that at least 14 lots have been adversely impacted in terms of their subdivision potential due to this variance.

It is proposed to correct this mapping error with updated mapping for the subject area.

Clause 3.1 Exempt Development - Schedule 2 - subclause 9, 11, 12

Council's endorsed version of the LEP included the following provisions in Schedule 2 relating to Clause 3.1 Exempt Development, excepting certain signage from the development application process. The draft version of the Ballina LEP 2011 following the Department of Planning and Infrastructure and Parliamentary Counsel review did not include subclause 12. Council subsequently requested that the clause be reinserted prior to the making of the plan, however the following clause was included without further consultation. Subclauses 9 and 11 are also not consistent with the exhibited draft LEP 2011 version. The variations are listed below:

- Subclause 9 'as made' states:

(9) Window signs (being any advertising device painted or displayed on a shop window or glazed area of a building) in business and industrial zones (relating to uses other than sex services premises) must not occupy more than 25% of the area of the window.

This wording is inconsistent with the exhibited draft LEP 2011 wording as follows:

Advertisements – signs behind the glass line of a shop window in Business and Industrial Zones (other than brothels)

- (1) Must meet the general requirements for advertisements, and*
- (2) Must not occupy more than 25% of the area of the window*

- Subclause 11 'as made' states:

(11) A change in the face content or message from that which was previously displayed on a lawful sign must not alter the sign type.

However, this clause was exhibited as follows:

Advertisements –change in the face content or message from that which was displayed on a previously lawful advertisement

- (1) Must meet the general requirements for advertisements, and*
- (2) Must not alter the sign type (i.e. from a business identification sign" to a "general advertising sign").*

- Subclause 12 'as made' states:

(12) Identification, directional, community information or safety signs constructed and installed by or on behalf of a public authority must be located wholly on the footway or be attached, with the owner's consent, to a fence, but need not comply with subclause (1) (b) or (1) (c).

However, this clause was exhibited as follows:

(12) Public identification, interpretive and directional signage must comply with the following, but need not comply with subclauses 1(b) or (c):
(a) must be constructed and installed by or on behalf of a public authority.

The final subclauses within the BLEP 2012 are not as clear to users of the instrument as those originally drafted. Subclauses 9 and 11 do not clearly describe the criteria applicable and the types of advertisements that are the subject of these exempt provisions. The wording is also inconsistent with the structure of the other provisions in the schedule. In regard to subclause 12, the limitation associated with erection of signage within a footway does not reflect Council's intent (e.g. this makes the erection of a sign of the type listed outside the footway subject to a development application).

The intent of each of these subclauses was to remove the need for development applications for certain types of signs in a variety of circumstances that are generally in the community's interests. Subclause 9, 11 and 12 as made are not considered to provide clear interpretations of exempt development in regard to this signage and do not minimise regulatory processes as envisaged, or provide the flexibility intended.

The proposed amendment involves reinsertion of provisions that better reflect Council's original intent.

Clause 7.3 Flood Planning Mapping

The identified "Flood planning area" on the Flood Planning Map as referenced in Clause 7.3 of the BLEP 2012 is based on projected flood levels specified in the 2008 Ballina Flood Study Update, as exhibited with the draft Ballina Local Environmental Plan 2011. In January 2010, Council resolved to apply revised flood planning levels associated with the latest and estimated sea level rise changes in accordance with the NSW Government Sea Level Rise Policy. As a result, the floodplain risk management study was revised and detailed in the 2010 Ballina Flood Study Update. Council adopted revised flood planning mapping in August 2010 incorporating this information in Policy Statement No. 11 of the Ballina Combined Development Control Plan 2006.

It is proposed in this LEP amendment to update the Flood Planning Map as referenced in Clause 7.3 to reflect the affected areas identified in the 2010 Ballina Flood Study Update as adopted by Council in August 2010. This adjustment would convey a more contemporary policy position of the Council in relation to flood mitigation measures for development.

Sustainability Considerations

- **Environment**

The proposed provisions seek to undertake minor adjustments to the BLEP 2012 as made. These adjustments do not adversely impact upon any matters relating to environmental sustainability or outcomes.

- **Social**

The proposed amendments will promote flexibility and clarity in regard to the wording of the relevant provisions, including planned urban growth outcomes, flooding and exempt development. It is suggested these changes will make the planning instrument more "user-friendly".

- **Economic**

The proposed amendments seek to provide consistency between the LEP instrument drafted and exhibited for public comment. The amendment will remove the mapping errors that have the potential to have a detrimental economic impact on several lots in West Ballina. The amendments also seek to enhance flexibility and clarity to support positive economic outcomes.

Legal / Resource / Financial Implications

There are currently no significant resourcing or financial implications associated with the further processing of this LEP amendment. Processing of the matter can be accommodated within the existing Strategic and Community Facilities Group work program.

Consultation

Consultation with the community or government agencies has not been undertaken, as the matter is in the initial phases. However, should the matter continue to proceed, an affirmative Gateway determination will advise of consultation requirements with government agencies and the community.

Options

1. Proceed with the planning proposal, to amend the following clauses of BLEP 2012:
 - a. Clause 6.3 - Development Control Plan;
 - b. Clause 3.1 - Exempt Development Schedule 2, subclauses 9, 11 and 12;
 - c. Clause 4.1 - Minimum Lot Size standard. (associated mapping for West Ballina); and
 - d. Clause 7.3 - Flood Planning. (Amend existing mapping to reflect the Council-adopted 2010 Flood Study Update).

This approach would authorise the submission of the planning proposal contained in Attachment 1 to the DP&I for Gateway determination.

This is the recommended approach.

2. Defer or amend the planning proposal.

This approach is not recommended given:

- The current BLEP 2012 contains errors and anomalies that have the potential to have negative outcomes during the implementation of the document.
- The proposed LEP amendments are intended to ensure that the BLEP 2012 is consistent with the draft LEP 2011 as exhibited and forwarded to the DP&I for making, and with Council's currently endorsed policy position.

3. Cease further action in relation to the planning proposal.

For the same reasons outlined in relation to option two, this approach is not recommended.

RECOMMENDATIONS

1. That Council submit the planning proposal relating to the amendment of various clauses in Council's Standard Instrument Local Environmental Plan (as contained in Attachment One) to the NSW Department of Planning & Infrastructure for review and Gateway determination.
2. That upon an affirmative Gateway determination being received from the Department of Planning & Infrastructure, Council staff will carry out the procedural steps associated with the progress of the planning proposal, including public exhibition.
3. That the matter be reported back for further consideration by the Council following the mandatory public exhibition period.

Attachment(s)

1. Attachment 1 - Planning Proposal - Various Amendments to Ballina Local Environmental Plan 2012

9.3 Ballina Shire Growth Management Strategy - Review

9.3 Ballina Shire Growth Management Strategy - Review

Delivery Program Strategic Planning

Objective To outline the outcomes of a review of the Ballina Shire Growth Management Strategy and the status of strategic actions identified in the strategy.

Background

Council adopted the Ballina Shire Growth Management Strategy (GMS) in July 2012 [Minute No. 260712/7] following considerable community and public authority consultation. The purpose of the strategy is to provide the local planning framework for managing population and employment growth in the shire over the planning period 2012-2031. The GMS is founded on a long-standing policy platform provided by previous Urban Land Release Strategies produced by Council.

A copy of the adopted GMS has been distributed to Councillors under separate cover.

The document is not a statutory document like, for example, the Ballina Local Environmental Plan 2012, though it works “hand in glove” with the LEP and other planning instruments. The GMS provides an overview and planning context for the shire, whereas the LEP is more “rules-based” – specifying what may be done in different zoned areas.

The GMS also complements other important Council strategic documents; for example, the urban water strategy and various development-servicing plans.

In addition to the strategy being a key component of Council’s local planning framework and land use planning policy, the strategy also meets the requirements of the State Government’s Far North Coast Regional Strategy.

The GMS was endorsed by the Department of Planning and Infrastructure (DP&I) in May 2013 (Attachment One).

As outlined in the DP&I’s correspondence, the GMS was endorsed with one minor exception and specific reference to the need for careful consideration in relation to the long term proposal for a third village on the Alstonville Plateau.

A review of the GMS has been undertaken by staff following its first year. It is also good practice to present a review of the GMS to a newly elected Council within a year of a general election.

This report provides an overview of the operation of the GMS and the extent of Council’s activity in relation to the strategic actions identified within the strategy.

Key Issues

- Operation and application of the GMS.
- Status of strategic actions identified in the GMS.

Information

GMS Overview

The Ballina Shire Growth Management Strategy (GMS) is Council's principal local planning policy document for the management of residential, commercial and industrial growth in the shire. Essentially, the GMS provides direction to the community, public and other service and infrastructure providers and potential developers in relation to areas for future growth, the type of growth envisaged, key issues and desired outcomes.

The GMS is a strategic document designed to operate over a planning horizon of 15 to 20 years. Council's GMS is designed to not only focus on development and growth issues, but also to consider and identify other key attributes of the shire that are important planning considerations, such as biodiversity, agricultural lands, water catchments, cultural values, visual amenity and local character.

The GMS incorporates information about projected growth in the Ballina Shire as well as outcomes from a variety of strategic planning studies that Council has completed to guide planning outcomes in the shire. The GMS also establishes principles for growth management considerations and embodies the principles of sustainability.

The GMS identifies potential urban growth areas (known as strategic urban growth areas) which are intended for investigation in relation to future population and employment growth. More specifically, the GMS includes individualised consideration of each urban locality in the shire through the documentation of character statements for each locality, along with identification of key issues and features.

The GMS incorporates specific locality objectives and strategic actions for each urban area in the shire in order to recognise the qualities and character of each place. It provides direction for future planning and development activity. The GMS also includes a series of broader strategic actions that encompass the non urban parts of the shire.

Strategic Actions

A central function of the GMS is the identification of strategic actions that aim to provide for enhanced planning outcomes over the life of the strategy. These strategic actions essentially form a work program for staff to action. A list of the actions endorsed under the GMS and the status of each action is contained in Attachment Two.

As a general observation, Council has progressed or completed a large number of actions since the endorsement of the GMS. This is particularly positive as it reinforces the planning policy contained within the GMS, enhancing the effectiveness and usability of the document.

9.3 Ballina Shire Growth Management Strategy - Review

Completion of the strategic actions also supports the establishment of strong, logical and evidence-based planning policy and delivery of positive outcomes for the shire community.

Rezoning of Strategic Urban Growth Areas

A key purpose of the GMS is to identify areas that Council views as having potential for future urban development (residential, commercial and industrial). There are a number of identified potential growth areas that are currently subject to rezoning proposals.

Potential growth areas in the shire that are presently subject to rezoning proposals include the Stewart Farm (Skennars Head Coastal Village), Cumbalum Precinct A, Cumbalum Precinct B, Reservoir Hill Site Lennox Head, Burns Point Ferry Road West Ballina and the Southern Cross Industrial Estate (expansion). The status of these individual rezonings is reported to Council regularly.

The GMS is providing important policy guidance to the Council itself, staff, the community and proponents in relation to rezoning proposals. Specifically, the GMS is providing a clear and consistent policy context for the initial consideration and subsequent assessment of rezoning proposals.

Sustainability Considerations

- **Environment**

The GMS establishes Council's long term urban growth planning policy. The GMS seeks to provide a policy basis for decision making in relation to urban development in the shire that is underpinned by balanced consideration of environmental, social and economic factors.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

There are no specific legal, financial or resource implications associated with the outcomes of the review of the GMS that has been undertaken.

Consultation

The GMS was endorsed by Council in July 2012 following a period of public exhibition. The GMS is also founded on long-standing local and State Government urban planning policy that has been subject to community feedback and engagement over many years.

The review of the GMS has not identified any preferred changes to the adopted strategy. Therefore no further community engagement is recommended at this time.

Options

The review of the GMS has identified that the strategy is operating as intended and in accordance with its objectives, based on the first twelve months of the strategy's implementation. It is considered that the GMS also continues to be consistent with, and representative of, Council's urban planning policy for the shire.

With respect to actions associated with the strategy, Council has made substantial progress towards the implementation of a large number of the strategic actions identified in the GMS. As such, Council is continuing a long tradition of delivering a variety of strategic and community-oriented planning projects and building a strong planning platform for the shire over the long term.

Although there are some elements of the strategy that could be updated (e.g. reference and statistical information, completed rezonings), the update of these aspects of the document is not considered necessary or resource efficient at this time. That is, the GMS is intended to operate for a significant period of time following its adoption and it is expected that there will be change relating to the content of the document over that time.

Having regard for the above, this report is submitted for the information of the Council. No changes to the GMS are recommended.

It is intended that the GMS will be reviewed again within 12 months of the next general local government election in the absence of a significant shift in urban planning policy relating to the shire, or alternative direction from the Council.

RECOMMENDATION

That Council notes the contents of this report concerning the review of the Ballina Shire Growth Management Strategy.

Attachment(s)

1. DP&I Endorsement of GMS - DP&I Correspondence May 2013
2. Ballina Shire Growth Management Strategy - Endorsed Strategic Actions and Status - September 2013
3. Ballina Shire Growth Management Strategy (Adopted July 2012) (Under separate cover)

9.4 Aboriginal Community Committee

9.4 Aboriginal Community Committee

Delivery Program Community Facilities and Services

Objective To invite the Council to consider a further nomination for membership of Council's Aboriginal Community Committee

Background

The Council, at its Ordinary Meeting held on 28 March 2013 resolved to establish the Ballina Shire Aboriginal Community Advisory Committee. It also endorsed a draft Terms of Reference for the Committee's operations.

Subsequently, following an expression of interest process, the Council, at its Ordinary Meeting held on 27 June 2013 resolved to appoint a number of members to the new Committee.

The inaugural meeting of the Committee was held on 5 September 2013. This report invites Council to make a further appointment to the Committee. It also invites Council to provide the General Manager with the authority to appoint new or additional members to the Committee, rather than such appointments requiring a decision of the Council itself.

Key Issues

- Committee membership
- Governance practices

Information

Council has recently received a request from the General Manager of the Bunjum Aboriginal Cooperative Limited seeking that organisation's membership of the Committee. A copy of Bunjum's request is attached.

It is encouraging that this prominent community organisation wishes to be part of the Council's new Committee, and approval of the application is recommended.

There is room to improve the process of appointment to the Committee by authorising the General Manager to determine requests for replacement or additional membership from time to time. This arrangement will improve efficiency, being less onerous and less time consuming than requiring a resolution of the Council.

Sustainability Considerations

- **Environment**
Not Applicable

9.4 Aboriginal Community Committee

- **Social**

The Committee will be an important conduit between the Council and the shire's Aboriginal community. Benefits will include the provision of Aboriginal perspectives in relation to Council's key policy documents and improved consultation methods.

- **Economic**

Not Applicable

Legal / Resource / Financial Implications

The Committee will operate within the available resources of Council.

Consultation

The current membership of the Committee was subject to a formal advertising process.

Options

Council may approve or reject Bunjum's application for membership of the Aboriginal Community Committee. Approval is recommended.

In relation to the process for appointment of members to the Committee, the Council may retain the responsibility to determine membership, or transfer that to the General Manager. In terms of ease of administration, transfer of this function to the General Manager is recommended.

RECOMMENDATIONS

1. That Council approves the application from Bunjum Aboriginal Cooperative Limited for membership of the Ballina Shire Council Aboriginal Community Committee, as per Bunjum's letter dated 5 September 2013.
2. That Council authorises the General Manager to appoint replacement and/or additional members to this Committee.

Attachment(s)

1. Letter from Bunjum Aboriginal Cooperative Limited dated 5 September 2013

9.5 Northern Rivers Community Gallery - Update

9.5 Northern Rivers Community Gallery - Update

Delivery Program Community Facilities and Services

Objective To provide Council with information concerning the Northern Rivers Community Gallery Strategic Plan and Annual Report, together with several key aspects of the operations of the Gallery.

Background

The Northern Rivers Community Gallery is a service of the Ballina Shire Council, provided for the benefit of shire residents and visitors to our region.

In recent months work has been undertaken to evaluate the performance of the Gallery and level of service provided. This process has been beneficial in also enabling the preparation of a plan for future operations.

The outcomes of this work have formed the basis of an Annual Report and new Strategic Plan for the Gallery. The following report presents these documents for the benefit and information of the Council. Copies of the documents are distributed with this Business Paper.

In the process of developing the Gallery's Strategic Plan, Gallery management has taken the opportunity to consider current practices and review how we are best placed to achieve our future visions. As part of this, Gallery management has reviewed the Terms of Reference and operation of the Gallery Advisory Committee.

The review followed the Council's consideration of its committee structure in September 2012. At that meeting, the Council resolved as follows:

That Council defer any decision on the Northern Rivers Community Gallery Committee subject to a further report being submitted on more relevant consultation structures for the future operation of the Gallery.

This report also seeks to respond to that resolution.

Key Issues

- NRCG, Strategic Plan
- NRCG, Annual Report 2012 -2013
- Key Strategies for Gallery operations

Information

NRCG Strategic Plan (copy attached)

The NRCG Strategic Plan identifies the Gallery's overarching aim and key objectives that encompass issues relating to operations; exhibition and public programs; marketing and media; and the development and sustainability of the Gallery.

The Plan is appropriately broad and has a significant role to play in the prioritisation of strategies and resources over the next five years (including in the preparation of grant applications, for example).

A summary of the key contents of the NRCG Strategic Plan is as follows:

Our Vision

It is the vision of the Ballina Shire Council and the Northern Rivers Community Gallery to support and develop a diverse and engaged creative community via a distinctly local program of exhibitions, public programs and events.

Our Objectives

1. To present a distinctly local, accessible and artistically diverse programs of exhibitions, public programs and events.
2. Through learning programs, the Gallery will celebrate, support and preserve the Northern Rivers' history, stories, cultures and creative development.
3. Provide leadership for growth and sustainability of this region's creative industries.
4. Encourage audience development and profile building for the Gallery.
5. Continue to reactivate the premises as a central hub to the arts and cultural activity of the region.
6. Ensure that, as far as practicable, the NRCG's operations strive to adhere to an economically sustainable model that ensures artistic integrity whilst promoting opportunities for revenue development.

NRCG Annual Report 2012-2013 (copy attached)

The NRCG Annual Report summarises the Gallery's exhibition program, visitor numbers and sales figures for 2012-2013 and conveys a positive story of the Gallery's continued growth in these areas.

Together, the Strategic Plan and subsequent annual reports will allow better forward planning and a clearer context for decision-making in relation to Gallery matters. The information may also assist the Council to be more informed as it continues to monitor and review all the services it provides to our community.

A summary of the Annual Report is as follows:

- The NRCG presented 34 exhibitions in 2012-2013 representing approximately 330 individual exhibitors. (See page 8 of the NRCG Annual Report)

9.5 Northern Rivers Community Gallery - Update

- 16,561 people visited the Gallery in 2012 – 2013. (See page 10 of the Report)
- The Gallery developed and presented a range of public programs including art making workshops for children each school holidays; an education program for school groups with Albert 'Digby' Moran, the first Music at the Gallery concert and 13 exhibition launch events. (See pages 15 & 16 of the Report)
- The total income generated from artwork sales and the gift shop was \$92,462. The Gallery retained \$30,512 of this in commissions. (See page 13 the Report)

Key aspects of Gallery operations

Gallery Advisory Committee

In September 2009 the Northern Rivers Community Gallery Advisory Committee was formed to assist in steering the Gallery through a period of transition. That is, from being managed by volunteers to ultimately securing a full-time Gallery Co-ordinator in September 2010.

The objectives from the Committee's Terms of Reference are to provide community input into matters such as:

1. Programming to ensure accessibility, equity and excellence in program content
2. Advocacy to raise community awareness of the Gallery
3. Strategic planning and policy related matters
4. Fundraising activities including recommended fee structures

The support and insights provided by the members of the Advisory Committee during the transition period were of immense value and greatly appreciated. However, matters relating to these four objectives are now handled operationally, significantly diminishing the need for the Committee. The operations that presently address each objective are outlined below.

In relation to Objective 1: Programming to ensure accessibility, equity and excellence in program content.

The community is invited to submit exhibition applications which are assessed, in rounds, competitively. Consistently, more applications are received than can be accommodated.

The following points are published in the NRCG's Exhibition Information Kit and are used to consider all applications received in a scheduling round:

- Does the exhibition demonstrate artistic merit and originality?
- Does the exhibition clearly communicate its intent?
- Does the exhibition represent people, places, stories, communities etc relating to the Northern Rivers region?
- Has the exhibition application considered a target audience or community involvement?
- Will the timing of the exhibition suit the Gallery's schedule?

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- Will the exhibition contribute to a balanced overall exhibition program?
- Is there adequate information for the application to be assessed?
- If the application represents a group or individual that has exhibited at the Northern Rivers Community Gallery in the previous 12 months – does the application show development or continued relevance to the community and the Gallery’s overall program?

This approach allows the program to be considered holistically across a twelve month period, with consideration given to issues of access, equity and participation, as well as the issue of presenting an engaging program for the diverse sectors of our community.

Consideration is also given to balancing commercial objectives with education, cultural development and artists’ professional development, which do not always go hand-in-hand. Consideration is also given to matters such as gallery attendance targets.

In relation to Objective 2: Advocacy to raise community awareness of the Gallery.

The Gallery has a large team of community volunteers, currently numbering 47. This team plays an important role in the advocacy of the Gallery in our community.

Also, despite the fact that it has now been approximately 12 months since the Gallery Advisory Committee met formally, the Advisory Committee members remain closely involved with the Gallery. Structure and membership of the Committee is as follows:

Membership as per Terms of Reference	Current Members	Continued Involvement with NRCG
<i>Two Ballina Shire Councillors</i>	Cllr Meehan and Cllr Hordern	Regular, via Council
<i>Two industry representatives</i>	Mary Richards from Ballina Arts and Craft Incorporated (BACCI) and Barry Mason from Ballina Arts Society (BAS)	Regular as Gallery visitors and exhibitors. BACCI exhibit here annually and BAS exhibit here approximately biannually.
<i>One representative from Arts Northern Rivers</i>	Peter Wood, CEO Arts Northern Rivers	Regular as industry colleague and professional advisor to the Gallery
<i>Two community representatives</i>	Libby Stock and vacant	Ms Stock is now a Gallery Volunteer

Gallery management, with support from other Council officers, is also attending to issues of profile development, branding and promotion. Some of the issues recently or currently being resolved are:

- the development of a new Gallery logo to bring the logo in-line the recent refresh of the Council logo
- a new solution to on-site signage
- Art at the Airport: a curated showcase of artwork by professional artists from the Northern Rivers on 3 areas of wall space at the Ballina-Byron Gateway Airport. This program will be branded as being presented by the NRCG and Council, therefore promoting the Gallery at the Airport.
- an updated e-news system

9.5 Northern Rivers Community Gallery - Update

- professionally designed templates for printed promotional stationery (to be consistent with the new branding and to achieve time efficiencies in relation to design and production)
- a general Gallery flyer (rather than just having the changing exhibition flyers) that can promote the Gallery across the region without becoming out-of-date too quickly

We also plan to raise funds to develop a dedicated website for the Gallery. It is estimated that approximately \$5,000- is required to do this.

In relation to Objective 3: Strategic planning and policy related matters.

Current members of the Gallery Advisory Committee and other community members can be consulted on such matters at any time (as they have for the draft Ballina Shire Council Cultural Plan, for example).

It is considered preferable to implement project-based consultation as required.

In the current financial year the Gallery will also be implementing visitor surveys so that we can learn more about our visitors and their experience at the Gallery. The surveys will be tied to the strategic plan and will be focused to obtain information about particular areas of interest.

In relation to Objective 4: Fundraising activities including recommended fee structures.

As the Annual Report illustrates, Gallery artwork and shop sales continue to increase as a result of our growing visitation and profile, and as a result of the growing diversity and calibre of exhibitions.

Significantly, the Gallery is now endorsed as a Deductible Gift Recipient (DGR) by the Australian Taxation Office. This means the Gallery can now put the procedures in place to implement a formal Giving and Philanthropic program. As the program matures, it is foreseeable that project teams or a fundraising committee may be formed to assist the Gallery's development in this area. If this eventuates, accordingly, committee members would be carefully recruited based on the aims and objectives of the committee.

A particular focus will be on putting the mechanisms in place to be able to cultivate and maintain long-term strategies in relation to these objectives. Importantly, it is proposed that the focus will be on a smaller number of larger projects that maximise benefit-to-output, taking into consideration the fact that the Gallery is serviced by only one full-time staff member.

For example, it is recognised that many galleries have associated Friends programs and that some members of the NRCG Advisory Committee have, for some time, been advocating for the Gallery to establish such a program for the purposes of fundraising and networking.

Having considered this in the context of the NRCG Strategic Plan, it is considered that a Friends program for the NRCG is not the most appropriate option, for the following reasons:

9.5 Northern Rivers Community Gallery - Update

1. Friends programs are best suited to a context where the gallery can offer Friends immediate and ongoing benefits without having to 'manufacture' benefits for members (purely for the sake of being able to offer them).

For example:

- Free gallery entry (the NRCG already has free entry)
 - Free exhibition catalogues (the NRCG does not produce catalogues)
 - Shop discounts (the NRCG stock is sold on consignment)
 - Ticketed program discounts (the NRCG presents many free public programs and the quantity of paid programs would not in-itself be enough 'benefit' to offer members)
 - Free newsletter (the NRCG generates and distributes free electronic and printed promotional flyers relating to each exhibition and does not currently have content nor the need to generate an additional newsletter exclusively for Friends).
2. Friends programs are potentially also very time-consuming to administer. The large amount of time associated with administering such a program is not in-line with the relatively small amounts of money generated by membership fees. We wish to proceed with the most effective and efficient way forward to raise funds that take into account the fact that the Gallery has just one full-time staff member.

We believe the Gallery's limited human resources are better allocated to broader, more strategic and long-term avenues than a Friends program. It is important to note that other galleries have dedicated staff to oversee operational elements such as Friends programs. At this point the NRCG wishes to focus on cultivating dedicated and engaged audiences from diverse sectors of the community and then target relevant community sectors for fundraising events and corporate partnering opportunities.

3. Friends programs are recognised for the networking opportunities they provide for people to socialise with 'like minded' people. The NRCG already provides a range of accessible networking opportunities including:
 - exhibition launch events for each new exhibition
 - a strong volunteers program
4. While Friends programs are recognized as important community support networks for galleries, it is also the case that they can potentially become comprised of a stereotyped membership, that can quickly become 'at odds' with the changing profile of many regional and community galleries. Friends programs can result in closely-engaged audiences that lack diversity in their profile. Instead, Gallery management prefers a model based on access, equity and participation.

Some of the many alternative ways forward have already been outlined above and include:

- The establishment of the foundations for a Giving and Philanthropic Program for the Gallery (now with endorsement as a Deductible Gift Recipient).
- The establishment of corporate partnerships and corporate sponsorships for the Gallery, initially to off-set costs and then working toward securing cash sponsorship.

9.5 Northern Rivers Community Gallery - Update

- High-profile branding and promotional opportunities such as the proposed Art at the Airport project.

In conclusion, it is considered that the Gallery Advisory Committee objectives are being met through various elements of the Gallery operations. As such, and notwithstanding the significant past contribution of its members, this report recommends that the Committee be discontinued.

Sustainability Considerations

- **Environment**
Not applicable
- **Social**
The NRCG program events add significantly to the social fabric of our community
- **Economic**
The NRCG contributes to economic benefit for the arts and creative industries sector for our community

Legal / Resource / Financial Implications

The Gallery is operating within the resources provided by the Council through its Delivery Program and Operational Plan.

Consultation

Peter Wood, CEO of Arts Northern Rivers has been consulted in regard to the NRCG Strategic Plan. His feedback has been welcomed and appreciated.

Options

This report has been provided as an update to Council concerning the Gallery's operations for the purpose of information.

In relation to the operation of the Gallery's Advisory Committee, it is a matter for the Council to determine if it wishes to maintain the Committee. On the basis that its stated objectives are being applied at an operational level (as outlined in this report) the recommendation is that the Advisory Committee be discontinued.

RECOMMENDATIONS

1. That Council notes the contents of this report relating to the operation of the Northern Rivers Community Gallery, including the preparation of the 2012-13 Annual Report.
2. That Council endorses the Northern Rivers Community Gallery Strategic Plan 2013-18, as attached.
3. That the Northern Rivers Community Gallery Advisory Committee be discontinued, with the Council's expression of appreciation being conveyed to members of that Committee.

Attachment(s)

1. Northern Rivers Community Gallery Strategic Plan 2013-2018
2. Northern Rivers Community Gallery Annual Report 2012-2013

10.1 Use of Council Seal

10. General Manager's Group Reports

10.1 Use of Council Seal

RECOMMENDATIONS

That Council affix the Common Seal to the following documents.

US13/19	<p>Ballina Shire Council to the Telstra Corporation Limited – 10 year option period lease of part Lot 1 DP 632176 situated at 1A Suvla Street, East Ballina, and being adjacent to the water reservoir at Norm Sharpe Lookout.</p> <p>Explanation: Lot 1 DP 632176 is a parcel of Council owned land classified as community land under the Local Government Act 1993. The approximate 136m² telecommunications enclosure within Lot 1 DP 632176 has been occupied by Telstra for some 18 years, and the current 10 year lease term expires on 24 November 2013. Telstra has a tenant option for a further 10 year term and has formally exercised their right of option.</p> <p>The proposed option period lease of community land has been advertised in accordance with S47 of the Local Government Act and no submissions by way of objection have been received. Telstra pay a commercially determined rental for their occupation of the site that is now being reviewed to the current rental market.</p> <p>The current rental is \$21,718.59 p.a. + GST</p>
US13/20	<p>Ballina Shire Council to Ballina Fox Street Preschool Incorporated – five year lease of Lot 1 DP 781710, No. 84 Fox Street, Ballina being community land for the period of 1 July 2013 to 30 June 2018.</p> <p>Explanation: Ballina Fox Street Preschool's current lease expired on 1 July 2013. In accordance with the requirements of the Local Government Act for community land the proposal to renew the lease was advertised and adjoining owners notified.</p> <p>No objections have been received. No rental is currently applied.</p>
US 13/21	<p>The State of New South Wales to Ballina Shire Council – Crown Reserve R57675. The Crown has now offered Lease 450458 for 'Business Purposes' at Alstonville, being the head lease over Crown land described as Lot 321 DP 755745 and Lot 7003 DP 92641, for a term of 20 years commencing 1 July 2013.</p>

10.1 Use of Council Seal

	<p>The Crown land parcel contains the Old Tintenbar Shire Council Chambers and the Old Alstonville Hall.</p> <p>Explanation: The issue that Council needs to consider is whether we still wish to be the party that manages this property. Essentially the Crown is now charging \$21,070 to manage the land with Council then responsible for managing tenants, filling vacancies etc. Council also then needs to deduct the cost of maintenance of the properties, capital improvements, staff time from this income.</p> <p>The current tenants at the premises are:</p> <p>Arts Northern Rivers Coffey Geotechnics Thea Woznitsa - Bowan Therapist Adrienne Kniha - Child Physiotherapist</p> <p>These are all commercial tenants, with even Arts Northern Rivers paying \$10,000 per annum.</p> <p>A comparison to the head lease being provided for this property is the licence Council pays for the land on which the Ballina Library, Visitor Information Centre, Richmond Room and River Street Pre-school are located. The difference with those facilities, where we are paying 50% of the market rent, is that they are all community based services being delivered by or on behalf of Council. This means Council has no choice but to pay the rent for the land.</p> <p>At Alstonville we may have a choice as to whether we wish to enter this lease rather than approving the use of the Council seal.</p> <p>Council may well wish to receive a report on the option of not proceeding with this lease.</p>
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Attachment(s)

Nil

10.2 Investment Summary - August 2013

10.2 Investment Summary - August 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 August 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 August 2013 was \$83,308,000. This represents a decrease from July of \$1,016,000.

The balance of the cheque account at the Commonwealth Bank, Ballina as at 31 August 2013, was \$3,525,736.

Council's investments as at 31 August are at an average (weighted) rate of 4.08% which is 1.48% above the 90 Day Bank Bill Index of 2.60%.

The majority of the approximately \$83 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	12
Wastewater Fund (incl developer contributions)	External	34
Section 94 Developer Contributions	External	6
Bonds and Deposits	External	1
Other External Restrictions	External	16
Land Development	Internal	8
Employee Leave Entitlements	Internal	2
Carry Forward Works	Internal	12
Miscellaneous Internal Reserves	Internal	8
Unrestricted		1
Total		100%

* Based on reserves held as at 30 June 2013

Key Issues

- Investment return
- Compliance with Investment Policy

10.2 Investment Summary - August 2013

Information

There were no surprises from the September meeting of the RBA board when they decided to keep the cash rate unchanged at 2.50% and issued a neutral statement to accompany the decision. The statement covered no new ground although it did omit their oft-reiterated comment of 'scope to ease policy further' which some say diminishes the odds of another rate cut this year.

Council has sold its non-performing Longreach Series 28 \$1million (face value). This note was capital guaranteed with a maturity date of 27 June 2014, it has not paid any interest since July 2008 and was not going to pay any before maturity. The price received was \$982,000 which represents a capital loss of \$18,000 on face value. Council officers calculated that the \$982,000 invested from September 2013 until June 2014 (ten months) at a rate of 3.7% (which is a conservative estimate of achievable rates), would earn \$30,000 in interest earnings, which means we are \$12,000 better off by selling the investment than holding it until maturity.

Council participated in two Longreach notes, both of which were capital guaranteed. The first note, titled series 23, matured in February 2012 and in contrast to the note that has just been sold it was a success. The series 23 note, inclusive of interest earned plus a capital gain of \$262,000 over the five year term of the investment, returned 8.95% pa or \$447,427 on \$1m invested.

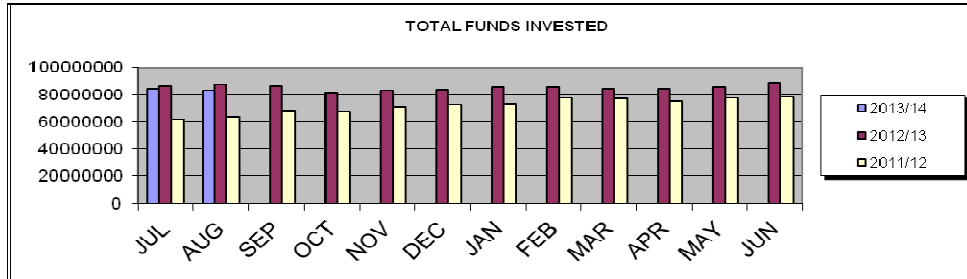
A. Summary of investments by institution

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	4.8	
Goldman Sachs	AA-	1,000	1,000	0	1.0	
Longreach Capital Markets 28*	AA+	1,000	0	0	1.0	
National Australia Bank	AA-	1,788	1,788	0	2.1	
National Wealth M'tment Holding	A	2,000	2,000	0	2.4	11%
Rated Institutions						
ANZ Bank	AA-	18	0	20	0.0	
Bank of Queensland	BBB+	7,000	8,000	10	9.6	
Commonwealth Bank of Aust	AA-	8,518	7,520	20	9.0	
Defence Bank Ltd	BBB+	3,000	3,000	10	3.6	
Greater Building Society	BBB	2,000	2,000	10	2.4	
Heritage Bank	BBB+	3,000	5,000	10	6.0	
Illawarra Mutual Bld Soc	BBB	2,000	2,000	10	2.4	
ING Bank Ltd	A	15,000	15,000	20	18.0	
Members Equity Bank	BBB	8,000	8,000	10	9.6	
National Australia Bank	AA-	13,000	13,000	20	15.6	
Newcastle Perm Bld Society	BBB+	2,000	2,000	10	2.4	
Rural Bank Ltd	A-	4,000	4,000	10	4.8	
Suncorp Metway Bank	A+	6,000	4,000	20	4.8	
Westpac Banking Corporation	AA-	1,000	1,000	20	1.2	89%
Unrated ADI's				\$1m	0.0	
Total		84,324	83,308			100%

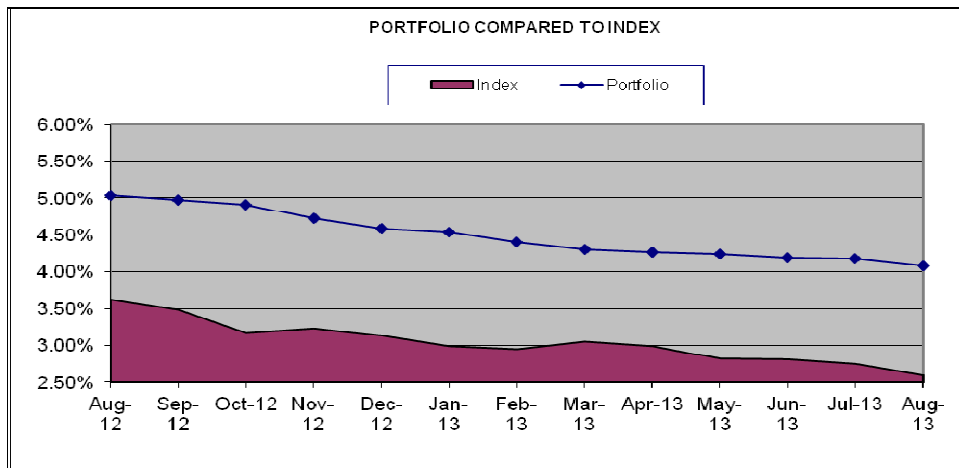
* Rating is on Capital only by Citigroup Pty Ltd

10.2 Investment Summary - August 2013

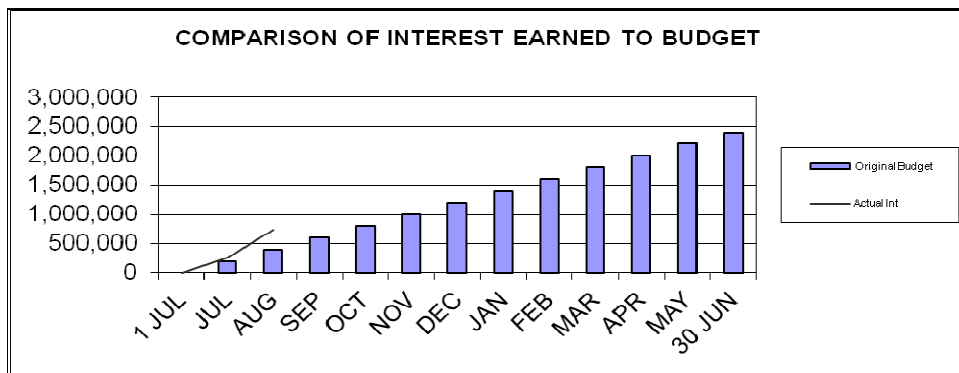
B. Monthly Comparison of Total Funds Invested



C. Comparison of Portfolio Investment Rate to 90 Day BBSW



D. Progressive Total of Interest Earned to Budget



10.2 Investment Summary - August 2013

E. Investments held as at 31 August 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	1,991
23/04/04	Deutsche Bank	FRN	3.74	23/04/14	2,000	1,991
20/09/04	National Australia Bank (ASX Listed)	FRN	3.87	Perpetual	1,788	1,263
12/04/06	Goldman Sachs	FRN	3.27	12/04/16	1,000	981
16/06/06	National Wealth M'ment Holdings	FRN	3.41	16/06/16	2,000	1,906
17/12/08	Commonwealth Bank Of Australia	FRN	3.98	17/12/13	1,000	1,003
17/12/08	Commonwealth Bank Of Australia	FRTD	5.93	17/12/13	999	1,009
	at call Commonwealth Bank Of Australia	FND	2.70	at call	3,530	3,530
24/01/12	ING Bank Ltd	FRTD	4.68	24/01/17	1,000	1,000
06/02/12	Westpac Bank	FRN	4.24	06/02/17	1,000	1,038
25/01/13	Commonwealth Bank Of Australia	TD	4.36	25/01/18	1,991	1,999
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
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
20/05/13	Defence Bank	TD	4.45	20/05/14	1,000	1,000
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	3.85	05/06/15	2,000	2,000
07/06/13	Greater Bld Society	FRN	4.25	07/06/16	2,000	1,997
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	22/11/13	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
05/08/13	Members Equity Bank	TD	4.20	04/11/13	2,000	2,000
08/08/13	Bank of Queensland	TD	4.00	06/11/13	3,000	3,000
08/08/13	Newcastle Permanent Bld Society	TD	3.81	06/11/13	2,000	2,000
12/08/13	ING Bank Ltd	TD	3.94	10/02/14	2,000	2,000
12/08/13	Heritage Bank	TD	4.10	10/02/14	2,000	2,000
15/08/13	National Australia Bank	TD	3.79	13/11/13	1,000	1,000
19/08/13	Members Equity Bank	TD	3.95	17/02/14	2,000	2,000
19/08/13	Members Equity Bank	TD	3.95	17/12/13	2,000	2,000
28/08/13	Bank of Queensland	TD	4.00	26/11/13	1,000	1,000
23/04/04	Deutsche Bank	FRN	3.74	23/04/14	2,000	1,991
23/04/04	Deutsche Bank	FRN	3.74	23/04/14	2,000	1,991
Totals					83,308	82,708
TD=Term Deposit		FRN=Floating Rate Note			FND=Managed Fund	
		FRTD= Floating Rate Term Deposit				

RECOMMENDATION

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

Attachment(s)

Nil

10.3 Councillor Attendance

10.3 Councillor Attendance

Delivery Program Governance and Finance

Objective To provide Councillors with professional development opportunities.

Background

The Councillor Expenses and Facilities Policy requires Council approval for attendance by Councillors, excluding the Mayor, at conferences outside the region (Richmond, Tweed, Clarence).

Cr Jeff Johnson has expressed an interest in attending the 2013 Coastal Conference to be held in Port Macquarie from 12 – 15 November 2013. Council normally sends delegates to this Conference. Other Councillors may also be interested in attending.

Key Issues

- Benefit of the conferences and cost

Information

A draft conference program as at 28 August 2013 is attached. Registration is \$840 per person. Travel costs, accommodation and some meals would be in addition to this cost.

Sustainability Considerations

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

Legal / Resource / Financial Implications

Funds are available within the Council's professional development budget to finance these expenses.

Consultation

Provided for public information.

10.3 Councillor Attendance

Options

Approve or not approve the travel. Typically Council sends delegates to the NSW Coastal conference.

RECOMMENDATION

That Council approves the attendance of Cr Jeff Johnson to the 2013 Coastal Conference to be held in Port Macquarie from 12 – 15 November 2013.

Attachment(s)

1. Draft Coastal Conference Program

10.4 Ward Committees - Membership

10.4 Ward Committees - Membership

Delivery Program Governance and Finance

Objective To obtain approval to amend the membership of the "B" Ward Committee.

Background

A further nomination has been received for the "B" Ward Committee from the Lennox Head Alstonville Surf Life Saving Club Inc.

Key Issues

- Suitability for membership

Information

A nomination has been received from the Lennox Head Alstonville Surf Life Saving Club Inc. A copy of the nomination is attached to this report.

Legal / Resource / Financial Implications

Nil

Consultation

Expressions of interest were called and closed on 23 November 2012.

Options

The options are to approve or not approve the nomination. The Ward Committees are one of the primary avenues for community members to provide direct feedback to Councillors and staff. The Lennox Head Surf Lennox Head Alstonville Surf Life Saving Club Inc is a long standing community based group and the recommendation is to support the nomination.

RECOMMENDATION

That Council approves an additional membership to the "B" Ward Committee from the Lennox Head Alstonville Surf Life Saving Club Inc.

Attachment(s)

1. Letter from Lennox Head Alstonville Surf Life Saving Club

10.5 Community Donations

10.5 Community Donations

Delivery Program Governance

Objective To invite Council to consider additional requests for financial assistance.

Background

Council approved a large number of donations at the July 2013 Ordinary Meeting for the 2013/14 financial year. Since that time additional requests have been received and generally applicants are advised to reapply next financial year to allow Council to assess all applications at the one time. However the donations policy does allow applications to be submitted to Council where there may be exceptional circumstances. The applications in this report are deemed to represent exceptional circumstances.

Key Issues

- Community benefit
- Funding available

Information

Lennox Head Landcare

The Lennox Head Landcare Waterwatch activity involves community groups and schools monitoring the conditions of the local waterways. They are seeking funds to provide chemicals, pH paper and filter paper for their program. The request was forwarded in early May and they were advised an application form was to be completed and returned to Council in order to be eligible for consideration. The form was not received and the application was not considered along with the other applications in July. The amount they seek is \$350. The letter and application are attached to this report.

Ballina RSL Sub-Branch (Youth Club)

The Ballina RSL Youth Club operates under the auspices and oversight of the Ballina RSL Sub-Branch. The Club is asking Council to pay the full cost of the Council rates for the 2013/14 rating period, which amount to \$5,770.78 (this includes an estimate of water based charges). In the previous financial year Council resolved to donate the ordinary rate, which did not include water, waste and wastewater. The ordinary rate for 2013/14 is \$3,141.83. An application is attached to this report.

10.5 Community Donations

At one stage this property was included in the Council Policy titled “Donations – Rates and Charges”, which outlines all the community based organisations that receive a recurrent donation of rates and charges each year. When this policy was reviewed in 2011 a number of properties that were considered to be one-offs, or inconsistent with the intent of the policy, were removed from the document. This was one of the properties removed with the policy now focusing on categories of groups such as Surf Clubs, Pre-schools, Public Halls and Scout and Girl Guides.

William John Townend – DA 2013/311

W J Townend has requested a refund of \$600 relating to lodgement fees of DA 2013/311 on behalf of Alstonville Community Preschool Inc, being a not-for-profit organisation. A letter requesting the donation is attached.

If Council provides this reimbursement the preference would be to provide it direct to the Alstonville Pre-school rather than providing a donation to a paid consultant. The Pre-school can then use the funds to pay the consultant. This is considered to be a more transparent process.

Westpac Life Saver Rescue Helicopter

The Westpac Life Saver Rescue Helicopter provides a free aero medical rescue service to the community seven days a week in the northern region of NSW. The rescue service is requesting a donation of \$1,000 towards training costs for two crew members to complete the Swiftwater Rescue Operator Course. Council has approved similar requests for this amount in previous years.

A letter and application are attached to this report.

- **Environment**
Not Applicable
- **Social**
Donations can provide significant community benefits.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

The current status of the donation budgets for 2013/14 is as follows:

Items	Budget	Allocated	Balance
Donations (General)	65,000	56,050	8,950
Donations (Halls)	40,854	40,854	0
Donations (DA Fees)	3,000	3,000	3,000
Net Amount Available			11,950

10.5 Community Donations

Consultation

The annual donations program is subject to formal public exhibition and Council attempts to ensure that all donations are considered at the same time to ensure there is equity in the allocation process.

Options

The options are to approve or not approve the requests. Both options are provided as the allocation of donations is a matter for the elected Council.

RECOMMENDATIONS

Option A

That Council approves the following donations as per the contents of this report:

- a) Lennox Head Landcare - \$350 (Waterwatch activity)
- b) Ballina RSL Sub-Branch (Youth Club) - \$3,141.83 (2013/14 rates)
- c) Alstonville Community Pre-school - \$600 (DA fees)
- d) Westpac Life Saver Rescue Helicopter - \$1,000 (training costs)

OR

Option B

That Council not approve the additional donations outlined in this report, as it is inequitable to consider these donations in isolation when many other applicants were not provided funding as part of the 2013/14 donations assessment. The applicants are to be encouraged re-apply for a donation as part of Council's 2014/15 donations program.

Attachment(s)

1. 2013/2014 Community Donations Applications Form - Lennox Head Landcare
2. 2013/2014 Community Donations Application Form - Ballina RSL Sub Branch
3. Letter from WJ Townend DA 2013/311 (including DA Fee Sheet & Receipt Copies)
4. 2013/2014 Community Donation Application Form - Westpac Life Saver Rescue Helicopter

10.6 Wardell Hall - Land Classification

10.6 Wardell Hall - Land Classification

Delivery Program Commercial Services

Objective To reconsider land classification of the Wardell and District War Memorial Hall.

Background

At the Ordinary Meeting held 28 February 2013, Council resolved to purchase the Wardell and District War Memorial Hall. The resolution is as follows:

- 1. That Council approves the purchase (i.e. transfer) of the Wardell and District War Memorial Hall into Council ownership and authorises the General Manager to enact all actions necessary for this purchase.*
- 2. That Council authorises the establishment of a standard Council licence agreement for the hall, with a local Hall Management Committee.*
- 3. That Council ask the Hall Management Committee, once established, to confirm a scope of works for immediate and urgent works to the hall, based upon the report prepared by Techton.*
- 4. That the funding for the agreed works be allocated from the Wardell Town Centre upgrade budget, up to a limit of \$20,000.*
- 5. That Council resolve to classify the land as operational land under the Local Government Act 1993, affording Council with greater flexibility for the use of the land in the future.*
- 6. That Council approves the Council seal to be attached to any legal documentation required to acquire the property, being situated upon Lot 1 DP 312334, be that a Contract for Sale of Land, Deed of Transfer, or any other legal documentation. Further, that consent to affix the Common Seal also be granted to the Lease Agreement to be drafted between Council and the yet to be appointed Hall Management Committee.*

The purpose of this report is to reconsider Item five of the resolution.

Key Issues

- Operational or community land
- Original status of hall

Information

The Wardell and District War Memorial Hall is located on freehold land with private trustees appointed under the Trustees of Schools of Arts Enabling Act 1902.

10.6 Wardell Hall - Land Classification

Section 54B of the Local Government Act (LGA) deals with the transfer of private trust land, under the Trustees of Schools of Arts Enabling Act 1902. Section 54B (5) of the LGA, in summary, states that land transferred to a council, under such an agreement, is to be managed by the council as community land.

As this is inconsistent with point five of the original resolution it is necessary to classify the hall as community land.

Section 54B of the LGA is established to ensure that Schools of Arts facilities carry the same status if they are being transferred from the control of one community based group (i.e. a School of Arts Trust) to another community organisation (i.e. a council).

There could be an argument that if a council purchases such a hall then this clause does not apply however as Council is effectively paying nothing for this land, this is most likely classified as a transfer and section 54B (5) applies.

In respect to the other halls in the shire located on Council owned land the land classifications are as follows:

Wigmore Hall – Community land
Wollongbar Hall – Community land
Newrybar Hall – Community land
Northlakes Community Centre – Community land
Pimlico Hall – Operational land
West End Hall – Operational land

Council facilities, such as the Kentwell Centre and ALEC are on operational land, whereas many of the other shire halls and facilities such as the Richmond Room, Lennox Head Community Centre, Meerscham Vale Hall, McLeans Ridges Hall, Rous Mill Hall, Tintenbar School of Arts, Wardell District War Memorial Hall and Pearces Creek Hall are on Crown land.

The primary reason that the preference for facilities of this nature, located on Council land, to be classified as operational land is that the community land classification places a number of limitations on licences / leases and short term occupation of the land. These restrictions are outlined in Section 116 of the Local Government (General) Regulation and Section 46 of the LGA.

With many of these halls licensed by Council to community based groups a classification of operational land assists those groups and also Council by minimising the bureaucracy associated with managing the halls.

Sustainability Considerations

- **Environment**
Not applicable
- **Social**
Community halls can provide a focal point for community interaction

10.6 Wardell Hall - Land Classification

- **Economic**

Whilst community halls may be considered a social asset, they can be a financial liability and there will be future capital outlays for this building.

Legal / Resource / Financial Implications

It is a requirement of S54B (5) (b) of the LGA that land transferred by a private trust to a council be used and managed by the council as community land.

Consultation

This report is provided for public information.

Options

Based on Section 54B there appears to be no other option then to classify Lot 1 DP 312334 as community land under the LGA, upon settlement of the transfer.

RECOMMENDATION

That based on the contents of this report Council confirms that the classification of Lot 1 DP 312334, once transferred to Council, is to be community land under the Local Government Act 1993.

Attachment(s)

Nil

10.7 Council Land Reclassification - 21 Compton Drive, East Ballina.

10.7 Council Land Reclassification - 21 Compton Drive, East Ballina.

Delivery Program Commercial Services

Objective To consider a proposal to reclassify Lot 1 DP 781542 at 21 Compton Drive, East Ballina, from Community Land to Operational Land for the purpose of the Local Government Act 1993.

Background

A report was submitted to the Commercial Services Committee meeting on 26 March 2013 for an application to lease an area of Council land, being Lot 1 DP 781542, classified as community land pursuant to the Local Government Act 1993. The following recommendations of the Committee (one to five) were adopted by Council on 28 March 2013 (item six was added at the Council meeting):

- 1. That Council approves the publication notification process as per Section 47(1) (2) of the Local Government Act 1993 to the lease of Lot 1 DP 781542 for the purposes of a restaurant/café as per information outlined in this report.*
- 2. That Council approves a lease of approximately 32.6m², being the encroachment area of the Compton Drive road reserve fronting Lot 1, with the terms of the lease to be based on Council's standard conditions and the rental based on an assessment of the market valuation.*
- 3. That Council approves a lease of approximately 100m², being the encroachment area of the Compton Drive road reserve fronting Lot 3 DP 525783 and rental based on an assessment of the market valuation.*
- 4. That the use of the common seal of Ballina Shire Council be granted to affix to the Deed of Lease or any other associated legal documents pertaining to the lease of Lot 1 DP 781542, the lease of the encroachments upon the Compton Drive road reserve fronting Lot 1 DP 781542, and/or the lease of the encroachments upon the Compton Drive road reserve fronting Lot 3 DP 525783.*
- 5. That Council receive a further report on the merits of reclassifying Lot 1 DP 781542 from community to operational land.*
- 6. That any valuations be based on a commercial valuation.*

The purpose of this report is to deal with Item five of the adopted resolution. A locality plan for Lot 1 is **attached** to this report.

Key Issues

- Suitable classification - community land or operational land

10.7 Council Land Reclassification - 21 Compton Drive, East Ballina.

Information

Lot 1 is a small 158.1m² pocket of land located on the Compton Drive escarpment, classified as community land, and bounded by the Compton Drive road reserve to the East; part of the Coogee Street road reserve (a public pathway/stair) to the South; Lot 3 DP 525783, a freehold land parcel to the North; and Lot 11 DP 21531, a freehold land parcel to the West.

Lot 1 has been leased for at least the past 15 years to owners or lessees of the adjoining restaurant site to the north, Lot 3 DP 525783 (Lot 3), for the location of the restaurant cool room and storage due to the site constraints of Lot 3.

Within Council's "Land Register and Principal Generic Plan of Management for Community Land", Lot 1 is noted as containing improvements associated with the adjoining restaurant/café on Lot 3, with the use being noted as:

"The use of the lease area adjoining Shaws Bay Café for its use..."

The Local Government Act 1993 (LGA) requires that all land in Council ownership be classified as either operational land or community land.

Upon commencement of the LGA, Council was required to identify which Council owned land it wanted to classify as operational land. All other Council owned land became classified as community land by default.

Because Lot 1 was owned by Council upon commencement of the LGA and was not identified for classification as operational land, it has been classified as community land since 1993.

Council may deal with operational land without any restrictions under the LGA. Such land is generally held and used in connection with Council's administrative operations, utilities (water, waste, waste water), leases and licences and/or for commercial activities.

Community land consists typically of open space owned by Council for which there is a range of management requirements under the LGA to ensure that these community assets are retained and managed for the benefit of the community.

The LGA prohibits the sale of community land and imposes restrictions on the lease, development and use of that land.

The reclassification of community land to operational land can only be undertaken through an amendment to the Ballina Local Environmental Plan (BLEP). This will require a planning proposal to be prepared by Council and submitted to the NSW Department of Planning and Infrastructure (the Department). The Department will then issue a Gateway determination indicating whether the matter should proceed.

Where the Department determines that the matter should proceed, it will indicate whether any further studies or information is required, as well as the requirements for community and agency consultation.

10.7 Council Land Reclassification - 21 Compton Drive, East Ballina.

Should Council resolve to proceed with the reclassification of Lot 1, an application for an amendment to the BLEP will need to be submitted to Council's Strategic and Community Facilities Group, following which a planning proposal will be drafted and reported to Council. Upon endorsement, the planning proposal is then submitted to the Department for a Gateway determination (preliminary approval) following which the statutory public exhibition and community consultation processes take place, including the requirement to hold a public hearing.

The outcomes of the public exhibition and community consultation process are then reported to Council prior to the submission of the planning proposal for final approval and Gazettal by the Minister for Planning and Infrastructure.

Sustainability Considerations

- **Environment**
Not applicable
- **Social**
This land is currently leased for commercial purposes with restaurants allowed on community land due to their social nature.
- **Economic**
As above

Legal / Resource / Financial Implications

The reclassification of the land can be undertaken within the available resources of Council. The reclassification of Lot 1 would make it easier to deal with anticipated future leasing requests from the owner or the lessee of the adjoining Lot 3, the restaurant site, or otherwise enable Council to consider the sale of the 158.1m² parcel of land to realise its commercial value.

The operational classification would more aptly reflect the characteristics of the small parcel of land.

Consultation

Should Council resolve to apply for the reclassification of Lot 1 a public consultation process is conducted along with a public hearing.

Options

The options for consideration are to either commence the process for reclassification to operational land or not. Due to the nature, limited size, location and likely ongoing requests to lease the land, the most appropriate classification for this land is considered to be operational and the recommendation is to commence the reclassification process.

RECOMMENDATION

That Council approves the commencement of the process for the reclassification of Lot 1 DP 781542 situated at 21 Compton Drive, East Ballina, from community to operational land.

Attachment(s)

1. Locality Plan

10.8 Lennox Head Bowling Club - Lease

10.8 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

Council considered a request from Club Lennox in respect to reducing the rent for the Lennox Head Bowling Club at the August 2013 Ordinary meeting. As a result of that report the following resolution was passed:

That a Councillor briefing be held on this matter with Club Lennox being invited to attend.

The Councillor briefing was held on 4 September 2013.

Following this briefing little has changed in respect to the original report and as such the same report is now produced as follows.

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.

10.8 Lennox Head Bowling Club - Lease

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.

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.

10.8 Lennox Head Bowling Club - Lease

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.
- 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 to 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

10.9 Policy (Review) - Commercial Activities on Public Land

10.9 Policy (Review) - Commercial Activities on Public Land

Delivery Program Open Spaces & Reserves

Objective To consider submissions to the public exhibition of changes to the Commercial Activities on Public Land Policy.

Background

At the July 2013 Ordinary meeting Council considered a number of recommended changes to the "Commercial Activities on Public Land" policy. As a result of that report Council resolved to exhibit the changes for public comment. As part of this review Council also held a Councillor briefing on Tuesday 6 August 2013 to consider any other matters of interest.

The report that follows provides a review of the submissions received, along with matters raised during the Councillor briefing.

Key Issue

- Feedback from public exhibition and Councillor briefing

Information

The resolution arising from the July Ordinary meeting was as follows:

That Council approves the public exhibition of the following draft amendments to the existing Commercial Activities on Public Land Policy and associated guidelines:

- a) licences for the Surf Schools, Elite Coaching and Stand Up Paddle Boards, may be renewed, if requested by existing licence holders, without proceeding to tender, subject to satisfactory performance by the operator and subject to determination by Council*
- b) if an existing licence holder does not wish to renew their licence or surrenders their licence during the licence period, expressions of interest (EOI) will be called for that vacant licence*
- c) the term of the licences will be for a three year period, or part thereof, when a licence becomes vacant*
- d) the EOI process in point b) will identify that the licence fee will remain the same as the other licences provided by Council to ensure equity in licence fees*
- e) a key criterion in the EOI selection process in point b) will be for new operators to have a strong focus on direct promotional / tourism benefits to Ballina Shire*

10.9 Policy (Review) - Commercial Activities on Public Land

- f) the number of Elite Surf School licences available is to be increased from four to six*
- g) the number of licences allowed per operator is one licence per activity (i.e. one operator is allowed to have a maximum of one licence for a Surf School, one for the Elite Surf Schools and one for Stand Up Paddle Boarding).*
- h) the licence fee on renewal of these licences is to be determined as follows (currently clause 5.14 (f))*

For Surf Schools, Elite Surf School and Stand Up Paddle Boarding, which are all offered longer term licences (typically three years) Council will determine the preferred method of confirming the value of these licences towards the term of the licence. Options for determination will include, but not be limited to, indexing at or above CPI, independent valuation, price based on turnover or calling fresh tenders for the licence.

- 2. That Council write to the existing licence holders to obtain their feedback on this proposal, as part of this consultation process.*
- 3. That Council receive a further report on this issue following the close of the exhibition period.*
- 4. That Council hold a Councillor briefing on the Commercial Activities on Public Land policy prior to placing the information on public exhibition.*

The existing policy, inclusive of the changes identified in this resolution was exhibited during August and early September. A copy of that document as exhibited is attached. Correspondence was also sent to all existing licence holders.

As a result of this consultation Council received one submission, a copy of which is attached to this report. The points raised in the submission follow, with the information included in Council's correspondence in italics.

- a) The previous policy required expressions of interest (EOI) / tenders to be called for licences for Surf Schools, Elite Coaching and Stand Up Paddle Boards. Under the amended policy Council now has the option of not calling EOIs / tenders, thus allowing existing licence holders to have their licence renewed without going through a formal tender process. Any decision on this will be made by the elected Council prior to the expiry of existing licences.*

Submission – Supports this change

- b) However, if an existing licence holder does not wish to renew their licence or surrenders their licence during the licence period, Council will call EOIs for that vacant licence to ensure that this opportunity is opened up to all interested parties.*

10.9 Policy (Review) - Commercial Activities on Public Land

Submission – The submission asks for first preference to be provided to existing licence holders. This is not supported as the objective of Council should be to open up the market to all interested parties, not just existing licensees.

- c) *The number of Elite Surf School licences available is proposed to be increased from four to six.*

Submission – Supports this change.

- d) *The number of licences allowed per operator is one licence per commercial activity (i.e. one operator is allowed to have a maximum of one licence for a Surf School, one for the Elite Surf Schools and one for Stand Up Paddle Boarding).*

Submission – Does not support the restriction of one licence per activity. This matter was debated by Councillors and the restriction of one licence per operator was the preferred approach. The proposal for the submission is to limit the licences to 40% of the market.

It is clear that Mojo is trying to expand and build their business and ultimately this is a philosophical question for Councillors to assess whether or not 40% of the market is preferred, or a limit of one licence per operator. Currently a total of five surf schools are permitted, so 40% would represent two licences for this type of activity. No change is recommended based on previous feedback by Councillors.

- h) *The licence fee on renewal of the Surf School, Elite Coaching and Stand Up Paddle Boards will be determined by the elected Council who will consider a range of factors such CPI, independent valuation or a price based on turnover.*

Submission – Supports, albeit that the support will depend on the actual price set.

The final attachment to this report is a submission from Kool Katz, with this submission considered at the July Ordinary Meeting. The points raised in the submission were addressed at that meeting and were largely reflected in the policy, as exhibited.

Other Matters – Councillor Briefing

At the Councillor briefing held on Tuesday 6 August 2013 there were five main points raised:

- 1) Possible reduction in class numbers for surf schools from 20 to 14 – Mojo has previously spoken against this as their infrastructure (transport etc) is based on 20 per class – This change was not included in the exhibited policy and it is a matter for Councillors to determine whether they wish to reduce the numbers. From a staff perspective there are concerns that if all five surf schools are operating, with 20 per class, in close proximity, this could create difficulties and amenity issues, but to date this has never happened as classes are typically well below the 20.

10.9 Policy (Review) - Commercial Activities on Public Land

As there have been no problems in practice, no change is recommended to the policy as exhibited.

- 2) Review of the fee structure for licences that are automatically renewed – This was included in the exhibited policy – Refer to clause 5.14(h)
- 3) Providing a reduction in licence fees for operators who already own / operate a commercial business – This was discussed at length with the example given of a person who has a business operating in Ballina, such as a gym, being provided a reduced price for their commercial activity licence.

This could possibly be more relevant to the annual licence fees for activities such as bootcamps which currently carry an annual fee of \$1,000.

The thinking behind this idea is to support business operators who own or occupy commercial premises and are paying commercial rates etc that other commercial activity licence holders do not have to pay.

The difficulty with implementing this proposal is to ensure it can be applied fairly and equitably. Matters that would need to be clarified include what is defined as a business; i.e. a person could be operating a business from home and not from commercial premises.

Also are all businesses included even if they have no nexus to the commercial activity licence? Does the reduction only apply to business owners or to employees?

There could possibly be Trade Practices issues with this in that a licence holder without a business could argue they are being treated unfairly.

If Council wishes to head in this direction we need to clarify exactly the type of businesses that are eligible.

No change is recommended and Council can seek further information on this as it relates largely to the annual fee structure for one year licences.

- 4) Exclusion of Lighthouse Beach – The beaches allowed is not mentioned in the policy as they form part of the Policy Guidelines, which assist in the day to day operation of the licenses (copy available in the policy section of Council's website). The guidelines states that licensees:

are permitted to operate at all shire beaches north of the Richmond River up to the Shire border at Seven Mile Beach, Lennox Head including the Richmond River and its tributaries.

If Council wanted to remove Lighthouse Beach, then the recommendation would be to remove it only for Surf Schools and Stand-up Paddle Boards licences. This would still allow activities such as bootcamps to be conducted in this location.

10.9 Policy (Review) - Commercial Activities on Public Land

This change has not been recommended as to date the impact on Lighthouse and Shelly Beach (being the beach traditionally patrolled) has been minimal with surf school operators tending to focus on Flat Rock, Sharpes and Seven Mile Beaches and the Richmond River.

- 5) No refunds when stop operating – This was included in the exhibited policy - Refer to clause 5.14(f))

Staff Feedback

Council's Acting Manager – Open Spaces and Reserves has highlighted that the industry guidelines have changed for the student / instructor ratio for Kayak and Canoe Tour Operators. The guidelines now allow a varying number of students per instructor.

Presently the Council policy allows one instructor per four kayaks/canoes. We have a local operator who is applying for a license and is restricted commercially by this current ratio and would like an update made to be in line with the industry code prepared by Australian Canoeing.

Based on the industry code the Kayak Canoe Tour Student – Teacher ratio should read:

- 1 instructor per 4 clients - high risk
- 1 instructor per 12 clients - low risk

This change is supported.

Fees and Charges

In respect to the fees for commercial activities, Council's 2013/14 fees and charges document includes the following structure:

Description	Amount (\$)
New - Application Fee	140
Annual Licence Fees	
Very Low Impact	122
Low Impact	570
Medium Impact	1,000
High Impact	1,600

These fees are now GST exempt (for 2013/14 onwards) following a Tax Office ruling.

The Commercial Activities Policy clarifies impact levels as follows:

Very Low

- Ecotourism tours
- Personal fitness trainers
- Horse riding access to South Ballina Beach

10.9 Policy (Review) - Commercial Activities on Public Land

Low Impact

Hot air ballooning
Dog training classes
Kitesurfing
Kayaking and canoeing
Wind surfing
4WD fishing tours
Guided bike tours
Sailing schools
Pony Rides for Private Parties

Medium Impact

Bike hire
Skydiving
Hang gliding and paragliding
Group fitness training
Commercial fishermen
Beach horse riding
Commercial use of public wharves and pontoons

High Impact

Sea plane rides
Helicopter rides

No change is recommended to the fee structure, however as the policy has now been amended to allow Surf School licences (including Elite Surf Coaching and Stand Up Paddle Boarding) to be automatically renewed without going to tender, Council needs to set a new fee for those activities, as the existing three year licences expire on 31 January 2014.

The current annual fees for these licences are as follows (GST inclusive):

- Surf Schools - \$3,151 (original figure was \$2,700 subject to CPI)
- Elite Surf Coaching - \$1,125 (original figure was \$1,000 plus CPI)
- Stand Up Paddle Boarding - \$1,125 (original figure was \$1,000 plus CPI)

The original licence figures were set by tender.

The current fees were set for the period 1 February 2013 to 31 January 2014 and with GST no longer applicable, from 2013/14 onwards, the current GST exempt fees would be:

- Surf Schools - \$2,865
- Elite Surf Coaching - \$1,023
- Stand Up Paddle Boarding - \$1,023

Council now needs to determine a methodology for determining the fees for the renewal of the three year licences.

The fact that these licences can be automatically renewed without tenders being called is a significant benefit to licence holders.

Also as the licences can be issued for three years, as compared to one year for all other licences, this is another benefit to the licence holder.

10.9 Policy (Review) - Commercial Activities on Public Land

The policy still states that licences cannot be transferred (clause 5.10 (b)) which stops licences be sold. The selling of licences would potentially create all sorts of issues especially when significant prices are then paid for a licence and the new licence holder has an expectation that the licence will continue in perpetuity and be able to be on-sold again at a future date.

The fact that licences cannot be on-sold does counter balance some of the benefits of the licence being renewed without going to tender

The next table provides possible fee increases based on a range of percentages.

Fee Options (GST Exempt)

Licence	Existing Fee	5%	10%	20%	50%
Surf Schools	2,865	3,000	3,200	3,400	4,300
Elite Surf	1,023	1,100	1,100	1,200	1,500
Stand-Up	1,023	1,100	1,100	1,200	1,500

One other issue is whether or not there should be a larger differential between the Surf Schools and the other two licence types.

Elite Surf Coaching and Stand-up Paddle Boards can have up to seven clients but mostly have two to three clients. Surf Schools can have up to 20 with classes ranging from 10 to 20. In looking at this relativity, Surf School prices should most likely be set at least three and possibly four times more than the smaller schools. The current pricing largely reflects this range.

Overall there is considered to be a significant benefit to existing licence holders by not going to tender which has increased the value of their licences. Therefore the preferred option is to increase the existing fees by the figure of 20% to reflect that increase in value.

This is a subjective assessment and Councillors can select any percentage considered to reflect the community value of these licences.

Any new fee structure will still be subject to annual CPI increases in the three year licence agreements and the fee will also be applied for the expression of interest process that is needed for the three vacant licences for Elite Surf Coaching. Currently there are no other vacant three year licences.

Sustainability Considerations

- **Environment**
By managing the licences Council is taking steps to minimise any negative impacts on the environment.
- **Social**
Commercial activity licences provide a social activity for participants.
- **Economic**
Council generates a return on the licences and there may be some tourism benefits by having the licences available.

10.9 Policy (Review) - Commercial Activities on Public Land

Legal / Resource / Financial Implications

There are limited implications from this report with it mainly completing a review of the Commercial Activities Policy.

There will still need to be an expression of interest process conducted for the three vacant Elite Surf School licences, albeit that this will be far less resource intensive than the original tender three years ago.

At that time a tender process was conducted for the Surf Schools, Elite Surf Schools and Stand Up Paddle Board licences.

Consultation

The amended policy was placed on exhibition for public comment.

Correspondence was sent to the existing licence holders.

A Councillor briefing was also conducted.

Options

The options relate to the amendments to the exhibited policy along with the revised fee structure for the three year licences.

There are numerous options in respect to these two items and the recommendations that follow reflect the contents of the information section of this report.

The recommendation also includes the offering of the three year licences for Surf Schools, Elite Surf Coaching and Stand-up Paddle Boards, as the way the policy is currently worded, the elected Council needs to make this decision every three years.

RECOMMENDATIONS

1. That Council adopts the revised Commercial Activities on Public Land Policy, as exhibited and as attached to this report, subject to the following change:
 - a) Kayak Canoe Tour Student – Teacher ratio to read:
 - 1 instructor per 4 clients - high risk
 - 1 instructor per 12 clients - low risk
2. That Council approves the issuing of new three licences to the existing licence holders for Surf Schools, Elite Surf Coaching and Stand-up Paddle Boards.
3. That Council confirms that the annual licence fees for year one of the new three year licences are to be as follows (Ex GST):
 - a) Surf Schools - \$3,400
 - b) Elite Surf Coaching - \$1,200
 - c) Stand Up Paddle Boards - \$1,200
4. The fees are subject to annual CPI adjustments.
5. That Council authorises the General Manager to call for expressions of interest for any vacant three year licences based on the amended policy and revised fee structure.

Attachment(s)

1. Commercial Activities on Public Land Policy as exhibited
2. Submission from Mojo Surf
3. Email from Kool Katz

10.10 Policy (Review) - Councillor Expenses and Facilities

10.10 Policy (Review) - Councillor Expenses and Facilities

Delivery Program Governance

Objective To review the Councillor Expenses & Facilities policy.

Background

Section 252(1) of the Local Government Act requires that within five months after the end of each year, a council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.

This last review was undertaken in October 2012. The policy was endorsed for public exhibition with some minor clarification regarding carers and timeframes for submission of expenses claims.

Councillors also sought a further report on options for clause 3.2.1 of the policy – Telecommunications including Internet. This report was submitted to the January 2013 meeting where the policy was placed on exhibition with changes to Clauses 2.1.2 and 3.2.1. The current policy was adopted in March 2013.

Key Issues

- Cost and benefit of facilities provided
- Ensuring the service remains contemporary

Information

The existing policy has been reviewed and some minor amendments are recommended to the Related Documentation section and rates have been updated in the table in Clause 2.1.2 in accordance with the latest Australian Taxation Office Declaration – reference number 2013/16.

In respect to Travel Outside the Region (clause 2.2.2) Council has received advice from ICAC in respect to the misuse of Council resources and one issue raised is that frequent flyer points should not be accumulated for personal benefit (i.e. council travel should not be associated with an individual's personal frequent flyer account). This sentence has therefore been included in the revised document.

Any changes are highlighted in yellow.

Sustainability Considerations

- **Environment**
Not Applicable

10.10 Policy (Review) - Councillor Expenses and Facilities

- **Social**

The Expenses and Facilities Policy is designed to assist Councillors in undertaking their role as an elected member of the community.

- **Economic**

Budgets are provided for Councillor equipment.

Legal / Resource / Financial Implications

Council is legally required to review this policy within five months of the end of the financial year.

Consultation

The Local Government Act requires changes to the Expenses Policy to be exhibited for public comment.

Options

The options are to endorse the changes outlined in this report for exhibition, amend the proposed changes or not make the changes. The recommendation is to proceed to exhibition.

RECOMMENDATION

That Council authorises the exhibition of the amended Councillor Expenses and Facilities Policy, as attached to this report.

Attachment(s)

1. Councillor Expenses and Facilities Policy

10.11 Policy (Review) - Councillor Training and Development

10.11 Policy (Review) - Councillor Training and Development

Delivery Program Governance and Finance

Objective To review the Councillor Training and Development Policy.

Background

Council has an adopted practice of reviewing all policies during the term of the elected Council to ensure our policies remain contemporary. A timetable has been established by staff to ensure the policy reviews are distributed over the entire term of the Council and the purpose of this report is to review the Councillor Training and Development Policy. This policy provides an overview of the types of training that will be made available to Councillors.

The report that follows provides a review of the policy and at the same time the report ensures that all parties are familiar with the policy's contents.

Key Issues

- Policy contents
- Relevance

Information

It is essential that Councillors are adequately trained in their roles and responsibilities. This is especially important for newly elected officials, who may not be fully informed on the multitude of responsibilities and services carried out by a local authority.

The policy, as attached, was first formulated in 2008 to try and set clear boundaries around Councillor training and development. It is fair to say that this was a difficult policy to formulate as there are many different types of training available to Councillors and ultimately it is a matter for Councillors to identify training / conferences they wish to attend.

The checks and balances on attending training is provided by the elected Council approving all requests for attendance at training / conferences outside this region.

The attached policy identifies the Councillor Induction Program, the Relationship between Councillors, General Manager and Staff, Meeting Procedures, and Conflict of Interest and Code of Conduct policies, as training that is considered imperative. The Councillor Induction Program for this term of Council included briefings on all of these items, with the majority of Councillors attending each information session.

10.11 Policy (Review) - Councillor Training and Development

Even though the policy has limitations it provides a sound platform for clarifying the type of training and development on offer and it is recommended that the policy be retained, subject to a number of minor modifications as highlighted in yellow in the attached document.

Sustainability Considerations

- **Environment**
Appropriate information and resources assist Councillors to better understand and undertake their roles and responsibilities. Councillor decision making, on behalf of the local community, can have significant environmental, social and economic consequences.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

A training budget is provided for Councillor development.

Consultation

The recommendation is to exhibit the policy for public comment

Options

Council may accept or amend the policy as presented. The recommendation is to adopt the amended policy as the changes recommended are largely cosmetic. It is also recommended that the policy be exhibited for public comment and if no submissions are received from the exhibition process that no further action is required

RECOMMENDATIONS

1. That Council adopts the amended Councillor Training & Development Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Councillor Training and Development Policy

10.12 Policy (Review) - Donations - Rates and Charges

10.12 Policy (Review) - Donations - Rates and Charges

Delivery Program Governance and Finance

Objective To consider amending the current Donations - Rates and Charges Policy to include waste charges for Volunteer Marine Rescue NSW (Coast Guard Tower North Wall East Ballina).

Background

This matter has arisen as a result of a request made by Lorraine Leuckel (representing Volunteer Marine Rescue NSW - VMR) at the "B" Ward Council Committee Meeting held on 15 July 2013.

The request was for Council to supply a mixed waste and recycling bin collection service free of charge for the Marine Rescue NSW tower located adjacent to the Richmond River north breakwater wall at the southern end of Lighthouse Parade East Ballina. These services are not currently utilized or provided to VMR.

Mrs Leuckel has provided verbal advice that VMR is a volunteer organisation that receives a grant of around \$16,000 per annum from the NSW Government. Their annual costs are around \$55,000 per annum and the shortfall in funds is met by the organisation's fund raising efforts within our community.

Mrs Leuckel has also confirmed that for many years the volunteers have been collecting the waste and recycling material generated by the tower operations and disposing of it using their home collection service. Occasionally they have paid for the disposal of waste material at our Waste Management Centre.

Key Issues

- Eligibility and suitability for donation

Information

The purpose of our current Rates and Charges donation policy is to provide financial assistance to community based organisations having limited resources, to assist these organisations in providing their particular community service.

The VMR meet the objective of our policy above and also meet the eligibility criteria outlined within the policy namely:

1. VMR is a not for profit organisation and provides a community service within the Ballina local government area, and
2. VMR is located on community controlled land (ie Crown Land being State Government owned land).

Our current policy is divided into three donation categories being:

10.12 Policy (Review) - Donations - Rates and Charges

1. Category “A” – Organisations that receive a donation of all rates and charges. There are currently five organisations within this category - three Surf Life Saving Clubs (Lennox plus Ballina Junior and Senior Clubs) and two Country Women’s Association halls, which are subject to 99 year leases.
2. Category “B” – Organisations that receive a donation of rates and charges excluding any user based charges (eg water consumption, wastewater usage, or waste/recycling charges). There are currently twenty five organisations within this category primarily made up of preschools and community halls.
3. Category “C” – This category is for the donation of wastewater charges for two non rateable properties within our backlog wastewater program. This is irrelevant for this report.

If Council wishes to provide the requested recurring annual waste and recycling collection service charges donation to VMR, the property must be included within category “A” of our policy, as only category A receive exemptions for usage related charges.

Importantly VMR currently pay no general rates as the building is located on crown land that is not separately valued for rating purposes. They are not charged for water and wastewater charges as the building is connected to the public toilets and public showers and due to the public use Council pays for all water and wastewater charges through our open spaces program.

This could potentially all change once the new building is constructed as it is highly likely the facilities will all be separately metered.

If approved, the donation will result in Council providing an additional waste collection service for no additional revenue. For 2013/14, the annual cost for a commercial waste collection (weekly) is \$333 and for a recycling collection (fortnightly) is \$165. These costs include GST from 2013/14 due to a taxation ruling, so the total cost to Council (excluding GST) is actually \$303 and \$150 (total \$453) respectively.

Sustainability Considerations

- **Environment**
There is no additional environmental waste or recycling impact as a result of this matter.
- **Social**
VMR provide an important volunteer service to the community.
- **Economic**
The donation, if approved, would have a minor financial impact on Council. The VMR assist the local economy by supporting recreational boating.

10.12 Policy (Review) - Donations - Rates and Charges

Legal / Resource / Financial Implications

Council's waste collection vehicle already passes the subject location so there is no significant additional work created for the driver.

Council currently supplies new bins free of charge to properties where a new service is required, so if approved, the VMR will receive these bins free of charge.

Consultation

There has been no public consultation undertaken in regard to the VMR request.

The Donations - Rates and Charges policy has been in place for many years. A significant review was undertaken in 2010 and the new policy was placed on public exhibition prior to it being approved by Council.

Options

The options are to approve or not approve the recurring donation request from VMR. The applicant meets the criteria outlined in the policy and on balance it is considered that VMR meet the criteria for category A in that they are a safety based organisation providing a valuable community based service.

Also due to the nature of the service and the number of people involved they are unlikely to ever generate large waste, water or wastewater consumption figures. They are also unique, which again from a policy perspective, assists in Council not setting a precedent that would allow other organisations to apply for inclusion in category A.

RECOMMENDATIONS

1. That Council approves the donation of the waste and recycling collection service charges applicable for the Volunteer Marine Rescue (VMR) NSW tower property located on Lighthouse Parade East Ballina, effective from 1 October 2013.
2. That due to the nature of service provided by VMR, Council approves their inclusion in category A of the Council's Donations – Rates and Charges Policy.

Attachment(s)

Nil

10.13 Policy (Review) - Local Procurement

10.13 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

At the August 2013 Ordinary meeting Council considered a report in respect to the establishment of a local supplier / procurement policy. As a result of that report the following resolution was passed:

That a Councillor briefing be held on this matter.

This briefing was held on Wednesday 4 September 2013 and the report that now follows revisits the original report, along with discussions arising from the Council briefing.

The report to the August meeting was comprehensive and a copy has been included as the first attachment to this report.

Key Issues

- Need for Policy
- Benefit

Information

The original report outlined the various issues to be considered by Council in respect to local procurement policies and it is not intended to revisit all matters in this report. One of the reasons for the August 2013 resolution for a briefing, was due to various points raised in a deputation from the Ballina Chamber of Industry and Commerce at the meeting.

A copy of the points raised in that deputation is included as the second attachment to this report.

The Chamber had previously made a submission on this topic prior to the original report. That submission is included in the original report, as per the first attachment.

The major outcome from the Councillor briefing was reluctance by all parties present to create a convoluted and extensive process that in itself is trying to distort the market for services provided to Council. The introduction of a local procurement policy is an attempt to distort the market by providing a discount to local service providers, albeit that local needs to be clearly defined.

10.13 Policy (Review) - Local Procurement

Based on the feedback from the Councillor briefing it is now proposed to simplify the previously presented draft policy to provide a focus on local procurement. A copy of this simplified policy is included as the third attachment to this report.

Essentially the policy now states that a minimum 15% will be applied for the criterion of "Social and Community" with this criteria reflecting the impact of any purchase on the local economy. By ensuring that this criterion is a minimum of 15%, Council will meaningfully assess the impact on the local economy of the relevant procurement decision.

This is considered to be a simple and straight forward process and policy that will benefit local suppliers without overly complicating any assessment process.

The revised policy also contains references to Council's Community Strategic Plan and economic, social and environmental considerations, as mentioned in the deputation from the Chamber of Commerce.

Sustainability Considerations

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

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 may be the benefit to the local economy.

Consultation

If this substantial change to the policy is supported the recommendation would be to exhibit the policy for public comment.

Options

The options range from taking no further action to the adoption of a comprehensive local preference policy as presented in the August 2013 Ordinary meeting report.

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.

10.13 Policy (Review) - Local Procurement

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.

The revised policy now attached provides a more simplified middle ground that should assist in ensuring that local suppliers are adequately recognised in any formal tender or quotation evaluation process.

The recommendation that follows is to approve the exhibition of the draft policy for public comment. If no submissions are received it is also recommended that Council adopt the revised policy without further reporting to Council.

RECOMMENDATIONS

1. That Council approves the exhibition of the draft Procurement Policy as attached to this report, which supersedes Council's existing policy titled – Tendering and Quotations – Evaluation Criteria.
2. If no submissions are received during the exhibition period the policy is considered to be adopted without further reporting to Council. If any submissions are received they are to be submitted to Council for further consideration of the policy.

Attachment(s)

1. Report to August 2013 Ordinary meeting, including original submission from the Chamber of Commerce
2. Submission tabled by Chamber of Commerce at the August 2013 Ordinary meeting
3. Draft Local Procurement Policy

10.14 Policy (Review) - Public Interest Disclosure

10.14 Policy (Review) - Public Interest Disclosure

Delivery Program Human Resources and Risk Management

Objective To demonstrate Council's commitment to an ethical and accountable culture.

Background

A review of the Protected Disclosure Policy was undertaken in September 2011 following the amendments to the Public Interest Disclosure Act 1994 (PID Act). At that time the policy title and internal reporting reference to protected disclosure and whistleblower was retained due to the understanding by staff of these terminologies.

Since that time Council has provided education sessions to staff on the PID Act, has appointed a Public Interest Disclosure Officer (to support the Coordinator) and has implemented a new Model Code of Conduct in order to demonstrate Council's continued commitment to an ethical and accountable culture.

The policy has been reviewed against the Model Internal Reporting Policy (Local Government) prepared by NSW Ombudsman in July 2013 and the PID Act and now removes reference to previous terminology of whistleblower and protected disclosure.

The purpose of this report is to review Council's existing Protected Disclosures Policy to align it with the current legislative and council requirements.

Key Issues

- Consistency with legislation

Information

The attached draft Policy is a review of Council's current Policy which has regard to the Ombudsman's Model Internal Reporting Policy (Local Government) published in July 2013.

The Policy provides details of:

- (a) Council commitment to deal effectively with reports of wrongdoing
- (b) Roles and responsibilities of staff
- (c) Understanding who can receive reports, what matters are reportable and when matters need referral to external agencies
- (d) Investigation and reporting requirements.

Minor changes to the policy have been made to replace references from Protected Disclosure to Public Interest Disclosure and to include the appointment of the Public Interest Disclosure Officer.

The changes to the existing Policy have been marked in yellow.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
That Council provides transparent and accountable governance.
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

Council is required to comply with the PID Act.

Consultation

As the changes are only minor it is recommended that Council adopt the policy as presented. It is also recommended that Council place the Policy on exhibited for public comment and if any submissions are received they can be reported back to Council.

Options

Council may accept or amend the proposed changes to the policy. The changes are only minor and the recommendation is to approve the exhibition of the policy and plan for public comment. If any submissions are received they can be reported back to Council however there will not be a need for any further report if there is no public comment.

RECOMMENDATIONS

1. That Council adopts the amended Public Interest Disclosure Policy, as attached to this report.
2. That Council approves the exhibition of the adopted policy for public comment and if no submissions are received no further action is required.

Attachment(s)

1. Policy (Review) Public Interest Disclosure

10.15 Deputy Mayor - Election

10.15 Deputy Mayor - Election

Delivery Program Governance

Objective To determine whether Council wishes to appoint a Deputy Mayor and if so, how that position is to be elected.

Background

Section 231 of the Local Government Act states:

- (1) *The councillors may elect a person from among their number to be the deputy mayor.*
- (2) *The person may be elected for the mayoral term or a shorter term.*
- (3) *The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.*
- (4) *The councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no deputy mayor has been elected.*

Nominations for the office of Deputy Mayor are to be submitted in writing to the General Manager, signed by the nominee and at least one other Councillor, prior to this report being discussed at the ordinary meeting.

Copies of the nomination forms are attached under separate cover.

The Deputy Mayor can be paid an allowance for such time as the Deputy Mayor acts in the office of the Mayor. The Division of Local Government has advised that such an allowance cannot be established on an annual basis and paid as an annual figure. Rather it must reflect actual time acting as the Mayor. Therefore the Deputy Mayor will only receive an allowance if the Mayor is on a period of extended leave.

Key Issues

- To determine whether Council wishes to appoint a Deputy Mayor
- If yes, Council must determine the method of voting

Information

An election must be held if more than one nomination is received. Council must then determine whether the voting is to be by preferential ballot (if three or more candidates nominated), ordinary ballot (secret ballot) or open voting.

Section 251(5) of the Local Government (General) Regulation states as follows:

10.15 Deputy Mayor - Election

Voting at a council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot. (Reg 251)

Note: Part 11 of this Regulation provides that a council is to resolve whether an election by the councillors for mayor or deputy mayor is to be by preferential ballot, ordinary ballot or open voting (clause 394 and clause 3 of Schedule 7). Clause 3 of Schedule 7 also makes it clear that "ballot" has its normal meaning of secret ballot.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable
- **Economic**
Not Applicable

Legal / Resource / Financial Implications

There is no legal obligation for Council to elect a Deputy Mayor.

Consultation

Not applicable.

Options

The options are to have or not have a Deputy Mayor and the method of voting. The term of the election can also be for the entire term of Council or for a shorter period.

The recommendation that follows reflects Council's traditional practices, which is to have a Deputy Mayor, elected for a period of one year, with the method of voting by ordinary (secret) ballot.

RECOMMENDATIONS

1. That Council elect a Deputy Mayor for the period to September 2014.
2. That the method of voting for the election of Deputy Mayor be by way of ordinary (secret) ballot.
3. That the number of votes at the ballot be revealed at the meeting and that the General Manager, following the meeting, destroy the ballot papers.

Attachment(s)

Nil

10.16 Ballina Surf Club Cafe and Kiosk - Expression of Interest

10.16 Ballina Surf Club Cafe and Kiosk - Expression of Interest

Delivery Program Commercial Services

Objective To provide background information on the EOI issued for the Ballina Surf Club Cafe and Kiosk and to provide proponents the opportunity to make a presentation to Councillors.

Background

The main building of the new Ballina Surf Club was recently completed and is now in the process of being used for surf life saving services and meetings / functions. As part of this development a café and kiosk have been included in the building.

Council issued an expression of interest on 6 July 2013 seeking parties to lease the café and kiosk. Copies of layout plans identifying the areas available for lease are attached to this report.

Interested proponents had the option of either:

- a) Lodging a submission to lease the café and kiosk; or
- b) Lodging a submission to lease the café only.

From a building management perspective it would be preferable to have one operator running the café and kiosk to avoid the potential for conflict between multiple operators.

To date a number of leasing enquiries have been received and staff have been conducting negotiations with proponents. At this stage we have two proponents interested in formalising their proposals with Council.

The two proponents have been invited to make a presentation to Council in a confidential session at this meeting outlining their vision for the café and kiosk and their past experience.

Key Issues

- Experience
- Financial capacity to undertake fit out works and pay rent
- Timeframe for operation
- Willingness to work with Council
- Willingness to work with the Ballina Lighthouse & Lismore Surf Life Saving Club (BLLSLSC)
- Vision and theme

Information

Construction of the Ballina Surf Club main building was completed in June 2013. The café located on the first floor of the building was completed to a "shell standard" with the following works still to be completed:

- Floor finishes
- Wall linings and painting
- Ceiling and painting
- Lighting
- Air-conditioning (optional)
- Mechanical ventilation and extraction fans to kitchen area
- Sinks, stoves, ovens, fridges, etc.
- Furniture and furnishings
- Cool room and dry store

In respect to payment for these works there are no hard and fast rules about who pays for what but generally a landlord would provide the ceiling and wall linings and the tenant is responsible for everything else.

These works were not undertaken as part of the building contract as we could not predict what sort of wall linings a tenant might prefer, where they wished to locate power points, their preferred ceiling type and the location of lights.

Ideally it would be preferable if a tenant were to pay for all these works; however both proponents are in the process of getting cost estimates. Until each proponent submits a formal offer it is unknown as to whether they may seek a contribution from Council towards the cost of certain works.

The two proponents have also identified that they need extra space for an additional cool room and dry store area to assist in serving the needs of the function rooms.

This shortfall has come about as at the outset of designing the building, consultation occurred with an experienced local café operator to determine what space seemed reasonable.

Now the building is complete, the standard, style and appeal of the meeting / function rooms have exceeded most people's expectations. All proponents who have inspected the premises are impressed and believe the maximum seating capacity of the meeting / function rooms should be catered for.

This is an excellent outcome however this also needs to be balanced against the fact that the meeting / function rooms are carpeted which is not necessarily ideal for major functions such as weddings due to spillage etc and on-going damage.

The rooms were really more designed for meetings, but once again Council is trying to meet everyone's needs by catering for meetings and functions in the same space.

The other consideration with this is that to get the building cost estimate within budget the size of the building was dragged back from the beach and the size of the building reduced by splitting off the boat storage facility. After these design changes the quantity surveyor's cost estimate was in the order of \$4,230,000 + GST.

10.16 Ballina Surf Club Cafe and Kiosk - Expression of Interest

A further review was done by simplifying the design and slightly reducing the size. The result being Bennett's cost quote came in at \$3,244,000+GST.

In summary the project was about designing a surf club with ancillary meeting / function rooms and a café. The project has turned out better than most people expected and we now have to deal with making the meeting / function rooms and café work and determine what extra level of funding Council wants to contribute to improve the building's overall functionality.

For example staff have identified the external plant room area on the first floor as a possible location for the cool room. Also if Council resolves to relocate the gym to the outside storage area the toilet in the current gym room could be decommissioned and converted to a dry store. These matters will be considered once Council has a cost estimate for relocating the gym.

Finally the kiosk has been completed to a standard that includes floor finishes, painted walls and ceiling lighting, sinks, serving bench, shelving and cupboards. Subject to the specific needs of a proponent all that is required to enable this facility to be operational are fridges and stock.

Subject to Council selecting a preferred proponent to lease the café and kiosk and issuing temporary licenses for both facilities, there is no major impediment for the successful proponent taking possession of the kiosk and opening it for business by early to mid October 2013.

There is a degree of urgency in selecting a proponent for there to be any chance of having the café operational by Christmas. This means even though the exact details of both proponents' proposals are still being negotiated the two proponents have been invited to make a presentation to Councillors at this meeting.

The proponents have been advised that the time they will make their presentations is 2.00pm and 2.30pm following lunch. Even though this report is in open Council it is proposed that the proponents make their presentations in confidential session to protect their intellectual property and to ensure that any negotiations can continue on a commercial in confidence basis.

The evaluation criteria set out in the EOI is included as an attachment to this report to assist Councillors in evaluating the proposals.

Council may be in a position to make a determination as to the preferred proponent after the presentations and that will be a matter for Council to determine on the day. If we are not in a position to make a determination an Extraordinary Meeting could be convened once any outstanding information is confirmed.

Sustainability Considerations

- **Environment**
Not applicable
- **Social**
A viable café and kiosk will add to the social and economic fabric of Ballina.

10.16 Ballina Surf Club Cafe and Kiosk - Expression of Interest

- **Economic**
As per above.

Legal / Resource / Financial Implications

Rental derived from the café will be applied to maintaining the Surf Club building. Rental for the kiosk may be applied to the building or possibly to the BLLSLSC.

Consultation

Council has conducted a public EOI process seeking proponents to lease the café and kiosk. Staff have also conducted ongoing negotiations with proponents.

Options

As at the time of writing this report the proponents are still in the process of finalising their proposals. The recommendation is to resolve into confidential session to allow the proponents to present their latest plans for the café and kiosk to Councillors.

At the end of the confidential session Council will then have the option of identifying a preferred proponent or deferring any decision for further information. The preferred option will not be known until after the completion of the presentations.

RECOMMENDATION

That Council moves into committee of the whole with the meeting closed to the public, to consider presentations from proponents for the lease of the Ballina Surf Club Café and Kiosk in accordance with Section 10A (2) of the Local Government Act 1993.

The presentations are **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as it may prejudice Council's negotiations with the proponents which in turn, may not result in the best public interest outcome.

Attachment(s)

1. Floor Plan - Cafe
2. Floor Plan - Kiosk
3. Expression of Interest - Evaluation Criteria

11.1 Ballina Landscape Entry Treatment Master Plan

11. Civil Services Group Reports

11.1 Ballina Landscape Entry Treatment Master Plan

Delivery Program Open Spaces and Reserves

Objective To seek endorsement of the Ballina Landscape Entry Treatment Master Plan and to determine the priority order for works.

Background

At the April 2013 Council meeting Council resolved as follows:

1. *That the draft Ballina Landscape Entry Treatment Master Plan be placed on exhibition for community comment.*
2. *That following the exhibition period, a further report is presented to the Council which assesses the preferred staging options for the Plan.*

The draft master plan was placed on public exhibition and no submissions were received in response.

A copy of the draft plan is attached to this report.

As there were no submissions, it is recommended the plan be adopted.

This report therefore deals with the second part of the resolution.

Key Issues

- Establish the staging of the works set out in the plan
- Priorities and funding

Information

The Ballina Landscape Entry Treatment Master Plan contains five key components:

1. *A Comprehensive Tree Planting Program*

It is proposed that large distinctive trees be planted in road edges, road verges and in the centre median, wherever possible, along the entry road route. Smaller trees would be planted where there are conflicts with overhead power lines.

2. *A Sculpture Program*

Nine locations for entry sign/sculptures or sculptures are identified along the entry route. Sign / sculptures are to be of large scale, unique to Ballina and designed and constructed using regional artists.

11.1 Ballina Landscape Entry Treatment Master Plan

It is recommended that this program should be implemented over time through a detailed arts program established specifically for the project.

3. *Tidying Up Road Verges*

This includes more frequent maintenance of road sides, especially where trees cannot be planted. This includes the more regular mowing of the open drain on Tamarind Drive adjacent to Ferngrove.

4. *The Reuse of the Big Prawn*

The Bunnings re-development is supporting this concept.

5. *Encouraging Appropriate Future Development of Properties along the route.*

This approach includes the co-ordination of signage. In this regard, Council's recently adopted development control plan (commenced operation on 4 February this year) embraces this principle for the land comprising the zoned enterprise corridor in West Ballina.

Items four and five are already finalised.

Item three will require additional funding of \$7,500 a year. The additional funding will provide eight mows a year utilizing Council's side-arm mower as well as clearing of the drain.

At this time it is recommended that Councillors and staff continue to monitor our current service levels to determine whether they are to the satisfaction of the Councillors and community.

Staff are able to make adjustments to mowing frequency where that can be achieved for the available budget.

Items 1 and 2

Council has approximately \$140,000 available for immediate works, sourced from a \$75,000 transfer from the cemeteries reserve in the 2012/13 and 2013/14 budgets, with \$10,000 expended to date.

Council is now asked to choose between items one (tree planting program) and two (sculptures) in respect of priority. Staging is required for both of these items.

The sculpture program is more likely to be subject to opportunistic grant applications than the landscaping.

Furthermore, the statement from the sculptures will be enhanced if the landscaping is improved first, the tree program requires growing time for full establishment, and there are some opportunities to reduce current maintenance costs by starting the tree program.

For these reasons the tree planting is the preferred priority.

The following table lists seven potential project areas for staging purposes.

11.1 Ballina Landscape Entry Treatment Master Plan

Project Number	Project	Estimate (\$)
1	Landscaping of median strip between the roundabouts at Quays Drive and Barlows Road/Keppel Street.	322,000
2	Installation of tree planting blisters and tree planting along each side of River Street between Burns Point Ferry Road and Barlows Road/Keppel Street.	224,000
3	Installation of tree planting blisters and tree planting along each side of River Street between Barlows Road/Keppel Street and Boatharbour Road.	97,000
4	Installation of tree planting blisters and tree planting along each side of River Street between the Canal Bridge and Kerr Street.	95,000
5	Installation of tree planting blisters and tree planting along each side of Kerr Street between River Street and Fox Street.	140,000
6	Installation of tree planting blisters and tree planting along each side of Tamarind Drive between the Canal Bridge and Southern Cross Drive. Landscaping/tree planting on the corner of Kerr Street and Tamarind Drive	18,000
7	Roadside planting of trees on Tamarind Drive between Southern Cross Drive and Bicentennial Gardens.	16,000

Budget Considerations

The total cost of the above seven stages is \$912,000. With a reasonable contingency you would need \$1 million to complete the project.

Projects One and Two are locations that require frequent maintenance and the cost of implementing traffic control to enable this maintenance is significant. This maintenance work would be largely avoided in the future following the implementation of this plan.

This section also has the potential to make a significant impact on improving the amenity of this section of town as a gateway. Therefore, setting aside budget considerations, these stages are considered to be the highest priority.

However there are insufficient funds to prioritise the above stages first. The Council could prioritise a combination of some of stages 3,4,5,6 or 7 for the available budget. It is however suggested the Council needs to be satisfied that any selected stages provide sufficient benefit as independent projects as the Council's forward financial plan does not currently identify a funding source for the whole project. This means it is likely that there will be significant timing gaps between the delivery of the stages.

Projects 6 and 7 are in areas that have been discussed with Councillors as areas of concern outside of this process to prepare the Masterplan. They are also relatively inexpensive

Bridge Painting

The consultant who prepared the plan also recommended that painting, with colour, the Canal Bridge and Fisheries Creek Bridge would assist in the presentation of the gateway. These works would be required to be completed of a night under traffic control.

A preliminary cost estimate is \$15,000.

11.1 Ballina Landscape Entry Treatment Master Plan

Other Projects - Missingham Park Markets Area

Council could reallocate these funds to other projects. For example the current Operational Plan has a budget of \$150,000 for the sealing of Missingham Park Market Area. Staff hold some concerns that the sealing of this area is a project that may not meet the community's expectations for such an important public area. The reason for this is that \$150,000 will only provide a sealed car park with no landscaping which may not be particularly attractive in such a high profile location.

Therefore, in lieu of commencing the major components of the Entry Treatment Master Plan until a funding source for all of the projects is identified, an option the Council may wish to consider is reallocating the funds to Missingham Markets. This would enable a full landscape plan to be developed and implemented.

No assessment of costs has been undertaken for such a project, however it is reasonable to assume that a significant project could be developed for some or all of the budget if it were made available by the Council.

Sustainability Considerations

- **Environment**
Implementation of the plan will significantly enhance the urban environment of Ballina.
- **Social**
The attractive presentation of the entries to Ballina will promote a sense of place and promote community pride.
- **Economic**
The attractive presentation of the entries to Ballina will provide a positive impression of the town to encourage people to stop and spend time in the area thus providing economic benefits to businesses.

Legal / Resource / Financial Implications

There are no legal implications relating to this matter.

Last year's budget has \$65,000 to be carried forward and the current budget has \$75,000 for this project, meaning \$140,000 is available.

Consultation

As per above, the draft plan was placed on public exhibition and no responses were received.

11.1 Ballina Landscape Entry Treatment Master Plan

Options

In regards to the public exhibition of the plan, Council can either:

1. Adopt the Plan
2. Amend and adopt the Plan
3. Decline to adopt the Plan.

It is considered helpful to adopt the plan to represent the Council's vision even though implementation will take a period of time that is yet to be determined.

In regards to the works, Council can either;

1. Do nothing and consider again within future financial planning processes.
2. Undertake a program of works selected from stages 3,4,5,6 or 7 and the bridge painting up to an amount of \$140,000.

If the Council was inclined to support the comments above in relation to Missingham Park Market Area, a variation to the alternatives under Option Two could be to distribute the \$140,000 for the following projects.

Stage 6	\$18,000
Stage 7	\$16,000
Bridge Painting	\$15,000
Missingham Market Area	\$91,000

This option is brought forward on the basis that;

- No further funds are allocated for the gateway project
- North Ballina is an area that has been identified as a high priority for improvement
- The bridge painting project works in isolation regardless of the staging of the remainder of the plan
- Missingham Park is a stand alone project and the sealing work may be criticised for not being a more complete solution to this area
- These outcomes are achievable within the available budget.

Due to the very subjective nature of the works the second recommendation has been kept open to allow Councillors to determine the preferred priority of works.

RECOMMENDATIONS

1. That Council adopts the Ballina Landscape Entry Treatment Master Plan as exhibited.
2. That Council, based on the alternatives set out in this report, allocate projects to be delivered within this program for the available funds.

Attachment(s)

1. Draft Ballina Landscape Entry Treatment Master Plan

11.2 Coastal Zone Management Plan for the Ballina Shire Coastline

11.2 Coastal Zone Management Plan for the Ballina Shire Coastline

Delivery Program Engineering Works

Objective To finalise the Draft Coastal Zone Management Plan following a Councillor briefing and feedback from the Office of Environment and Heritage.

Background

A draft Coastal Zone Management Plan (CZMP) for the Ballina Shire Coastline was presented to Council's Ordinary meeting on 28 February 2013 for the purpose of seeking approval for public exhibition. Public exhibition occurred during April and May 2013.

A further report dealing with the public exhibition process, the communication strategy and feedback received during and after the exhibition was presented to Council at the Ordinary Meeting on 25 July 2013.

Council's resolution (250713/29) in response to this report comprised:

- 1. That Council notes the contents of this report regarding the response to the public exhibition process for the draft Coastal Zone Management Plan.*
- 2. That Council hold a Councillor briefing with the State Government (OEH and NSW Lands) to receive an update on coastal reform processes and ascertain how this may impact the draft Coastal Zone Management Plan.*

A Councillor briefing was held on 13 August 2013 with attendance by the Office of Environment and Heritage (OEH), being Mr Phil Watson (Principal Coastal Specialist) and Mr Ben Fitzgibbon (Senior Natural Resource Officer). NSW Lands were unable to attend.

A fundamental reason for proposing the briefing was to coordinate a response from OEH regarding the draft CZMP.

The CZMP process has followed State Government guidelines, with a brief project history recorded in the February 2013 Council report. OEH has supported the project with grant funding and regional OEH staff have been actively involved with the preparation of the draft CZMP.

OEH had indicated they would be responding to the draft version of the CZMP during exhibition, but that did not occur. The Councillor briefing held on 13 August 2013 provided the opportunity for OEH to discuss the draft CZMP, in light of the NSW Government's coastal management reform process. Comments from OEH have now been received and are reported as follows.

Key Issues

- NSW Government coastal management reform process
- OEH feedback regarding the draft CZMP
- Adoption of the CZMP for the Ballina Shire Coastline

Information

The Councillor briefing held on 13 August 2013 was recommended as a mechanism to encourage OEH feedback and engage with Council's draft CZMP for the Ballina Shire Coastline.

Previous reporting by staff (July 2013 Council report) indicated a likely shift in the implementation strategy being proposed by OEH.

"Verbal advice from OEH is their response is likely to consider contemporary direction dealing with the coastal management reforms currently being considered by State Government. For example, OEH has referred to the current requirement for CZMP's to evaluate and implement, recurrent beach nourishment as a difficult task when considering the State's coastline as a whole. It is likely that a "de-coupling" of beach nourishment as a prerequisite to other elements of the CZMP may be an outcome in line with the current State Government review."

The discussion at the Councillor briefing aligned with the above reporting.

Comments from OEH have now been received and these are provided as attachment one.

The OEH comments have been reviewed and primarily deal with:

- Climate change and Sea Level Rise and NSW Government's current policy of not adopting benchmarks
- Protection philosophy for Seven Mile Beach should consider the seawall as the primary means of protection with beach nourishment still to be investigated (considering off-shore and near shore sources), but to be implemented when and where practicable and achievable
- Reporting of final round of public consultation (2013 exhibition process).

Regarding the first point, Council has adopted Sea Level Rise Benchmarks for planning purposes (Council Resolution 221112/30, 22 November 2012). This means Council policy will be referenced in lieu of NSW Government policy, and hazard assessments and recession estimates do not change.

Regarding the second point, attachment one of the OEH submission summarises the NSW Government's position regarding the achievement of beach nourishment as a primary source of coastal protection. Their position is for a seawall to continue to be fully investigated and considered for staged implementation as a priority for ultimate protection in the short term.

11.2 Coastal Zone Management Plan for the Ballina Shire Coastline

Beach nourishment should therefore be considered as an amenity enhancement and staged over time, given the scale of activities associated with dredging investigation and approvals, and significant financial consideration. Part of the staged beach nourishment process could consider opportunities offered by Richmond River dredging. This has previously not been supported by OEH.

Overall the current draft CZMP document is mostly affected by the second dot point described above. Many minor changes throughout the document are accepted as part of the OEH submission (attachment one).

In dealing with the second dot point, suggested changes comprise deletions and rewording within Section 3.4 – Recommended Management Actions for Lennox Head – North of Byron Street. It is suggested that the following changes in Section 3.4 of the document be made:

- Change introduction to reflect emphasis on seawall protection and beach nourishment for amenity (sec 3.4.2 and OEH attachment one)
- Largely delete historical narrative of single source of off-shore and supply, and leave general comments about sand sources and include Richmond River dredging (sec 3.4.3.1 and OEH point 8)
- Remove the link to having a beach nourishment program in place prior to seawall protection (sec 3.4.4 and OEH point 10)
- Largely delete technical assessment for beach nourishment for protection purposes and replace with narrative for staged approach for sand nourishment for amenity (sec 3.4.4.1, sec 3.4.4.2 and sec 3.4.4.3 and OEH points 10 and 11).

Sustainability Considerations

- **Environment**

The draft CZMP is prepared in accordance with the principles set out in the Coastal Protection Act 1979 which includes environmental values.

- **Social**

The draft CZMP is prepared in accordance with the principles set out in the Coastal Protection Act 1979 which includes social values.

- **Economic**

The draft CZMP is prepared in accordance with the principles set out in the Coastal Protection Act 1979 which includes economic values.

Legal / Resource / Financial Implications

It has previously been reported the completion of the draft CZMP for the Lennox Head precinct is a Ministerial requirement by December 2013.

Resource and financial implications are significant considerations into the future, and will need to be included within further studies, planning and design development.

11.2 Coastal Zone Management Plan for the Ballina Shire Coastline

The completion of the plan should allow ongoing funding support from the OEH for further studies, planning and design development.

Consultation

The purpose of this report is to advise of the long awaited comments from OEH regarding the draft CZMP previously placed on public exhibition.

As advised elsewhere in this report, there has been a pragmatic shift with OEH regarding practical implementation of CZMPs. This appears to be relevant to the current coastal management reforms being undertaken by the current NSW Government.

Options

Council may wish to support the recommendations of this report and make the suggested changes to the draft CZMP in line with OEH feedback, and submit the CZMP to the Minister as required.

Alternatively, Council may wish to adopt the CZMP with minor changes only, and exclude the seawall and beach nourishment changes and submit the CZMP to the Minister largely as exhibited. This would likely initiate a more formal reply from the State Government. However this reply may not be provided in the short term due to the coastal management reform processes and may prolong commencement of CZMP initiatives.

A further alternative is to place the amendments on public exhibition. This option reflects one of the key points of community interest in the plan is the protection of the amenity of Seven Mile Beach through beach nourishment.

On balance it is preferred to support the inclusion of the suggested amendments. The reason for this recommendation is the position in regard to the protection is a subtle change, albeit an important one. However it is considered reasonable having regard to the cost and uncertainty of beach nourishment. Furthermore, although the emphasis is changed, beach nourishment is retained in the strategy.

Government support is essential for the implementation of the plan. The plan is strategic and the early implementation is limited to the next stages of investigation and monitoring. For these reasons it is suggested that rather than a further public exhibition it is preferred to accept the changes and involve the public in the further stages that will follow in the future.

RECOMMENDATIONS

1. That Council adopts the Coastal Zone Management Plan, as exhibited, subject to the inclusion of the changes outlined in this report, in response to the comments by Office of Environment and Heritage.
2. That Council prepare an action plan sourced from the Management Actions outlined in the adopted Coastal Zone Management Plan.

Attachment(s)

1. Comments from OEH

11.3 Tender – Supply of Water Meters

11.3 Tender – Supply of Water Meters

Delivery Program Water and Wastewater

Objective To obtain Council approval to award the contract for the Supply of Water Meters for a three year period with an option to extend for two years.

Background

Tenders were advertised in August 2013 for the supply of various sizes of water meters for a three year period with an option to extend for a further two years.

This tender will support Council's Meter Replacement Program which is one component of the approved Pressure Leakage Management Plan. This plan is designed to improve the environmental and economic sustainability of water supply through reducing water loss and the frequency of infrastructure failure.

At the close of the tender period on 3 September 2013, two submissions were received.

This report provides the outcomes from the tender evaluation process.

Key Issues

- Award the tender in accordance with the Local Government (General) Regulations 2005.
- Engage a suitably qualified and experienced contractor that having regard to all the circumstances provides the most advantageous tender.

Information

Further Background Information

Old or faulty water meters are the cause of water losses referred to as real losses and apparent losses. Real losses are caused by leakages in old water meters. Apparent losses are caused by faulty or old water meters misreading or under registering water usage by customers.

To ensure economic performance of the meters in terms of their accuracy and water loss, it is recommended practice to replace meters at 10 years of age. The following provides a breakdown of the number and age of water meters in the Ballina Shire:

Age	Number
0-5 years	2,614
5-10 years	4,241
10-15 years	4,767
15-20 years	957
20+ years	543

11.3 Tender – Supply of Water Meters

Council's current water meter inventory has an average age of 9 years, with 1,500 water meters greater than 15 years old and 6,267 water meters greater than 10 years old.

Furthermore, many of the water meters in Ballina Shire are not fitted with non reverse valves. The Australian Standard for Water Meters states;

"Meters with a Q3 equal to or less than 16 kL/h that are not designed to measure reverse flow shall be fitted with one of the non-reversing devices."

Further, Council's backflow prevention policy states;

"All properties within Ballina Shire connected to the reticulation system require a backflow prevention device."

This means it is important for Council to continue to replace all water meters so that eventually the system will be protected against the risk of backflow.

As part of the meter replacement program Council will conduct a statistical analysis using replaced meters compared to the older stock. This information will be used by Council to evaluate the effectiveness of the meter replacement program and make further assessment of the optimum economics for this investment.

Tender Evaluation

Tender submissions were received from:

- Elster Metering Pty Ltd
- Itron Australia Pty Ltd

The tender documentation defined three areas, by which each tender would be assessed:

- Total Price - 80%
- Lead Times - 10%
- Service History/Record of Reliable Supply – 10%

The tender was structured as a schedule of rates contract. It is estimated that 4,500 water meters of varying sizes from 20mm – 80mm would be required for the three year period for the water meter replacement program. Approximately 3,800 of the meters required during this period will be for domestic 20mm services.

The tender evaluation panel, consisting of three Council staff assessed each of the tenders against the above criteria.

The total price reported below is based on estimated quantities and the tendered rates. In applying the rates, the assessment has several assumptions in regards to the number of meters of each size and the number of meters which will require replacement of couplings.

- Elster Metering Pty Ltd - \$235,407
- Itron Australia Pty Ltd - \$248,684

11.3 Tender – Supply of Water Meters

The following table is a summary of the assessment outcomes.

Evaluation Criteria	Elster Metering Pty Ltd	Itron Australia Pty Ltd
Total Price	80.0%	75.5%
Lead Times	7.8%	7.7%
Service History/Record of Reliable Supply	8.0%	6.33%
Total	95.8%	89.5%

Sustainability Considerations

- **Environment**

The meter replacement program will provide for the sustainability of water supply through reducing water loss. The tender also provides for the supply of water meters for recycled water connections.

- **Social**

Not Applicable

- **Economic**

Replacement of the water meters will ensure that accurate readings of water usage are obtained and consumers receive accounts which reflect their water usage.

Legal / Resource / Financial Implications

This report is provided to assist Council meet its statutory requirements in regards to tendering and procurement.

Consultation

A public tender process has been undertaken by Council.

Options

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

1. Council may determine not to accept any of the tenders received and invite fresh tenders.
2. Council may award the contract to Elster Metering Pty Ltd to undertake the supply of various size water meters for a three year period.

Option one is not recommended as Council has undertaken the tender process in accordance with the Local Government (General) Regulations 2005.

Option two is recommended as the preferred option as the tender assessment indicates that a reliable market has been established and the assessment by the evaluation panel has determined the preferred tenderer.

11.3 Tender – Supply of Water Meters

RECOMMENDATIONS

1. That Council accepts the tender for the supply of various size water meters for a three year period from Elster Metering Pty Ltd based on the rates tendered.
2. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

11.4 Tender - Installation of Replacement Water Meters

11.4 Tender - Installation of Replacement Water Meters

Delivery Program Water and Wastewater

Objective To consider the response to a tender for the installation of replacement water meters.

Background

Tenders were advertised in August 2013 for suitably licenced and experienced Contractors to undertake the installation of replacement water meters at specified commercial and residential locations within the Ballina Shire for a three year period.

At the close of the tender period on 3 September 2013, one submission was received.

This report provides the outcomes from the tender evaluation process.

Key Issues

- Accept or decline to accept the tender submitted in accordance with the Local Government (General) Regulations 2005.

Information

The single tender submission was received from Tecton Building Services Pty Ltd. The tenderer was required to submit a rate for the replacement of various sized domestic water meters.

The tender evaluation panel, consisting of three Council staff assessed the tender against the stated evaluation criteria, however as only one tender was received, a comparison was also made against the estimated rates for the works to be undertaken by internal resources. A summary of this comparison is presented in the following table.

	Tecton	Council
20mm Domestic Water Meter	\$60.00 ex GST	\$49.25 ex GST

The Council estimate is based on the following calculations.

Cost Drivers	Value
Staff wages per hour (average)	\$25
Number of staff directly involved	Two
Direct staff oncosts	48%
Vehicle charge per hour	\$16
Indirect staff on-costs (HR, Supervision, Insurance etc)	75%
Contingency for time taken	25%
= Total cost per hour	\$197
Meters replaced per hour	Four
Total cost per water meter	\$49.25

11.4 Tender - Installation of Replacement Water Meters

Sustainability Considerations

- **Environment**
The meter replacement program will provide for the sustainability of water supply through reducing water loss.
- **Social**
Not Applicable
- **Economic**
Replacement of the water meters will ensure that accurate readings of water usage are obtained and consumers receive accounts which reflect their water usage.

Legal / Resource / Financial Implications

This report is provided to assist Council in meeting its statutory requirements in regards to tendering and procurement.

Consultation

A public tender process has been undertaken by Council.

Options

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

1. Council may determine not to accept the tender received and carry out the requirements of the proposed contract itself.
2. Council may award the contract to Tecton Pty Ltd to undertake the replacement of various size water meters for a three year period.

Option two is not recommended as the preferred option, as the tender process has not established a reliable market. The receipt of a single tender does not allow Council to make a reasonable comparison of the tendered rates. Furthermore, the assessment suggests that internal procurement methods will provide better value for money.

Option one is recommended. If this recommendation is supported, staff will implement an initial program of works to test the assessed internal price and proposed delivery methods. In the case this approach doesn't achieve the project objectives it would be open to Council to review the specification and approach the market again. Also, as part of this on-going assessment, Council can engage contractors for smaller blocks of work to provide an actual comparative cost.

RECOMMENDATION

That Council decline to accept the tender from Tecton Pty Ltd to undertake the meter replacement program on the basis that there has been a limited market response and that it is likely that better value for money will be achieved through the use of internal resources.

Attachment(s)

Nil

11.5 Tender - Repairs and Alterations - 18 Fawcett Street Ballina

11.5 Tender - Repairs and Alterations - 18 Fawcett Street Ballina

Delivery Program Commercial Services

Objective To obtain Council approval to award the contract for the Repairs and Alterations to 18 Fawcett Street Ballina.

Background

Tenders were advertised in August 2013 for the repairs and alterations to the restaurant building located at 18 Fawcett Street Ballina.

At the close of the tender period on 10 September 2013, three submissions were received.

This report provides the outcomes from the tender evaluation process.

Key Issues

- Award the tender in accordance with the Local Government (General) Regulations 2005.
- Engage a suitably qualified and experienced contractor that having regard to all the circumstances provides the most advantageous tender.

Information

Tender submissions were received from:

- Bennett Constructions - \$269,034.00 (excl GST)
- John Larkin Constructions - \$280,909.00 (excl GST)
- Greg Clark Building Pty Ltd - \$320,650.00 (excl GST)

The tender documentation defined four areas, by which each tender would be assessed:

- Total Price - 70%
- Capability & Experience - 10%
- Social & Community – 10%
- Quality, Safety & Environmental Plans - 10%

The tender evaluation panel, consisting of two Council staff then assessed each of the tenders against the above criteria and a summary of the rankings follows.

Evaluation Criteria	Bennett Constructions	John Larkin Constructions	Greg Clark Building
Total Price	70.0%	66.91%	56.57%
Capability & Experience	8.38%	1.50%	7.75%
Social & Community	8.50%	9.00%	8.50%
Quality, Safety & Environmental Plans	9.00%	0.00%	7.00%
Total	95.88%	77.41%	79.82%

11.5 Tender - Repairs and Alterations - 18 Fawcett Street Ballina

The works were initially as a result of storm damage caused to the building earlier this year. A review of the building design was undertaken and in consultation with the new tenant it was decided to undertake a refurbishment of the building. The works as prescribed under the tender specification are a combination of repairs, refurbishment (Council initiated) and alterations requested by the tenant.

Council has reached agreement with the insurance underwriter in regards to the storm damage component and has received a payment of \$78,000 (ex GST), with the balance of funding to be jointly provided by Council and the new tenant. The contribution to be funded by the new tenant is yet to be finalised.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Not Applicable
- **Economic**
The location of the restaurant is seen as an important tourist location for Ballina.

Legal / Resource / Financial Implications

In respect to finances Council has a budget of \$81,300 for improvements to the toilets and building, with \$5,800 expended to date (\$75,500 remaining). These funds, combined with the insurance payment of \$78,000, means that Council has available funding of \$153,500 for this project.

Based on the lowest tender of \$269,034 there is a shortfall of \$115,534.

In considering the proposed tenancies for this building at Council meetings in December 2012 and January 2013 Council was advised that the two tenants being considered at that time both wanted to provide all weather access, amend the layout of the facility, along with other improvements such as replacing the bi-fold doors, improving the toilets etc. The reports in December 2012 and January 2013 flagged it was a matter for Council to apportion the cost of some of these improvements between Council and the tenant.

Negotiations have been on-going with the preferred tenant and with this tender only closing on Tuesday 10 September 2013, no formal agreement has yet been reached in respect to the agreed cash contribution from the tenant to these works. The objective of these negotiations is for the tenant to contribute the cash difference of approximately \$115,000.

The preferred tender's construction period is ten weeks, which subject to weather, should mean the building is open for Christmas.

11.5 Tender - Repairs and Alterations - 18 Fawcett Street Ballina

Consultation

A public tender process has been undertaken by Council.

Options

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

1. Council may determine not to accept any of the tenders received and invite fresh tenders.
2. Council may award the contract to Bennett Constructions to undertake the Repairs & Alterations of Restaurant Building - 18 Fawcett Street Ballina.

Option one is not recommended as Council has undertaken the tender process in accordance with the Local Government (General) Regulations 2005.

Option two is recommended as the preferred option as the tender assessment indicates that a reliable market has been established and the assessment by the evaluation panel has determined the preferred tenderer.

The implementation of option two is also subject to the tenant agreeing to finance their contribution to the project along with signing the formal lease documentation. No work should proceed until these legal arrangements are finalised.

By the time of the Council meeting staff will be able to provide an update on the proposed cash contribution from the tenant to the works. If agreement cannot be reached on the shortfall (approximately \$115,000) Council may need to consider other options. These could include varying the scope of works and / or Council making a higher contribution to the works.

RECOMMENDATIONS

1. That Council accepts the tender for the repairs and alterations of the restaurant building - 18 Fawcett Street Ballina from Bennett Constructions for the amount of \$ 269,034.00 (excl GST), subject to point two.
2. That Council confirms the full value of this contract is not to proceed until Council has adequate protection in place (i.e. bond, legal agreement etc) to ensure that the tenant provides the agreed cash contribution for the current shortfall in funding and that the agreed lease will proceed.
3. That Council authorises the Council seal to be attached to the contract documents and to the lease for the building.

Attachment(s)

Nil

12. Public Question Time

12. Public Question Time

13.1 Notice of Motion - Re-print of Three Bridges History Book

13. Notices of Motion

13.1 Notice of Motion - Re-print of Three Bridges History Book

Councillor Cr Cadwallader

I move

That as part of the formulation of the 2014/15 Operational Plan, Council receive a report on the benefits / costs of producing a reprint of "Across Three Bridges – Island Base for Council - 1883 – 1983" by Cliff Murray.

Councillor Comment

This document is an important part of the Shire's history and a reprint will ensure that it is available into the future.

Staff Comment

There has already been some research undertaken into a full reprint of this document. Enquiries have been made with the Northern Star and APN to try and determine the cost of reprinting. Research was also undertaken to determine whether anyone had an electronic copy of the original document. No electronic copy was found.

The feedback received is that if the document is provided as hardcopy (complete with original or reprinted photos) it would require rescanning through an OCR Program (Optical Character Recognition). The photos (not copies from the existing publication) would also require rescanning.

The OCR process is not always 100% successful and would require the entire copy to be proofread. The publication would also need to be re-formatted. This entire process would take many days and because of the number of pages this process could lead into weeks. APN currently charge \$50/hour for this service. Printing costs would be additional.

If the original file is electronic, the technology used in the 1980s would require the file to be converted to current technology – again this is a time consuming process and would require the steps as described above.

The Richmond Tweed Library currently has a number of copies available to borrow which ensures there is a permanent record. The other alternative is to pull apart a copy, (they are scarce) scan, and have a permanent copy as part of Council's records

As per these comments a thorough re-print would be expensive which is why it should be considered as part of the Council priorities during the 2014/15 budget deliberations.

13.1 Notice of Motion - Re-print of Three Bridges History Book

COUNCILLOR RECOMMENDATION

That as part of the formulation of the 2014/15 Operational Plan that Council receive a report on the benefits / costs of producing a reprint of "Across Three Bridges – Island Base for Council 1883 – 1983" by Cliff Murray.

Attachment(s)

Nil

13.2 Notice of Motion - RMS Site

13.2 Notice of Motion - RMS Site

Councillor

Cr Cadwallader

I move

That Council invite the Hon Duncan Gay, Minister for Roads and Ports to visit Ballina to discuss options in respect to the relocation of the existing RMS depot near the Fishery Creek Trawler Harbour.

Councillor Comment

There have been many discussions around the need to eventually relocate the existing RMS depot at Fishery Creek as this land is more ideally suited to a long term plan to have a marina developed in this location. It is understood that feasibility reports previously completed by the Department of Lands highlighted the importance of the RMS site to make sure the total marina project is financially viable.

By having the Minister visit Ballina we could reinforce this point along with raising any other roads and port matters with hm.

COUNCILLOR RECOMMENDATION

That Council invite the Hon Duncan Gay, Minister for Roads and Ports to visit Ballina to discuss options in respect to the relocation of the existing RMS depot near the Fishery Creek Trawler Harbour.

Attachment(s)

Nil

13.3 Notice of Motion - Wardell Bus Shelter

13.3 Notice of Motion - Wardell Bus Shelter

Councillor

Cr Smith

I move

That \$5,000 be allocated from the 13/14 General Budget for the purpose of installation of a bus shelter within Wardell.

Councillor Comment

Wardell for the last four years has been caught in a loop in getting a bus shelter primarily for children in the morning on the school route.

Over the years, the Wardell Progress Association found a location for a bus shelter but the residents directly affected didn't want it within their vicinity. At the same time, Council had a spare shelter available in the Council depot but this shelter has since that time become no longer available.

In recent times, the Progress Association has been able to find a location that local residents are now happy with however Council's policy is to pass on requests for bus shelters to its contractor which looks at the commercial viability of the bus shelter through the use of advertising.

It's not commercially viable from an advertising viewpoint to install a bus shelter in Wardell and recover the cost, therefore under the current arrangements, Wardell is without a bus shelter which can be most frustrating on rainy days.

Therefore the objective of this motion is to simply allocate \$5,000 for the General budget to pay for a bus shelter in Wardell that wouldn't occur otherwise.

COUNCILLOR RECOMMENDATION

That \$5,000 be allocated from the 13/14 General Budget for the purpose of installation of a bus shelter within Wardell.

Attachment(s)

Nil

13.4 Notice of Motion - RDA Funding

13.4 Notice of Motion - RDA Funding

Councillor

Cr Jeff Johnson

I move

1. That Council write to the newly elected Federal Member for Page, Mr Kevin Hogan and congratulate him on his recent election.
2. That the Mayor/General Manager organise a meeting with Mr Hogan for the purposes of establishing a working relationship and to discuss Ballina Council's priorities for funding under the Regional Development Australia Funding (RDAF) program or any other regional funding package that was promised during the recent Federal Election Campaign.
3. That Council write to the recently appointed Minister for Infrastructure and Regional Development and Deputy Prime Minister Mr Warren Truss congratulating him on his appointment and invite him to Ballina to address the Council on what his funding priorities for the region are.

Councillor Comment

The Federal seat of Page was recently won by Mr Kevin Hogan and is now a marginal seat for the incoming Abbott government. There is concern that the Regional Development Australia (RDAF) funding may not be continued and instead replaced with an alternative funding package. Ballina Council has received several grants under the RDAF funding in the past including a multi-million dollar grant for our soon to be established BioChar Facility.

It's important that Ballina Council establish a close working relationship with our newly elected local member and ensure that our funding priorities align with the regional development goals of the new government. As with all election campaigns, various promises were made and its important that these promises are followed through and that a timeline for delivery be established.

COUNCILLOR RECOMMENDATIONS

1. That Council write to the newly elected Federal Member for Page, Mr Kevin Hogan and congratulate him on his recent election.
2. That the Mayor/General Manager organise a meeting with Mr Hogan for the purposes of establishing a working relationship and to discuss Ballina Council's priorities for funding under the Regional Development Australia Funding (RDAF) program or any other regional funding package that was promised during the recent Federal Election Campaign.
3. That Council write to the recently appointed Minister for Infrastructure and Regional Development and Deputy Prime Minister Mr Warren Truss congratulating him on his appointment and invite him to Ballina to address the Council on what his funding priorities for the region are.

14.1 Commercial Services Committee Minutes - 11 September 2013

14. Advisory Committee Minutes

14.1 Commercial Services Committee Minutes - 11 September 2013

Attendance

Crs David Wright (Mayor - in the chair), Jeff Johnson, Sharon Cadwallader, Keith Williams, Ken Johnston, Paul Worth, Ben Smith and Robyn Hordern.

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Steve Barnier (Strategic and Community Facilities Group Manager), Paul Tsikleas (Commercial Services Manager), Neil Weatherson (Airport Development Management), Peter Morgan (Manager Finance & Governance) and Sandra Bailey (Secretary) were in attendance.

There were no people in the gallery at this time.

1. Apologies

An apology was received from Cr Susan Meehan. Cr Keith Johnson indicated that he would be late to the meeting.

RECOMMENDATION

(Cr Ben Smith/Cr Keith Williams)

That such apology be accepted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Keith Johnson and Cr Susan Meehan

2. Declarations of Interest

Nil

3. Deputations

Nil

4. Committee Reports

4.1 Ballina-Byron Gateway Airport - Long Term Financial Plan

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Robyn Hordern)

1. That Council notes the contents of this report in respect to the revised long term financial plan for the airport along with the record of achievements for 2012/13.
2. That Council approves the inclusion of the revised long term financial plan, as attached to this report, into our 2013/14 Delivery Program and Operational Plan.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Keith Johnson and Cr Susan Meehan

4.2 Tender - Ballina Byron Gateway Airport Runway Overlay

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council accepts the tender from Fulton Hogan Pty Ltd, for the amount of \$4,302,315.70 (+GST), to undertake the runway overlay works at the Ballina Byron Gateway Airport.
2. That Council authorises the Council seal to be attached to the contract documents.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Keith Johnson and Cr Susan Meehan

MEETING CLOSURE

5.10 pm

RECOMMENDATION

That Council confirms the minutes of the Commercial Services Committee meeting held 11 September 2013 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

14.2 Commercial Services Committee Minutes - 17 September 2013

14.2 Commercial Services Committee Minutes - 17 September 2013

Attendance

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

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Rod Willis (Development and Environmental Health Group Manager), Steve Barnier (Strategic and Community Facilities Group Manager), Paul Tsikleas (Commercial Services Manager), Peter Morgan (Manager Finance & Governance) and Sandra Bailey (Secretary) were in attendance.

There were two people in the gallery at this time.

1. Apologies

Nil

Absent at this stage

Cr Jeff Johnson
Cr Robyn Hordern
Cr Sharon Cadwallader

2. Declarations of Interest

Nil

3. Deputations

Nil

4. **Committee Reports**

4.1 **Flat Rock Tent Park - Update**

RECOMMENDATION

(Cr Ben Smith/Cr Susan Meehan)

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.

Cr Jeff Johnson arrived at the meeting at 04:02 pm.
Cr Robyn Hordern arrived at the meeting at 04:03 pm.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

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

A **Motion** was moved by Cr Keith Johnson and seconded by Cr Ben Smith

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.

Cr Sharon Cadwallader arrived at the meeting at 04:09 pm.

The **Motion** was **LOST**.

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

RECOMMENDATION

(Cr Jeff Johnson/Cr Ken Johnston)

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.

14.2 Commercial Services Committee Minutes - 17 September 2013

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 by way of an independent valuation.
3. Council authorises the attaching of the Council seal to the contract for sale.

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

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

A **Motion** was moved by Cr Sharon Cadwallader

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.

The Motion **LAPSED**.

RECOMMENDATION

(Cr Keith Johnson/Cr Susan Meehan)

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

4.3 Shelly's on the Beach –Request for Rental Relief

Reason for Confidentiality

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

- d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

and in accordance with 10D(2)(d), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the discussion will provide details of the financial and personal affairs of the tenants.

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

(The Committee moved into Confidential Session at 4.47 pm).

Open Committee

RECOMMENDATION

(Cr Keith Johnson/Cr Robyn Hordern)

That the Committee move into Open Committee and out of Committee of the Whole.

FOR VOTE - All Councillors voted unanimously.

(The Council moved into Open Committee at 5.08 pm).

The General Manager advised the Open Meeting that there were no recommendations made while in the Confidential Session.

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

RECOMMENDATION

(Cr Jeff Johnson/Cr Sharon Cadwallader)

That the matter be deferred to seek further information.

FOR VOTE - All Councillors voted unanimously.

Adjournment

The Mayor declared the meeting adjourned at 5.09 pm

The Meeting resumed at 5.54 pm

(Cr Ken Johnston was not in attendance at this stage.)

4.4 Wigmore Arcade Complex - Redevelopment

A **Motion** was moved by Cr Ben Smith

That Council review the options in 24 months.

The **Motion LAPSED.**

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Paul Worth)

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.

14.2 Commercial Services Committee Minutes - 17 September 2013

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.

Cr Keith Williams left the meeting at 06:19 pm.

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

AGAINST VOTE - Cr Jeff Johnson

ABSENT. DID NOT VOTE - Cr Keith Williams and Cr Ken Johnston

MEETING CLOSURE

6.43 pm

RECOMMENDATIONS

That Council confirms the minutes of the Commercial Services Committee meeting held 17 September 2013 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

14.3 Facilities Committee Minutes - 17 September 2013

14.3 Facilities Committee Minutes - 17 September 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), Rod Willis (Development and Environmental Health Group Manager), Steve Barnier (Strategic and Community Facilities Group Manager), Paul Tsikleas (Commercial Services Manager), Peter Morgan (Manager Finance & Governance), Chris Allison (Contracts & Projects Co-ordinator), Craig Zerk (Project Engineer) and Sandra Bailey (Secretary) were in attendance.

There were seven people in the gallery at this time.

1. Apologies

Nil

2. Declarations of Interest

Nil

3. Deputations

Dominic Finlay-Jones, Architect – gave a presentation on Item 4.1 – Richmond Room/VIC/Ballina Library.

4. Committee Reports

4.1 Richmond Room / VIC / Ballina Library

RECOMMENDATION

(Cr Keith Johnson/Cr Paul Worth)

1. That Council endorses the renovations and modifications to the Ballina Library and Ballina Visitor Information Centre, generally in accordance with Option E presented by Dominic Finlay-Jones Architects Pty Ltd, as attached to this report.
2. That subject to funds toward the project being committed from the Richmond Tweed Regional Library and the Ballina Friends of the Library, Council's General Manager be authorized to immediately arrange for the implementation of works in a cost-effective manner.
3. That each of the key stakeholders who have been consulted in relation to this project be thanked for their input and the constructive manner in which they have contributed to the process.
4. That Council's Access Reference Group be consulted as a means of determining a preferred access arrangement at the River Street frontage of the library.
5. That Council, in principle, waive usage charges for the Richmond Room by the library, with the extent of this concession being negotiated and determined by the General Manager.

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

AGAINST VOTE - Cr Susan Meehan

4.2 **Wollongbar Sports Fields - Project Update**

RECOMMENDATION

(Cr David Wright/Cr Paul Worth)

1. That Council confirms that the preferred program of works and budget for the Wollongbar Sports Fields Project is as per the following table, as detailed within this report and per the attachments to this report:

Description	Amount
Essential Works	\$ 3,421,509
<i>Inclusions:</i>	
“Important but Not Essential”	\$ 285,796
“Subject to Section 96”	\$ 190,000
Increased budget for clubhouse facilities	\$ 200,000
Provisional Sum Items	\$ 99,375
Sub Total	\$ 4,196,680
<i>Items for Consideration</i>	
Planting within site along road corridors & buffer zones	\$ 30,000
Provision of AC to 4 Netball Courts	\$ 100,000
Lighting to 2 Netball Courts	\$ 50,000
Sub Total	\$ 4,376,680
Contingency – 15%	\$ 656,502
Total	\$5,033,182
Other costs already incurred or committed to-date	\$2,119,924
Total Estimated Project Cost	\$ 7,153,106

2. That Council approves an increase in the existing funding allocated to this project of \$100,000 being interest earned on the Building Better Regional Cities grant income.
3. That Council confirms that the recurrent capital sport fields funding for 2014/15 is available for this project, being \$148,000 due to savings being achieved on the drainage works for Fripp Oval and Skennars Head sports Fields.
4. That Council notes that an application for \$200,000 in funding has been submitted to the NSW State Government’s Community Building Partnership Program.
5. That Council receive a further report that provides a financial overview of the funding needed to finalise all the major infrastructure projects currently underway being the Ballina Surf Club, Ballina Heights Drive and the Wollongbar Sports Fields.

Cr Ken Johnston left the meeting at 05:34 pm.

FOR VOTE - All Councillors voted unanimously.
 ABSENT. DID NOT VOTE - Cr Ken Johnston

MEETING CLOSURE

5.53 pm

RECOMMENDATIONS

That Council confirms the minutes of the Facilities Committee meeting held 17 September 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 August 2013 Ordinary meeting:

<u>Date</u>	<u>Function</u>
23/8/13	NOROC Workshop
24/8/13	Quota Craft Fair
24/8/13	Wollongbar Rugby – V Ballina
25/8/13	Dragon Boat Racing – Pop Dennison Park
26/8/13	Councillor Briefing – Reserve Plan of Management
29/8/13	Meeting Wollongbar Rugby Club re Wollongbar Sporting Fields
29/8/13	Mah Jong Welcome – Ballina RSL
30/8/13	Meeting Alan Brown/others – re Ballina RSL Memorial
30/8/13	Coastal Recreational Pathway Inspection
31/8/13	Wollongbar Hall Community Garage Sale
1/9/13	Wreath laying and Lunch – Legacy Week – Ballina RSL
3/9/13	Councillor Briefing – Wollongbar Sporting Fields
4/9/13	Meeting Bob Higgins – RMS
4/9/13	Briefing Club Lennox – Re Lease
4/9/13	Briefing Draft Procurement Policy
5/9/13	Aboriginal Advisory Committee
7/9/13	Alstonville Preschool – Sale – Crawford House
8/9/13	Opening of the Story Exhibition – Northern Rivers Gallery
8/9/13	Official Opening of piste – Pop Dennison Park
8/9/13	Ballina Airforce Association – Wreath laying – RSL – Cr Meehan
10/9/13	'A' Ward Meeting
11/9/13	Commercial Services Committee Meeting
11/9/13	Reserve Trust Meeting
12/9/13	'C' Ward Meeting
13/9/13	Calendar Girls – Players Theatre
14/9/13	TS Lismore Navy Cadets Annual Meeting
15/9/13	Raising of the Flags – Surf life saving North Coast – Lennox Head
15/9/13	Country Fair – Summerland House
16/9/13	'B' Ward meeting
17/9/13	Commercial Services Committee Meeting
17/9/13	Facilities Meeting
19/9/13	Councillor Briefing Captain Cook Park
19/9/13	Councillor Briefing Cumbalum B
20/9/13	Lennox Art Space – Relay for Life Exhibition Launch
21/9/13	90 th Anniversary Alstonville Plateau Bowls and Sports Club
23/9/13	Northcott – Ballina Community Participation House
26/9/13	September Council Meeting
26/9/13	UPA General Meeting - Summerland House

RECOMMENDATION

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

16. Questions Without Notice

16. Questions Without Notice

17. Confidential Session

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

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

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

17.1 Shelly's on the Beach - Rent

This report contains information relating to negotiations currently being held with the owners of the Shelly Beach Cafe

RECOMMENDATION

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

17.1 Shelly's on the Beach - Rent

Reason for Confidentiality

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

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business; and
- d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the release of this information could prejudice both the negotiations currently being held with the owners of the Shelly Beach Cafe and other lease arrangements Council has with tenants.