



## Notice of Ordinary Meeting

an Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **Thursday 23 January 2014 commencing at 9.00 am.**

### Business

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

Paul Hickey  
**General Manager**

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

### **Deputations to Council – Guidelines**

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

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 five minutes allocated for the deputation.

### **Public Question Time – Guidelines**

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

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

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

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

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

Recording of the questions will not be verbatim.

The standard rules of behaviour in the Chamber will apply.

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

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1. Australian National Anthem
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**1. Australian National Anthem**

The National Anthem will be performed by Councillors and staff.

**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 19 December 2013 were distributed with the business paper.

**RECOMMENDATION**

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 19 December 2013.

**5. Declarations of Interest and Reportable Political Donations**

**6. Deputations**

**7. Mayoral Minutes**

Nil Items

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## 8. Development and Environmental Health Group Reports

### 8.1 DA 2013/441 - 377 Houghlahans Creek Road, Booyong (Riding for the Disabled)

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<b>Applicant</b>	Ardill Payne & Partners
<b>Property</b>	Lot 10 DP 1033747 377 Houghlahans Creek Road, Booyong
<b>Proposal</b>	The establishment of a recreation facility (outdoor) for the purpose of an equestrian centre (Riding for the Disabled).
<b>Effect of Planning Instrument</b>	The land is zoned RU1 Primary Production under the provisions of the Ballina LEP 2012 and 1 (b) Rural (Secondary Agricultural Land) under the provisions of Ballina LEP 1987.
<b>Locality Plan</b>	The subject land is depicted on the locality plan attached

#### Introduction

The application seeks approval for the establishment of a Riding for Disabled Association (RDA) facility. The application is presented to Council for determination as a number of objections have been received to the public notification of the proposal.

The development application seeks permission for the relocation of the Riding for the Disabled Association establishment from their existing location at 75 North Teven Road, Teven to 377 Houghlahans Creek Road, Booyong.

The application involves the construction of the following:-

- 14m x 12m stables
- 60m x 20m covered arena
- 40m x 45m outdoor arena
- 9m x 8.5m reception/office/amenities building
- 20m diameter round yard
- 20 car parking spaces

The existing operation comprises 3 x 1 hour sessions (9-10am, 10-11 am and 11-12 midday) on Tuesday, Wednesday and Saturday with an average of three or four clients per session using up to 10 horses when available.

The operation as it currently exists, and as it is proposed to operate until additional volunteers can be found, consists of a maximum of five clients, with an average of three to four clients per session.

The volunteers arrive early in the morning to set up, and the clients arrive in time for their sessions. The volunteers attend to the horses and clean up after the sessions and are generally off the site by 1.00pm.

## **8.1 DA 2013/441 - 377 Houghlahans Creek Road, Booyong (Riding for the Disabled)**

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The operation generates very little noise, and comprises children and adults riding horses around an arena with many of the horses being led by the volunteers.

During a pre DA meeting with Council staff, it was suggested that the RDA lodge an application seeking approval for what they considered to be their ultimate development, thereby saving them from having to lodge further applications to Council should they desire to increase their operations in the future.

At the moment the RDA has 10 volunteers, and this dictates the size of their operations. If they were to increase the number of volunteers it may be possible for them to increase the number of sessions or the number of clients at each session. The RDA is of the opinion they will more than likely never reach the full potential of this application.

The site is accessed from Houghlahans Creek Road, which is of gravel construction from the Tintenbar end and bitumen seal to within 10 metres of the access gate from the North.

The RDA has discussed the preferred route to the new facility with its volunteers, parents, carers, Biala etc, and it has been agreed that the preference is for access to be via the northern sealed section of Houghlahans Creek Road. Travelling to the site via the sealed road takes an extra five minutes or three kilometres. This small additional travelling time and distance is not likely to deter those using the facility from travelling the safer sealed road, approaching the site from the north.

The site has been bequeathed to the RDA, which is why they have decided to relocate from their existing site. The site has an area of 46.78ha with a frontage to Houghlahans Creek Road of 53.425m. The site is predominantly cleared undulating grazing land with a number of stands of bush along the southern boundary. The area of the site to be used by the RDA is approximately 0.7ha in area. It is a relatively level spur in the northeastern corner of the site close to the access from Houghlahans Creek Road. The remainder of the site will continue to be used for grazing purposes. Using this location will require the least amount of site levelling for the arenas, resulting in the least amount of disturbance to the soil and the consequent reduction in the possibility of sediment and erosion loss. It also has the least impact on the use of the remainder of the site for grazing.

### **Reportable Political Donations**

Details of known reportable political donations are as follows:

- Nil

### **Public Exhibition**

The application was placed on public exhibition from 20 November 2013 to 5 December 2013.

Nine letters of support were received, all from people associated with the RDA.

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Fifteen letters of objection were received. It should be pointed out that of the 15 objections received, five came from the one property and five from family and associates of the residents of that property who live in the Shoalhaven area.

One submission was received that did not object to the proposal itself, but objected to the increase in traffic on the road.

One submission contains a petition with 11 signatures five of whom have made individual submissions.

The issues raised in the submissions are addressed later in this report.

### **Report**

The application has been assessed in accordance with the heads of consideration under Section 79C of the Environmental Planning and Assessment Act 1979. The following are the pertinent matters for Council's consideration.

#### **Rural Fires Act 1997**

A portion of the site is mapped on Council's Bush Fire Prone Land Map as being bushfire prone. Approval from the NSW Rural Fire Service is required under Section 100B of the Rural Fires Act 1987.

A Bushfire Risk Assessment (BRA) has been undertaken. The recommendations contained in the BRA have been incorporated into the proposed development.

The development application has been referred to the Rural Fire Service (RFS) as integrated development in accordance with the requirements of the Act.

The RFS has advised they have no objection to the proposed development.

#### **SEPP 55 Remediation of Land**

A preliminary SEPP 55 investigation was undertaken. The findings of this investigation concluded that the site is suitable for the proposed development.

#### **Ballina Local Environmental Plan 1987 (BLEP 1987)**

The subject land is part zoned 1 (b) Rural (Secondary Agricultural Land) under the provisions of BLEP 1987.

The portion of the land zoned 1(b) Rural (Secondary Agricultural Land) is a small section located along the southern boundary of the site well away from the proposed area to be used for the purpose of riding for the disabled, and as such will not be addressed further in this report.

#### **Ballina Local Environmental Plan 2012 (BLEP 2012)**

The site of the proposed development is part zoned RU1 Primary Production under the provisions of the BLEP 2012.



## 8.1 DA 2013/441 - 377 Houghlahans Creek Road, Booyong (Riding for the Disabled)

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Pursuant to BLEP 2012 the proposed use would be defined as a 'Recreational Facility (Outdoor)' which is described as follows:

*“recreation facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).”*

A 'Recreational Facility (Outdoor)' is permissible with consent in RU1 Primary Production zone.

In determining the application, Council must have regard for the objectives of the RU1 Primary Production zone which are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To maintain the rural, cultural and landscape character of the locality.*
- *To enable development that is compatible with the rural and environmental nature of the land.*
- *To ensure that there is not unreasonable or uneconomic demands for the provision of public infrastructure.*

It is considered that the proposed application complies with the objectives of the zone.

### **Clause 7.2 – Earthworks**

Clause 7.2 requires Council to ensure that earthworks do not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The proposed earthworks which are to be located some 20m from the property boundary involve minor cutting and filling to create two level arenas. Considering the minor nature of the earthworks, the imposition of appropriate sediment and erosion control measures, the distance from the adjoining property and the drainage system, it is considered that the proposed earthworks will comply with the requirements of Clause 7.2.

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## **Ballina Shire Development Control Plan 2012**

### **Chapter 2 – General and Environmental Considerations**

#### **3.19 Car Parking and Access**

Council has no set parking requirements for a development of this kind. Therefore, the application is to be determined on its merits. It is estimated that the number of cars attending each session would be in the vicinity of 10-12 cars. The cars of clients attending each session will overlap in the car park, whereas, the cars of the volunteers will remain for all sessions.

During a pre DA meeting the above was considered and it was determined that a gravel surface car parking area providing parking for 20 cars would be required. The information submitted with the application includes a gravel car park for 20 cars. It should be noted that no formed car park exists at the present location in North Teven Road, and this causes no problems for those attending.

#### **Issues Raised in Public Submission**

A copy of the submissions is attached for the information of Councillors. It should be noted that four confidential submissions were received. Given that these submissions contain personal information on the private affairs of the submitter, these are available for viewing by Councillors by contacting the General Manager's Office.

Matters raised in support of the application are:

- Benefits to clients both children and adults
- Not a waste of tax payers money
- Equality access to sports
- Activities are quiet and the children are supervised at all times
- There are no coach loads of people only the Biala Special School mini bus on Tuesdays
- Existing tenant requires full use of the site.

#### **Comment**

The matters raised in the submissions of support have mainly been provided to answer matters raised in the objections.

Many of the matters raised in submissions against the proposal are of a similar nature and for this reason have been grouped together.

A summary of the issues raised in opposition to the application are as below.

#### *Road and transport*

Concerns were raised with the condition of the road and that it is subject to flooding.

#### **Comment**

The road is a typical gravel rural road and from time to time sections of the road are affected by local flooding.

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The proponent has discussed access to the new facility with the volunteers, parents, carers, Biala etc, and it has been agreed that the preferred route to the new facility would be via the northern sealed section of Houghlahans Creek Road.

Increase in traffic

The development will attract dozens of buses, horse floats, cars and various other forms of transport

Comment

It is proposed that the average number of vehicles for each three hour session could be in the vicinity of 10 - 12 vehicles. Volunteers arrive prior to sessions for setting up and leave after cleaning up and tending to the horses.

Clients arrive prior to the three hourly sessions and leave after their lesson. The only bus attending the site will be the Biala School Special Bus which will make three trips each Tuesday.

There may be the occasional horse float, but this will be rare as the horses are stabled on site.

Traffic impact on fauna, dust and exhaust fumes

Comment

The small amount of additional traffic generated by this development over the period of a day or week will have minimal impact on the amount of dust, exhaust gases generated or impact on the fauna of the area.

Houghlahans Creek Road is a dangerous road

Comment

Council's records show that only two accidents have been reported to police on Houghlahans Creek Road since records commenced in 2001. This would indicate that those travelling the road do so with caution, and correspondingly the road could not be considered as a dangerous road.

The property will look like a Bunning's car park

Comment

A gravelled carpark with capacity for up to 20 vehicles on a 47ha of land will not look like a Bunning's carpark.

More people in the area will bring undesirables, vandals, curious interlopers, trespassing onto adjoining properties. Also, visitors will be at risk of being bitten by snakes

Comment

The only people attending the site as part of this application will be the riders with disabilities their carers and the volunteers.

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*Noise*

Noise pollution from fund raising activities, gymkhanas, fun days, car doors

Comment

This application does not provide for any fund raising activities, gymkhanas, or fun days. There will be no music played during the riding sessions. It is acknowledged that noise will be generated by the closing of car doors but over the course of a day this is considered to be minimal.

*Character of the area*

The application will destroy the character and peacefulness of the area and will therefore have a negative impact on local residents.

Comment

It is considered that a number of disabled people being led around on horses will not generate an unreasonable impact on the rural amenity of the locality

Reflection from building materials

Comment

The buildings will be finished in a low reflective colorbond material.

Visual intrusion from electric lights and security lights

Comment

There will be no electric lights or security lights erected on the site.

Special fences required for horses

Comment

The proponent will not be providing any special perimeter fencing to house the horses. The existing rural perimeter fencing is considered adequate.

Application resembles stockyard or feedlot with a build up of horse waste which will be washed down into creek

Comment

A stable of 10 horses, allowed to roam the property for most of the time, will not resemble a stockyard or feedlot. There is no build up of horse waste at the present site, and there is nothing to indicate that such a build up would occur at this location.

Horses turn area into mud in the rain and a dust bowl in the dry

Comment

The existing property which is much smaller than that proposed has been inspected and there was no indication of the area having been turned into a dustbowl. Nor has Council received such complaints about the existing premises in North Teven Road.

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The buildings will block out the scenic view from the road and adjoining residents

Comment

The buildings are of a small scale and are located in a position where they will not block any significant views from the road or adjoining residents.

Not in keeping with the local community

Comment

The proposed operation is of such a small scale, it will have minimal adverse impact on the community.

The proposal will generate land use conflicts with the diverse agricultural activities in the area which are traditional agriculture, grazing, orchards and nurseries

Comment

The majority of the property will remain as a grazing property and the proposed operation is of a small scale, so as to not generate any land use conflicts in the area.

*Future use of site*

If property is sold what will prevent new owners from establishing a different form of outdoor recreation centre?

RDA will seek commercial endeavours expanding their operation and generating more waste which will be blown onto adjoining properties. Concern that the facility will develop into a RDA regional hub.

Comment

The application is for the use of the site for the purpose of riding for the disabled. If anybody wishes to use the property for a use other than riding for the disabled and the use is not listed as exempt or complying development, a new development application seeking permission for that use will need to be lodged with Council.

Approval for a Recreation facility will generate a precedent for future recreational activities.

Comment

Approval of this application will not generate a precedent. The land is zoned RU1 and "**recreation facility (outdoor)**" are permissible with Council consent in an RU1 zone. Other uses such as animal boarding or training establishments, intensive livestock agriculture, recreation areas, and tourist and visitor accommodation are also permissible with Council consent.

*Environment*

Concerns with environmental impact on dam, run off from the proposed development will flood the creek. Concerned with the impact on established wildlife corridor along the eastern boundary and creekline and sedimentation of creek from earthworks.

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Comment

There will be ground disturbance during the construction phase of the development. This will be appropriately controlled by sediment and erosion control measures. Once the area has been developed and established there should be no significant additional run off from the site. The proposed development is not considered likely to impact on wildlife corridors.

Impact on the water quality of bore water in the locality  
Buffer distances  
Septic trenches close to drains

Comment

The septic application has been assessed, and the existing system inspected. It has been determined that the existing system does not operate effectively and needs to be replaced. After negotiations with the applicant, the existing septic system will be decommissioned and the existing residence plumbed into the proposed new system for the complex. The proposed system meets all health and safety requirements.

Threat of bats spreading Hendra virus to horses and then to humans

Comment

This is not a relevant development consent issue.

Concern about distance for medical assistance

Comment

This is a matter for the applicant to consider as part of their own due diligence assessment of the proposal. Nevertheless, the property is adequately served by typical rural roads that connect to a sealed road network linking to Ballina and Lismore

Client's drugs ending up in water system

Comment

This is not considered to be an issue and has not been found to be an issue at the present location in North Teven Road.

Neighbours not properly consulted

Comment

The development application was placed on public exhibition and all adjoining neighbours were notified. Further, Council is advised that the executive of the RDA visited all adjoining properties prior to the lodgement of the application. The adjoining residents were invited to attend the existing operation to see how the sessions are conducted, but apparently not one of these people took up the invitation.

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Applicant domiciled in Sydney

Comment

The head office of the RDA is in Sydney. However, the application was lodged by the local committee of the RDA for the use of local members.

Proponent evicted from existing location

Comment

The proponent was not evicted from their previous tenancy. They are relocating because they were bequeathed the land.  
A submission has been received from the owner of the existing site advising they had no desire to evict RDA from the site.

Why was NSW Fisheries not informed.

Comment

There is no statutory requirement for NSW Fisheries to be consulted.

Odour from the horses

Comment

Any odour from the horses would presumably not be uncommon in such a rural locality.

Hay and feed storage will attract mice which attracts snakes

Comment

It is in the proponents' best interest to adopt appropriate practices to prevent mice from getting in amongst the hay and feed.

Lack of maintenance due to lack of volunteers

Concern that operation will not meet Workplace, Health and Safety and Code of Practice requirements

Comment

At the moment there are 10 volunteers, and the activities including maintenance and operation are geared to that number. If the numbers drop the activities will be curtailed.

The applicant advises that the existing site is currently complying with OH&S requirements and there is no reason why this compliance should not continue to the new site.

Financial burden on Ballina Council

Comment

The RDA like any organization is entitled to seek financial assistance from Council. Whether or not they obtain any financial assistance is of no relevance to the determination of this development application as it is not likely to create any additional/unreasonable demand for services.

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Development should be located in an area that already caters to tourists and large crowds

Comment

The development is not designed for tourist and large crowds; it is designed to cater for a small group of regular local residents.

**Section 94 contributions**

A merit based assessment has been made of the proposed development and it has been determined that the following contributions be charged:

Rural Roads 2010	\$7,991.30
Roads Administration 2010	\$121.26
Total	\$8,112.56

The applicant has requested that Council waive any developer road contributions for the following reasons:

- The RDA is a registered Public Benevolent Institution (not for profit charity) that provides an extremely important social service that caters for special needs people.
- This facility is replacing the existing facility on North Teven Road that generates loads/demands upon the Shire road network. It is submitted that the loads/demands generated by the new facility will replace those of the existing facility and thus there will not be any net increase in loads/demands generated by the RDA on the Shire road network.

Comment

This is a matter for Council's determination.

**Conclusion**

The application seeks consent for a use which is compatible with the surrounding rural land uses, creates minimal impacts on the environment and neighbouring properties and offers an opportunity for people with a disability to participate in an activity which has been proven to be of benefit to the development of those people who participate.

The proposed use is permissible in the zone, is consistent with the zone objectives and does not impede on the future use of the land. The application has been assessed having regard for Section 79C of the Environmental Planning and Assessment Act 1979 and is considered to warrant the support of Council.

Having regard for the outcomes of the assessment undertaken, Council has the following options with regard to determining the subject application:

**Option 1**

That Council approves the development application in accordance with the above assessment subject to the attached conditions. Council will need to determine the request to waive the contributions.



**8.1 DA 2013/441 - 377 Houghlahans Creek Road, Booyong (Riding for the Disabled)**

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**Option 2**

Council should refuse the development application, if it is of the opinion, that the application is not in keeping with the rural character of the locality, will be in conflict with adjoining properties or will place an unreasonable demand on the adjoining road.

Option one is the recommended approach for the reasons outlined in this report.

**RECOMMENDATIONS**

1. That Development Application 2013/441 to establish a riding for the disabled facility at 377 Houghlahans Creek Road Booyong, be APPROVED subject to the planning, environmental and engineering conditions attached.
2. That the Council determine whether or not to donate or waive the applicable development contributions.

**Attachment(s)**

1. Locality Plan
2. Site Plan
3. Submissions Against
4. Submissions in Favour
5. Draft Conditions of Consent

**8.2 DA 2013/385 - 59 Teakwood Drive, Alstonville - Conversion of Existing Shed to Dwelling**

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**8.2 DA 2013/385 - 59 Teakwood Drive, Alstonville - Conversion of Existing Shed to Dwelling**

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<b>Applicant</b>	W R Moss and J E Burrows-Moss
<b>Property</b>	Lot 1 DP 856017, No. 59 Teakwood Drive, Alstonville
<b>Proposal</b>	Conversion of Existing Shed to Dwelling
<b>Effect of Planning Instrument</b>	The land is zoned RU1 under the provisions of the Ballina LEP
<b>Locality Plan</b>	The subject land is depicted on the locality plan attached

### **Introduction**

Council is in receipt of a development application for the change of use of an approved farm shed to a dwelling. The current farm shed enjoys approved habitable facilities, approved in 2003 when Council granted temporary occupation to the owner whilst their dwelling was under construction.

The development is located within a rural estate commonly referred to as a rural residential estate. The current two storey shed consists of three bedrooms, kitchen, dining and sitting area including garage, storage and workshop area. It is predominantly external colorbond cladding with ground floor walls fronting the street being timber and rendered fibrous cement sheeting.

The subject property is 3.032 hectares in area with manicured lawns and mature gardens and is located on the western side of Teakwood Drive.

### **Reportable Political Donations**

Details of known reportable political donations are as follows:

- Nil

### **Public Exhibition**

The application was notified in writing to the adjoining neighbors with two objections being received, one of which was a petition from a majority of the property owners within Teakwood Drive.

### Applicable Planning Instruments

#### Ballina Local Environmental Plan 2012

*The site is zoned RU1 Primary Production with dwellings being permitted with consent. The objectives of the zoning are to:*

- *Encourage sustainable primary industry production by maintaining and enhancing the natural resource base*
- *Encourage diversity in primary industry enterprises and systems appropriate for the area*
- *Minimise the fragmentation and alienation of resource lands*
- *Minimise conflict between land uses within this zone and land uses within adjoining zones*
- *Maintain the rural, cultural and landscape character of the locality*
- *Enable development that is compatible with the rural and environmental nature of the land*
- *Ensure that there is not unreasonable or uneconomic demands for the provision of public infrastructure.*

Having regard to the above objectives, the proposed change of use from farm shed to dwelling is considered to satisfy the criteria. Private covenants are addressed within the LEP as follows:

*Clause 1.9A Suspension of covenants, agreements and instruments:*

1. *For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.*
2. *This clause does not apply:*
  - (a) *to a covenant imposed by the Council or that the Council requires to be imposed, or*
  - (b) *to any prescribed instrument within the meaning of section 183A of the Crown Lands Act 1989, or*
  - (c) *to any conservation agreement within the meaning of the National Parks and Wildlife Act 1974, or*
  - (d) *to any Trust agreement within the meaning of the Nature Conservation Trust Act 2001, or*
  - (e) *to any property vegetation plan within the meaning of the Native Vegetation Act 2003, or*
  - (f) *to any biobanking agreement within the meaning of Part 7A of the Threatened Species Conservation Act 1995, or*
  - (g) *to any planning agreement within the meaning of Division 6 of Part 4 of the Act.*
3. *This clause does not affect the rights or interests of any public authority under any registered instrument.*
4. *Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).*

## 8.2 DA 2013/385 - 59 Teakwood Drive, Alstonville - Conversion of Existing Shed to Dwelling

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As identified within this clause it is not Council's role or responsibility to uphold or enforce private covenants not imposed by Council or other government authority. The development does not contravene any Council imposed covenant.

### **Ballina Shire Council's Combined Development Control Plan**

*Chapter 7 design principles for rural dwellings:*

- *The design of the dwelling and associated buildings should be in keeping with the rural character of the locality. Traditional construction materials and natural colours are encouraged*
- *Rural dwellings must be designed in a manner which minimises energy and water consumption, and*
- *Buildings associated with dwellings such as a large sheds, greenhouses and other ancillary structures must be designed, located and landscaped to reduce visual impacts on adjoining properties and places.*

Energy and water consumption has been addressed by the submission of the Building Sustainability Index Certificate (BASIX). The siting and design of the dwelling and associated structures to maintain the rural character of the locality and landscaping requirements is considered appropriate to satisfy the design principles.

### **Report**

The current application before Council is to convert temporary residential use of a farm shed to a permanent dwelling. Approval was granted on the 22 April 2003 conditional to the temporary occupation of the shed being for a 12 month period, after which all facilities were to be removed.

Construction issues relating to workmanship and structural adequacy of the principal dwelling under construction resulted in an incomplete building and drawn out legal proceedings. Council became aware of these matters due to the cancellation of the original Principal Certifying Authority (PCA) and the appointment of Council. Due to the construction of the dwelling ceasing and the extended legal proceedings Council did not follow up on the 12 month temporary occupation period and likely would have granted an extension if requested. Following the resolution of court proceedings the owner of the property, Mr Moss, lodged a Development Application with Ballina Shire Council on 15 December 2012 for demolition of the partially completed dwelling. It has subsequently been demolished. The legitimate use of the shed was then raised with Council which, following review of the file, revealed the temporary approval to occupy. Mr Moss was subsequently requested to advise Council of his intentions for the property and the farm shed.

The design and layout of the farm shed has only slightly been altered since the original approval for occupation. The changes consist of partition walls in the upstairs area to create a sitting area and two bedrooms. Downstairs the external walls of the workshop were extended out to incorporate the veranda. Internal partition walls have been constructed to create a separate internal storage and garage area from the workshop.

## 8.2 DA 2013/385 - 59 Teakwood Drive, Alstonville - Conversion of Existing Shed to Dwelling

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Inspection disclosed that the shed generally complies with the requirements of the Building Code of Australia for a habitable dwelling. A review of the original Development Application for the shed and subject Section 96 modification for the installation of the habitable facilities revealed the shed underwent all mandatory inspections at the time of construction including a final inspection prior to occupation.

Additional to the building being used as a temporary residence is an existing 12 by 6 metre storage shed. This shed is exempt development under the State Environmental Planning Policy Exempt and Complying Development Code.

### Issues Raised by Objectors

- (1) The proposal is not in keeping with the design and character of the rural residential subdivision of Teakwood Drive and breaches several private covenants being:
  - 10 (a) - No building including any garage or other outbuilding appurtenant thereto shall be erected on any lot having exterior walls constructed of any material other than clay brick and split concrete blocks provided however that one color bond shed may be erected within each lot provided the design, type of construction and location of such shed shall be approved by Hendrik Hoekstra and Betty Margaret Hoekstra and Ballina Shire Council. No building or shed as herein before referred to shall be of any other color than subdued or earthy tones which are not prominent against the background. Sections of feature panel above, beside and below windows and doors may be constructed in non-masonry type materials as approved by Ballina Shire Council. Construction shall be deemed to include alterations and additions.
  - 10 (m) - No shed, basement, tent, shack, garage, trailer, camper, caravan, or any outbuilding erected or placed on any lot shall be used at any time as a permanent or seasonal dwelling.
  - 10 (q) - No dwelling shall be occupied unless the access to such dwelling is by way of sealed access road, driveway or carriage way of hot mix, bitumen, asphalt, concrete or other similar material as may be approved by Hendrik Hoekstra and Betty Margaret Hoekstra their executors and assigns whilst ever they own a lot within the subdivision and thereafter the Council of the Shire of Ballina.

Comment: The shed is not highly visible from the road being located approximately 80 metres from Teakwood Drive on the down hill side of a rock retaining wall with suitable landscape screening. The owner has modified the external cladding to improve the external appearance from the road. As the shed is located within a rural subdivision where the dwellings are situated well away from each other and have established gardens providing partial screening from the road and each other, it is considered that the shed does not overly detract from the streetscape and character of the subdivision.

## 8.2 DA 2013/385 - 59 Teakwood Drive, Alstonville - Conversion of Existing Shed to Dwelling

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Clause 1.9a of Ballina Shire Council LEP does not require Council to enforce and maintain private covenants. This responsibility lies with the developer and stakeholder within the subdivision. A new rural dwelling in conflict with the covenants could be lodged and approved by Council within a mandatory 10 days under the State Environmental Planning Policy Exempt and Complying Development for New Dwellings without any initial consultation with adjoining residents.

The current driveway is constructed of compacted crushed aggregate. The original development consent issued for the farm shed and then temporary occupancy did not require the driveway to be sealed and the driveway was satisfactory at the time of the final inspection.

- (2) There are extensive unauthorised additions to the entire perimeter of the shed including unsafe retaining walls, with no Construction Certificate being issued for the shed, and no building inspections were carried out.

Comment: A Construction Certificate was issued and subsequent building inspections carried out. The retaining of excavation was carried out at the direction of Council subject to the schedule of outstanding items attached to the Interim Occupation Certificate. The rock retaining walls do not appear to be showing any signs of dilapidation or subsidence.

Should the application be approved the consent will be conditioned that a building certificate be obtained to legitimise unauthorised works which have been carried out without Council approval (partition walls and veranda enclosure).

- (3) The objectors considered themselves compassionate and sympathetic towards the applicant by not objecting to the temporary occupancy whilst they were of the belief that the shed would be reverted back to its original state and that following the court case the partially completed dwelling would be completed or a new dwelling constructed. Council should not consider the application as it does not comply with Council regulations and the private covenants, and should not have exhibited the application as it creates animosity amongst neighbours.

Comment: Council has the responsibility to assess and determine development applications in accordance with EP&A Act, Council LEP and DCP. Neighbor notification is part of the process.

- (4) Council is setting a precedent should the application be approved for residents within the shire to construct unauthorised building work without obtaining the necessary building approval and insurances.

Comment: Unauthorised building work is not uncommon and legislation provides an avenue for landholders to have such structures legitimised.

- (5) The approval of the development application would have a direct negative impact on the values of the properties within the subdivision.

## **8.2 DA 2013/385 - 59 Teakwood Drive, Alstonville - Conversion of Existing Shed to Dwelling**

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Comment: It is not Council's role or responsibility to determine applications with the consideration of the neighbouring property values other than with respect to the public interest., No evidence has been provided to substantiate this claim nor does the application assessment support the contention in this case.

- (6) The developer is the authority that has power to vary or modify the 88B instrument in which case the developer has not consented to the variation of the covenants.

Comment: The developer has the ability to take their own civil action to enforce the 88B instrument, and it is not Council's role to enforce covenants not imposed by Council.

- (7) Approval of this application has the potential to create a situation where in the future a second dwelling could be constructed offending zoning.

Comment: The property is Zoned RU1 under Ballina Council Local Environmental Plan. Attached dual occupancies are permitted.

### **Conclusions**

The farm shed enjoyed temporary approval to be utilised as a dwelling for a 12 month period. During this time issues arose with regard to the construction of the family home which led to drawn out legal proceedings resulting in the demolition of the partially constructed dwelling. Now the owner is seeking approval to continue the use of the shed as a dwelling.

The shed has been constructed to a standard that satisfies the Building Code of Australia (BCA) and relevant Australian Standards, as well as Council's LEP and DCP Chapters. Minor unauthorised work is insignificant and can be regularised through the requirement of the owner to lodge a Building Certificate application.

Under Clause 1.9a of Ballina Shire Council LEP Council has no authority to refuse the application for the sole reason that the building does not comply with the private covenants listed within the 88B instrument. The developer and owners with vested interest within the subdivision have the ability to take their own civil action to enforce the 88b instrument privately if they so wish.

The shed is considered appropriate for conversion to a permanent dwelling, and there are no apparent reasons to justify refusal or modifications.

**8.2 DA 2013/385 - 59 Teakwood Drive, Alstonville - Conversion of Existing Shed to Dwelling**

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**RECOMMENDATIONS**

That Development Application 2013/385 for the Change of Use of the farm shed to a dwelling at 59 Teakwood Drive, Alstonville, be APPROVED subject to appropriate conditions of approval.

**Attachment(s)**

1. DA 2013/385 Locality Plan
2. Photo - Dwelling and Shed Southern Elavation
3. Photo - Street View
4. Photo - East Elevation
5. Photo - South East Elevation
6. Photo - West Elevation
7. Photo - North Elevation
8. Photo - Shed North Eastern Elevation
9. Photo - Internal
10. Photo - Internal
11. Photo - Internal
12. Photo - Internal



### **8.3 Compliance Work Plan - Half Yearly Update**

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### **8.3 Compliance Work Plan - Half Yearly Update**

**Delivery Program** Development Services

**Objective** To provide Council with an update on the progress of the 2013/14 Compliance Work Plan

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#### **Background**

At the June 2013 Ordinary Meeting, Council adopted a Compliance Work Plan for the 2013/14 financial year. This report provides a half yearly update report on that Work Plan.

#### **Key Issues**

- Level of Compliance
- Results achieved

#### **Information**

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

These priority areas are:

1. *Audit of Major Developments within the Shire. (Ongoing Program)*
2. *Audit of Identified Development Consents. (Ongoing Program)*
3. *Complete the Audit of all Development Consents issued within the Southern Cross Industrial Estate.*
4. *Review of all Development Consent approvals issued within the Russellton Industrial Estate.*
5. *Review of Arterial Road Signage.*

In addition to these areas of identified priority, the Compliance Team respond to customer requests received from members of the general public as well as from Council employees and State and Federal Government Agencies.

Generally it can be said about the matters identified in the Compliance Work Plan, compliance is improving. The majority of outstanding issues currently under investigation relate to the certification of works to the required standard following the completion of developments.

For example the issuing of Final Occupation Certificates after Interim Occupation Certificates have been issued.

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

### **8.3 Compliance Work Plan - Half Yearly Update**

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

Major Developments are defined as developments consisting of five or more units/parcels of land/dwellings as well as all developments within areas of high environmental significance.

This program originally commenced in the 2008/09 financial year with an audit of 2006 development applications, which included applications that have been determined or withdrawn. This program has continued on to audit 2007, 2008 and 2009 development applications. Compliance resources have also been involved in auditing developments being carried out on environmentally and culturally sensitive sites on an ongoing basis to ensure ongoing compliance. As this program now covers over five separate years, it is intended that each audit year will be reported separately.

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

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

Compliance is working with the receivers and the new landowners to bring the environmental restoration in line with the approved revegetation management plans approved for each development. There is a condition of consent that requires ongoing revegetation of the sites, which will take place for at least the next three years or until the objectives of the revegetation management plans are achieved.

Of the 89 major developments from 2007, all developments have been inspected for compliance with the terms and conditions of the development consent. As reported to Council at the June 2013 meeting, 84 of these 89 major developments were in compliance with the issued development consents. Council is advised that since the June 2013 meeting, an additional two major developments were identified to be in compliance with the issued development consents.

Regarding the remaining three consents, all have not commenced at the time of the inspection and are due to lapse during this financial year. Further inspections of these properties will be undertaken to ascertain if the approved developments have physically commenced or have lapsed.

### 8.3 Compliance Work Plan - Half Yearly Update

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Of the 77 major developments from 2008, all developments have been inspected for compliance with the terms and conditions of the development consent. As reported to Council at the June 2013 meeting, 57 of these 77 major developments were in compliance with the issued development consents. Council is advised that since the June 2013 meeting, an additional two major developments were identified to be in compliance with the issued development consents.

Regarding the remaining 18 consents:

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

Of the 43 major developments from 2009, all developments have been inspected for compliance with the terms and conditions of the development consent. Council is advised that since the commencement of the 2009 audit:

- Eight major developments have not commenced at the time of the inspection
- Six major developments have been inspected and require further follow up inspections. These developments have all commenced however works on site have not been completed at the time of the last inspection;
- 29 major developments have been completed to Council's satisfaction and have been finalised.

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

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

This program originally commenced in the 2008/09 financial year with an audit of 2006 development applications, which included applications that had been determined or withdrawn. This program has continued on to audit 2007, 2008 and 2009 development applications.

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

### 8.3 Compliance Work Plan - Half Yearly Update

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

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

The remaining development relates to a business within Wardell that requires reports certifying all building works undertaken to the building. Compliance action is currently underway to address this non compliance.

Of the 131 identified developments from 2008, all developments have been inspected for compliance with the terms and conditions of the development consent. As reported to Council at the June 2013 meeting, 103 of these 131 identified developments were in compliance with the issued development consents. Council is advised that since the June 2013 meeting, an additional one identified development was identified to be in compliance with the issued development consents.

Regarding the remaining 27 consents:

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

Of the 99 identified developments from 2009, all developments have been inspected for compliance with the terms and conditions of the development consent. Council is advised that since the commencement of the 2009 audit:

- Three identified developments have not commenced at the time of the inspection
- One identified development has been inspected and requires further follow up inspections. This development has commenced however works on site have not been completed at the time of the last inspection
- 95 identified developments have been completed to Council's satisfaction and have been finalised.

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

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

### 8.3 Compliance Work Plan - Half Yearly Update

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Of the 507 identified development consents within the Southern Cross Industrial Estate, all developments have been inspected for compliance with the relevant issued development consent. As reported to Council at the June 2013 meeting, 399 of these 507 developments were in compliance with the issued development consents. Council is advised that since the June 2013 meeting, an additional 39 identified developments were identified to be in compliance with the issued development consents.

Regarding the remaining 69 consents:

- 32 have not commenced at the time of the inspection. These developments will be inspected during this financial year for commencement and if applicable compliance with the issued consents
- 37 developments have been inspected and require further follow up inspections. This is due to works on site not being complete at the time of the inspection, a change in the land use that has not been formally consented to but may be permissible as '*exempt development*' under State Policy, or non compliance with conditions of consent being detected. Investigations into these potential '*exempt development*' uses are continuing.

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

This is a new program for inclusion in the Compliance Work Plan for 2013/14 and was planned to commence in December 2013 on the completion of the audit of the Southern Cross Industrial Estate.

Given the Southern Cross Industrial Audit has not been completed, along with the other legal issues identified later in this Report, this program has not commenced as proposed. This program will be reviewed in March 2014 with a view to commencement at that time.

#### 5. *Review of Arterial Road Signage.*

This is a new program for inclusion in the Compliance Work Plan for 2013/14 and was planned to commence in December 2013 on the completion of the audit of the Southern Cross Industrial Estate.

Given the Southern Cross Industrial Audit has not been completed, along with the other legal issues identified later in this report, this program has not commenced as proposed. This program will be reviewed in March 2014 with a view to commencement at that time.

#### *Local Court Proceedings*

Some matters investigated by the Compliance Unit result in the commencement of legal proceedings, either in the Ballina Local Court or, where circumstances warranted, the Land and Environment Court of New South Wales. Any legal action through the Courts is undertaken in line with the provisions of Council's *Enforcement Policy*.

This current financial year, the Compliance Unit has finalised four matters in the Ballina Local Court. Council has been successful in all these matters.

### 8.3 Compliance Work Plan - Half Yearly Update

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These matters are:

1. Matter: Appeal of Penalty Infringement Notice for failure to comply with Prevention Notice. Original fine \$750.  
Result: Defendant pleaded guilty and fine increased to \$5,000. Council was not liable for legal costs as this plea was entered at the first mention where Council was represented by NSW Police Prosecutors under contract to State Debt Recovery Office. Fine being paid off at \$500 per month under agreement from the Ballina Local Court
2. Matter: Council initiated prosecution for unauthorised land use (Waste Facility - Pimlico) without Council consent.  
Result: Defendant found guilty and fined \$21,750 plus ordered to pay Council's legal costs \$1,600. Fine being paid off over 12 months under agreement from the Ballina Local Court.
3. Matter: Council initiated prosecution for unauthorised land use (Waste Facility - Alstonville) without Council consent.  
Result: Defendant found guilty and fined \$5,800 plus ordered to pay Council's legal costs \$1,700. Fine being paid off over 12 months under agreement from the Ballina Local Court.
4. Matter: Council initiated prosecution for failure to comply with development consent and unauthorised waste transportation.  
Result: Defendant found guilty and fined \$3,000 plus ordered to pay Council's legal costs \$2,500. Whilst no payment plan has been agreed to by the Court, the fine amount is within range to permit fine to be paid off over 12 months should application be made to the Ballina Local Court.

Total fines payable to Council - \$35,550

Total Legal Costs to be paid to Council - \$5,800

#### *Legal Notices*

In addition to any Court matters, the Compliance Unit issues legal Notices for any identified breaches and non-compliances identified. These legal Notices are the commencement of the process to remedy identified breaches and non-compliances within Ballina Shire.

This current financial year, the Compliance Unit has:

- Issued 26 formal Notices for identified breaches and non-compliances
- Finalised 37 formal Notices, where the matter has been resolved to Council's satisfaction and
- 22 Outstanding Notices that require follow up and may result in formal Court proceedings. Should these proceedings be contemplated, each matter will be reported to Council for endorsement of any proposed action.

### Sustainability Considerations

- **Environment**  
Compliance with issued development consents enhances the protection of the built and natural environments.
- **Social**  
Not applicable
- **Economic**  
Compliance with development conditions results in a more level playing field for business operators.

This program aims to efficiently utilise the resources allocated for enforcement activities.

### Consultation

This report has been provided for public information.

### Options

The options are to note the contents of the report or to amend the identified compliance project work program where Council believes there may be higher priorities that need to be addressed. The recommendation is to note the report as Council has previously endorsed the preferred compliance work plan for 2013/14 and the priorities are considered to reflect the highest priorities for the broader community.

### RECOMMENDATION

That Council notes the contents of this report on the status of the Compliance Work Plan for 2013/14.

### Attachment(s)

Nil

## 8.4 Development Consent Statistics - December 2013

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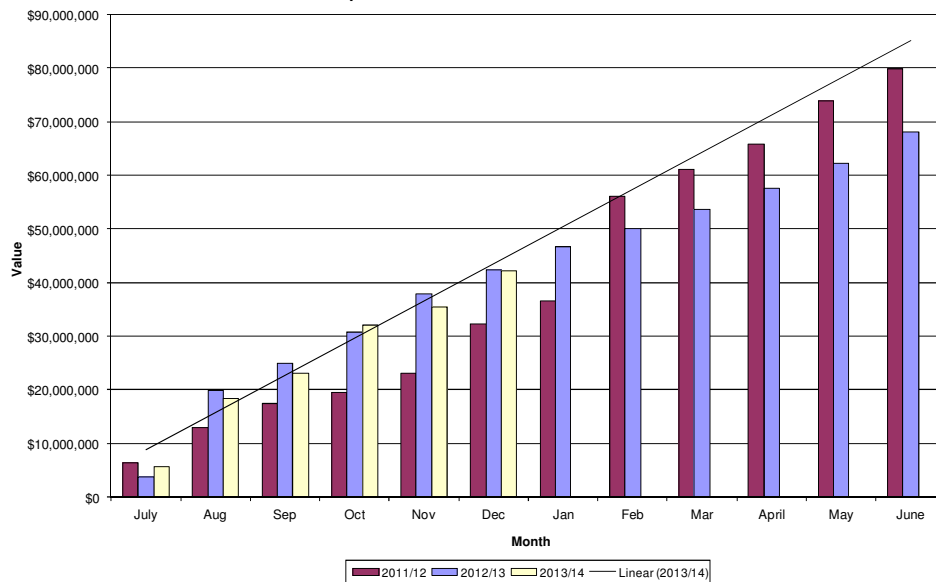
## 8.4 Development Consent Statistics - December 2013

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

Number of Applications	Value of Work
31 Other Building Related	\$ 4,240,650
9 Dwelling/Duplexes/Residential Flat Buildings	\$ 2,445,000
3 General Developments	\$ 1,110
<b>Total Value</b>	<b>\$ 6,686,730</b>

The following chart details the cumulative consent figures for 2013/14 as compared to 2012/13 and 2011/12. A trend line has also been provided for 2013/14 to assist in the comparison.



### RECOMMENDATIONS

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

### Attachment(s)

Nil



## 8.5 Development Applications - Works in Progress - January 2014

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### 8.5 Development Applications - Works in Progress - January 2014

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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
2011/515	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 Street, West Ballina	Awaiting Additional Information
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 <sup>2</sup> to 773m <sup>2</sup> , associated road, earth and	Awaiting Additional Information

**8.5 Development Applications - Works in Progress - January 2014**

<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
			infrastructure servicing works, creation of a public road and one 6.4 hectare Torrens Title residue lot - 565-589 River Street, West Ballina	
2013/194	3/06/2013	Ballina Shire Council	Lennox Head Shared Pathways - Lot 5 DP 241434, The Coast Road, Lennox Head	Awaiting Additional Information
2013/354	18/09/2013	Ardill Payne & Partners	Erection of Second Dwelling to form a Detached Dual Occupancy and Strata Title Subdivision (Stage 1), Vegetation Removal and associated works - 35 Bridge Drive, Wardell	Awaiting Additional Information
2013/364	20/09/0013	Northern Rivers Dirty Wheels Mountain Bike Club Inc	To establish a mountain bike facility and associated works - Bruxner Highway, Alstonville	Awaiting Additional Information
2013/369	25/09/2013	Nicole Samm	Alterations and Additions to an Existing Dwelling House and Establishment of a Bed and Breakfast Facility and Remedial Massage Business and Erection of a Shed, Car Parking,	Determination Pending

**8.5 Development Applications - Works in Progress - January 2014**

DA No.	Date Rec'd	Applicant	Proposal	Status
			Vehicular Access Upgrade and associated works - 21 Old Pacific Highway, Newrybar	
2013/381	02/10/2013	Planners North	To Demolish the Existing Sundowner Motel and Restaurant and to Erect and Strata Title a Multi-level Mixed Commercial and Residential Building with an Overall Height of Approximately 23 metres. The Development Comprises Commercial Premises at Ground Level Fronting River Street and a Restaurant Fronting the River with 36 Residential Apartments above. The Proposal Seeks to Dedicate Land for Foreshore Public Access, Retain Two Existing Trees, Comprising One Norfolk Island Pine and One Pandanus and Incorporate Two Levels of Car Parking Within the Building - 274 River Street,	Awaiting Additional Information

**8.5 Development Applications - Works in Progress - January 2014**

<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
2013/446	18/11/2013	Newton Denny Chapelle	Ballina To undertake a boundary adjustment subdivision, demolition of existing dwelling house, erection of residential accommodation comprising 20 multi dwelling housing units and associated earthworks, access driveway, services, tree removal and car parking. The development is to be undertaken in a staged manner - 209 & 195 Ballina Road, Alstonville	Being Assessed
2013/473	03/12/2013	Planners North	To establish two dwelling house pads, one on each of Lots 2 and 3 DP 809785 with associated access and asset protection zones as a staged development application – 219 Sneesbys Lane, East Wardell	Referred to Government Departments
2013/482	05/12/2013	Newton Denny Chapelle	To erect an industrial building for the purposes of a warehouse and distribution centre operating 24 hours, seven days a week -	Being Assessed

**8.5 Development Applications - Works in Progress - January 2014**

<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
			19 Piper Drive, Ballina	
2013/494	12/12/2013	Ardill Payne & Partners	To undertake a subdivision to create seven residential lots and two residue lots and associated works - Unara Parkway, Cumbalum	Referred to Government Departments
2013/504	20/12/2013	Jade & Fiona Rose	To temporarily store a demountable toilet block for a period of 12 months - 540 Pimlico Road, Pimlico	Being Assessed
2013/508	23/12/2013	A Kneipp	Change of Use - Business premises to Restaurant (Extension of existing Mi Thai Restaurant) - 3/76 Ballina Street, Lennox Head	Being Assessed
2013/512	24/12/2013	PRG Architects	Erection and Strata Title Subdivision of a Two Storey Multi Dwelling Housing Development Comprising Three x Three Bedroom Units - 2 Megan Crescent, Lennox Head	On Exhibition

## 8.5 Development Applications - Works in Progress - January 2014

### 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 Government Departments
2013/162	17/05/2013	Ardill Payne	Extractive Industry (Sand Quarry) with a total extractable resource amount of 610,000m <sup>3</sup> (in situ) - Lot 32 DP 1151612, Newrybar Swamp Road, Lennox Head	Being Assessed
2013/286	5/08/2013	Ballina Shire Council	Establishment and Operation of a Biochar and Waste-to-Energy Facility - 167 Southern Cross Drive, Ballina	Awaiting Additional Information

### 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 January 2014.

### Attachment(s)

Nil

## 9.1 LEP Amendment Request - Burns Point Ferry Road, West Ballina

### 9. Strategic and Community Facilities Group Reports

#### 9.1 LEP Amendment Request - Burns Point Ferry Road, West Ballina

**Delivery Program** Strategic Planning

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

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#### **Background**

At its Ordinary Meeting held on 27 June 2013, the Council considered a report in relation to a proposal to amend the *Ballina Local Environmental Plan 1987* (BLEP 1987) and the *Ballina Local Environmental Plan 2012* (BLEP 2012) to rezone an area of approximately 56 hectares of Lot 4 DP 537419 located off Burns Point Ferry Road at West Ballina. The subject land is identified in Attachment 1.

The report to Council in June 2013 contains background information on the proposal (this has not been reproduced in full in this report).

As detailed in the June report, the subject site has an extensive history of rezoning proposals with the rezoning history and most recent series of events detailed in the chronology in Attachment 2. At its Ordinary Meeting held on 27 June 2013, the Council resolved as follows [Minute No. 270613/15]:

1. *That Council defer for up to six months its further consideration of the LEP amendment request relating to Lot 4 DP 537419, Burns Point Ferry Road, West Ballina as submitted by SJ Connelly CPP Pty Ltd on 18 July 2012.*
2. *That Council awaits confirmation from the NSW Office of Environment and Heritage of the nature and suitability of the proposed Biobanking scheme over part of Lot 4 DP 537419, Burns Point Ferry Road, West Ballina.*
3. *That, based on the agreement of the proponent in correspondence dated 7 June 2013, Council engage an independent ecologist to undertake a review of the ecology of the land within the proposed urban footprint on Lot 4 DP 537419, Burns Point Ferry Road, West Ballina, with the cost of such engagement to be borne by the proponent.*
4. *That Council awaits advice from the NSW Department of Planning and Infrastructure in relation to the availability and potential for use of environmental protection zones in the BLEP 2012.*
5. *That the applicant be informed, that in the event of the planning proposal being approved by the Minister for Planning, that today's resolution should not be interpreted as endorsement of any submitted development proposal.*

## **9.1 LEP Amendment Request - Burns Point Ferry Road, West Ballina**

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

### **Key Issues**

- Progress of the LEP amendment request in relation to Council's June 2013 resolution.
- Council's preferred direction in relation to the future use and appropriate zoning for the land.

### **Information**

As resolved at its Ordinary Meeting held on 27 June 2013, the further consideration of this LEP amendment request was deferred for up to six months. This deferral was primarily to allow the proponent to finalise the proposed biobanking scheme for the site and to enable a subsequent ecological assessment to clarify the site's environmental attributes.

Biobanking schemes are regulated under the provisions of the *Threatened Species Conservation Act 1995* with approvals granted by the NSW Office of Environment and Heritage (OEH). The subject LEP amendment request, including the proposed biobanking scheme, was submitted to Council in July 2012. Since that time the proponent has repeatedly indicated to Council staff that confirmation from OEH would be forthcoming. It was for this reason that deferral of the matter was recommended to the Council (and ultimately adopted) in June 2013.

However, in the time that has elapsed since the most recent Council resolution, the proponent has not been able to provide confirmation from the OEH of the approval of the proposed biobanking scheme for the site. As such, the matter is now being reported to the Council for direction as to how it wishes to proceed in relation to the proposal for the site given its extensive history.

Because the proposed biobanking scheme is a key element in relation to the rezoning proposal and future land uses on the site, further assessment of the proposal has been contingent on the receipt of confirmation of approval of the scheme from the OEH. Due to this, the detailed assessment of the proposal is presently in abeyance.

Further additional details considered essential to the overall assessment proposal, as embodied in Council's June 2013 resolution, are the assessment of the site's ecological values and the finalisation of the review of the BLEP 2012 environmental zones (e-zone review).

To date, the proponent has not provided the necessary funding to enable a third party ecological assessment of the site. The State Government's E zone review is not yet complete and the Department of Planning and Infrastructure has been unable to provide advice on the outcomes or timing for completion of the review to date. As a result, none of the items identified in Council's June 2013 resolution have been completed.



### **Sustainability Considerations**

- **Environment**

The further consideration of the environmental sustainability of the current proposal is dependent on the ongoing assessment of the proposal, including the site's ecological values and the outcomes of the proposed biobanking scheme.

- **Social**

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

- **Economic**

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

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

As detailed in the report to Council at its Ordinary Meeting held on 27 June 2013, the consideration of future planning over this site has consumed substantial Council and proponent resources over many years.

In relation to the current proposal, Council has sought further information in relation to the proposal to enable its processing accordance with the terms of the *Environmental Planning and Assessment Act 1979* and the associated Regulation.

The additional information requested from the proponent is considered critical to enable a complete and comprehensive assessment of the proposal, particularly in relation to the proposed environmental outcomes. Further, this information is considered essential to determine if a reasonable balance can be achieved on the site between urban development and environmental outcomes.

### **Consultation**

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

### **Options**

There are several options to address the progress of the subject LEP amendment request as detailed below.

## **9.1 LEP Amendment Request - Burns Point Ferry Road, West Ballina**

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### 1. Discontinue

The Council may elect to discontinue further consideration of the proposed amendment. Given that none of the requirements associated with the environmental attributes of the site set out in the Council's June 2013 resolution have been met and more than six months have elapsed since that decision, this is the recommended approach.

Consideration of the discontinuation option should have regard for the potentially positive outcomes that could be derived from the proposal in relation to economic development and environmental improvements. The challenge to date, however, has been the availability of suitable information to enable the analysis of the potentially positive environmental outcomes in full.

It should be noted that if the Council resolves to discontinue its processing of the request, the proponent may request a pre-Gateway review of the Council's decision by the Department of Planning and Infrastructure. Alternatively, it is open to the proponent to resubmit the existing proposal (with the additional ecological information that has been requested) or lodge a revised proposal at a future date.

### 2. Defer

The Council has the option to continue to defer the assessment of the proposal pending receipt of sufficient supporting documentation from the proponent. Given the site's extensive history of proposals and the extended time lapsed in relation to the current proposal, this option is not recommended.

Notwithstanding the above, an advantage of deferring the matter is that information to enable detailed assessment of the ecological and environmental outcomes associated with the proposal may become available.

If this option is pursued, it is recommended that the proponent be given time limit of four months for the provision of the required ecological information.

### 3. Proceed to Process the Proposal

This option allows the processing of the proposal to proceed. This would mean that staff would proceed to prepare a planning proposal for Gateway determination by the Department of Planning and Infrastructure. The planning proposal would be reported to the Council for further consideration before being forwarded for Gateway determination.

If this approach is adopted by the Council, it is recommended that the proponent still be required to address the matters raised in Council's June 2013 resolution. Further, similar to Option 2, it is recommended that the proponent be given a time limit of four months to provide the information required under the Council's June 2013 resolution.

## **9.1 LEP Amendment Request - Burns Point Ferry Road, West Ballina**

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There is the possibility that the supporting information from the OEH relating to biobanking could be received by Council following the finalisation of this report but prior to the 23 January 2014 Ordinary Meeting. The proponent may also be able to demonstrate to the Council's satisfaction that the certification of the scheme by the OEH is imminent.

If this occurs, an option for the Council is to resolve to proceed with the next phase of the assessment of the proposal. This would involve the independent ecological assessment of the site. Where this information suggests a suitable environmental outcome can be achieved, staff would then proceed with the preparation of a planning proposal for the site. The planning proposal would be subsequently reported to the Council for consideration prior to its submission to the Department of Planning and Infrastructure for Gateway determination. Any such proposal would also have regard for the E zone review.

Should additional information be received prior to the January 2014 Ordinary Meeting demonstrating that the OEH endorses the proposed biobanking scheme, or the Council is satisfied that receipt of the information is imminent, proceeding with the processing of the planning proposal is the recommended approach. Under this scenario, the recommendation of staff is as follows:

1. That Council continue the processing of the LEP amendment request relating to Lot 4 DP 537149, Burns Point Ferry Road, West Ballina.
2. That prior to the preparation of a planning proposal, the following steps be undertaken:
  - a. That, based on the agreement of the proponent in correspondence dated 7 June 2013, Council engage an independent ecologist to undertake a review of the ecology of the land within the proposed urban footprint on Lot 4 DP 537419, Burns Point Ferry Road, West Ballina, with the cost of such engagement to be borne by the proponent.
  - b. That, given the e-zone review has not yet been completed, Council obtains advice from the Department of Planning and Infrastructure in relation to the availability and potential for use of environmental protection zones under the BLEP 2012 in relation to the proposed rezoning.
3. Where the independent ecological study is not completed before 30 May 2014, or the outcomes of the study indicate that there are significant constraints to the proposed land uses, that the LEP amendment request be reported to the Council for further consideration.

**RECOMMENDATIONS**

That Council discontinue its further consideration of the LEP amendment request relating to Lot 4 DP 537419, Burns Point Ferry Road, West Ballina as submitted by SJ Connelly CPP Pty Ltd on 18 July 2012.

**Attachment(s)**

1. Locality Map - Lot 4 DP 537419
2. Chronology of Council Resolutions and Activity

**9.2 Ballina Shire Development Control Plan 2012 - Draft Development Controls - Cumbalum Precinct B**

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**9.2 Ballina Shire Development Control Plan 2012 - Draft Development Controls - Cumbalum Precinct B**

**Delivery Program** Strategic Planning

**Objective** To invite the Council to publicly exhibit draft development controls relating to Cumbalum Precinct B

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**Background**

The Council considered the progress of the Cumbalum Precinct B Planning Proposal at its Environmental and Sustainability Committee held on 11 December 2012. The Council resolved to adopt the Minutes of the Committee at its Ordinary Meeting held on 20 December 2012 (Minute No. 20122012/7). As a consequence, the Council resolved as follows:

1. *That Council execute the Cumbalum Precinct B Voluntary Planning Agreement by affixing the Council Seal.*
2. *That, following receipt of advice from NSW Land and Property Information that the Precinct B Voluntary Planning Agreement has been registered to the respective titles of the land, Council refer the Precinct B Planning Proposal to the Department of Planning and Infrastructure to be made.*
3. *That in finalising the Precinct B Planning Proposal, the Department of Planning and Infrastructure be requested to implement the rezoning as follows:*
  - *As amendment to the Ballina Standard Instrument LEP - Those parts of the planning proposal that relate to land proposed to be zoned R2, R3 & RU2; and*
  - *As amendment to the Ballina LEP 1987 – Those parts of the planning proposal that relate to land proposed to be zoned E2 & E3, via equivalent zones and provisions.*
4. *That Council immediately commence the review of relevant section 94 plans to incorporate aspects of infrastructure delivery not addressed by the Precinct B Voluntary Planning Agreement, as outlined in the Council report.*
5. *That Council immediately commence the preparation of a development control plan, for the Cumbalum Precinct B Strategic Urban Release Area, that addresses those matters set out in clause 6.3 of the Ballina Standard Instrument LEP.*

In responding to item 5 of the above resolution, Council engaged local planning consultant Mike Svikis to prepare a draft development control plan (sub-chapter specific to the precinct for inclusion in the Ballina Shire Development Control Plan 2012) to further guide the future development of the precinct. The preparation of these controls has occurred in consultation with the major development proponents, other landholders within the release area and relevant Council staff.

## 9.2 Ballina Shire Development Control Plan 2012 - Draft Development Controls - Cumbalum Precinct B

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A suite of draft development controls have been prepared, comprising a combination of amendments to the general provisions of the DCP (adding site references and map amendments) along with the addition of a new section, specific to the precinct, for inclusion in Chapter 3 – Urban Subdivision. The purpose of this report is to present this material to the Council and invite the Council to publicly exhibit the draft development controls for comment.

### Key Issues

- Urban development
- Development control
- Community consultation

### Information

#### *LEP Amendment Status*

In accordance with the Council's resolution, the Cumbalum Precinct B Planning Proposal has been forwarded to the Department of Planning & Infrastructure to be finalised. Council understands that the Department is currently reviewing Council's planning proposal and anticipates that the Department will proceed to give effect to the planning proposal, through amendment to the Ballina LEP 2012, in the near future.

Further to the above, Councillors have previously been advised that Council has requested that the Department defer from the rezoning those parts of the precinct for which the Precinct B Voluntary Planning Agreement has not been registered to the respective land titles. It is anticipated that in the case of those parcels, rezoning will ultimately proceed once the VPA registration has occurred.

#### *Draft Development Control Plan*

Notwithstanding the above, the draft development controls that are the subject of this report include all land within the Precinct B of the Cumbalum Urban Release Area, including the land that Council has sought to defer from the rezoning due to the lack of VPA registration. This approach provides for the establishment of a complete and integrated set of controls that outlines the planning intent for the precinct as a whole.

The introduction of development controls for Precinct B comprises the following:

- The inclusion of precinct-specific subdivision controls provided in Part 5 of Chapter 3 - Urban Subdivision. It is noted that this material includes a number of maps, relating to structure, staging, mobility, landscaping and open space matters. The draft written controls and site specific mapping, for inclusion as Section 5.5, are provided as Attachment 1 to this report (under separate cover).
- The inclusion of precinct references and general map amendments as outlined in the following table. The proposed general map amendments are provided as Attachment 2 to this report.

## 9.2 Ballina Shire Development Control Plan 2012 - Draft Development Controls - Cumbalum Precinct B

Amendments to general provisions of the Ballina DCP 2012:

DCP Part / Section	Proposed Amendment
<i>Text Amendments</i>	
Chapter 2 – Section 3.16 – Public Art	Inclusion of commercial precinct reference for the purpose of applying requirements for the provision of public art in association with future development.
<i>Map Amendments</i>	
Special Area Controls Map - Subdivision	Identifies land to which precinct-specific controls apply. Triggers the need to consider proposed section 5.5 of the DCP (see Attachment 1 to this report).
Natural Areas & Habitat Map	Identifies land proposed (in the Precinct B Planning Proposal) to be zoned E2 and E3 within the precinct (with a 50m buffer). Identification on this map triggers the need for compliance with Section 3.3 of the DCP relating to the protection and enhancement of ecologically significant areas.  Note: The E zones are to be deferred from the LEP amendment due to the State Government's E zone review. However, this amendment to the DCP, and the associated application of environmental provisions to parts of the release area, can be undertaken regardless of the E zone review.

The draft development controls that are the subject of this report focus on subdivision matters. The need for further site specific built-form development controls may emerge over time as further consideration is given to the desired built form.

Under the proposed approach, the relevant existing provisions of the Ballina DCP 2012 for construction of dwelling houses and other residential structures will apply (that is, special controls for housing separate to those already in place are not recommended at this time). Should the need for further site-specific built form controls (or design guidelines) emerge, these will be the subject of further deliberation by the Council, involving further amendment to the DCP.

### *Location of Commercial Area*

The original proposed location of the commercial area to service Precinct B was determined from an “enquiry by design” process undertaken in 2008, lead by the development proponents. This recommendation was incorporated into the Precinct B Planning Proposal through the designation of a B2 Local Centre zone over part of the land. Notwithstanding, in considering the draft development controls, the proponents are now proposing the relocation of the proposed commercial area to the area shown in the attached plans, on land immediately adjacent to Ross Lane. A report outlining the rationale for the sizing and location of the commercial area is provided as Attachment 3.

## 9.2 Ballina Shire Development Control Plan 2012 - Draft Development Controls - Cumbalum Precinct B

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It is suggested that the proposed relocation has merit. The potential advantages of the commercial area relocation include the following:

- Improved accessibility from within the estate and for passing traffic, by being located at the intersection of Ross Lane and the future internal sub-arterial road;
- Improved grade, being located on flat land whereas the previous location was on a sloping part of the site;
- Provides an efficient use of land affected by road noise;
- Improved access design, due to the improved site arrangement (potential for left-in left-out) as outlined in the report provided as Attachment 3 of this report;
- Improved amenity due to potential for co-location with adjacent passive recreation area at gateway to estate; and
- Improved viability for future commercial land uses within the centre, due to above.

Importantly, a further planning proposal will be required to give effect to this re-location in terms of zoning under the LEP. In the meantime, it is proposed that the DCP amendment acknowledges the commercial area in the proposed location.

### *Draft Development Controls*

The implementation of the planning proposal for Precinct B will involve the identification of the proposed urban footprint in the Urban Release Areas (URA) Map of the Ballina LEP 2012 and will, as a consequence, be subject to Part 6 of the Ballina LEP 2012.

Part 6 of the Ballina LEP 2012 requires a development control plan (DCP) that addresses the matters set out in clause 6.3, to be in place prior to development consent being granted for the development of the land. Given this, the draft development controls that are the subject of this report have been prepared having regard for the requirements of clause 6.3.

The ways in which the Ballina DCP 2012, will address the requirements of Clause 6.3, are set out in the following table. It is noted that a number of the matters set out in the clause are adequately addressed elsewhere in the shire-wide DCP.



**9.2 Ballina Shire Development Control Plan 2012 - Draft Development Controls - Cumbalum Precinct B**

<b>Ballina LEP 2012 Clause 6.3(3)</b>	<b>How the matter is addressed</b>
(a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,	Staging plan provided as Figure 3 and linked to Element D in proposed section 5.5.3 of the DCP.
(b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,	Mobility Plan provided as Figure 2 to the proposed section 5.5.3 of the DCP.
(c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,	A landscaping principles and character plan, identifying significant trees, views, high points and stone walls, is provided as Figure 4 to the proposed section 5.5.3 of the DCP.
(d) a network of active and passive recreation areas,	The structure plan, provided as Figure 1 to the proposed section 5.5.3 of the DCP, shows active open space areas, community halls, passive recreation areas and district parks. Proposed open space ownership is shown on the staging plan provided as Figure 5 to the proposed section 5.5.3 of the DCP.
(e) stormwater and water quality management controls,	Stormwater controls are set out in Element B of proposed section 5.5.3 of the DCP.
(f) amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,	Structure plan, provided as Figure 1 to the proposed section 5.5.3 of the DCP, identifies land that is required to be filled to mitigate potential flood impacts, as well as land that are potentially subject to soft soils. Development controls relating to steep land provided in section 3.1.2 of the Ballina Shire DCP 2012 (existing) will apply. The management of bushfire hazard, associated with vegetation areas in Precinct B, is addressed in Element E of the proposed section 5.5.3 of the DCP.
(g) detailed urban design controls for significant development sites,	Chapter 4 Part 3 (design controls for residential and tourism development including small lot integrated housing) of the Ballina Shire DCP 2012 (existing) will apply. Further, and more detailed, built form development controls may be introduced at a later stage, as required.

**9.2 Ballina Shire Development Control Plan 2012 - Draft Development Controls - Cumbalum Precinct B**

(h) measures to encourage higher density living around transport, open space and service nodes,	The R3 Medium Density zone that is designated for the majority of the release area permits a range of densities and housing forms. A net density target for each stage is provided in Element D of proposed section 5.5.3 of the DCP.
(i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,	A small (2-3 Hectare) neighbourhood commercial area is proposed for land adjacent to Ross Lane. The report provided as Attachment 3 provides the rationale for its location and outlines the relationship of the commercial area to other commercial sites in nearby urban areas. Site-specific commercial subdivision controls are provided in Element A of proposed section 5.5.3 of the DCP. Further, development controls for commercial development in Chapter 6 of the DCP will also apply.
(j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.	The structure plan (Figure 1) and mobility plan (Figure 2) of the proposed section 5.5.3 of the DCP illustrate the location of public facilities and traffic management facilities.

*VPA Restriction on DA Lodgement*

Clause 4.5 of the Cumbalum Precinct B Voluntary Planning Agreement (VPA) reads as follows:

*4.5 A Landowner is not to prepare a development control plan, pursuant to s74D(3) of the Act or make a staged development application under s83C(2) of the Act without the Council's written consent.*

Section 74D of the *Environmental Planning and Assessment Act 1979* provides a potential pathway for a development application to be lodged in the absence of Council having had an opportunity to prepare a DCP that reflects the community's objectives with respect to future development. Consequently, clause 4.5 was introduced into the VPA to mitigate against the possibility of this outcome.

Further to the above, in finalising the draft development control material, the proponents have requested that Council lift the impediment imposed by clause 4.5 and give its written consent to the lodgement of a staged development application. The proponent's request is provided as Attachment 4 to this report. In giving its agreement to lift the application of clause 4.5 of the VPA, Council is not being asked to give its agreement or consent with respect to the content of such any such application.

## **9.2 Ballina Shire Development Control Plan 2012 - Draft Development Controls - Cumbalum Precinct B**

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Given the basis for the inclusion of Clause 4.5 in the VPA, it is reasonable that Council relieve the proponent from this obligation upon the adoption by the Council of site-specific development control plan provisions for Precinct B. As such, it is recommended that upon the adoption of amendments to the development control plan for Cumbalum Precinct B, that the Council authorise staff to provide the Precinct B proponents with Council's written consent enabling the proponents to lodge a staged development application for the development of the land.

### *Locality Name*

In the preparation of the subject development controls, the proponent was invited to nominate a name for the future urban release area, as an alternative to 'Cumbalum Precinct B'. In response, the proponents have nominated 'Tintenbar', noting that the land is located within the locality of 'Tintenbar' as described by the NSW Geographical Names Board. This fact is acknowledged.

Notwithstanding the above, the naming of the precinct as 'Tintenbar' has the potential to create confusion within the community due to the existence of the already named Tintenbar settlement, approximately 3 kilometers to the south west. Further, with the construction of the Ballina Bypass, the locality of Tintenbar (as currently described) is now intersected by the construction of major new road infrastructure. Combined with the existing topographic characteristics, it could be argued that the current Tintenbar locality lacks a coherent and consistent character such that a single locality name adequately describes it.

In light of this, the Council is invited to consider the naming of the Precinct B locality for the purpose of future geographic reference. Ideally such a process would consider the historic context, community views and marketing of the land. The naming would also need to proceed in a manner consistent with the requirements and procedures of the NSW Geographical Names Board.

It is recommended that this process occur as a separate consideration to the introduction of development controls (the subject of this report) given that the decision on naming of the locality could take considerable time. As a consequence, this report recommends that the naming of Cumbalum Precinct B be the subject of a separate report the Council, in due course. Should the Council pursue this option, the development control plan chapter (with respect to naming) could be amended, in due course, to reflect the name chosen through this process.

It is recommended that, for the purpose of consistency and to minimise the potential for confusion during the public exhibition of the material, the locality be referred to as 'Cumbalum Precinct B' until a more suitable long-term locality name has been determined. The written draft DCP material reflects this approach. Should the Council support this position, the proponents will need to amend the associated mapping material accordingly, prior to public exhibition.

*Ross Lane*

In considering the Cumbalum Precinct B Planning Proposal, the Council resolved to further consider the long-term options for the future alignment of Ross Lane. For the purpose of completeness in reporting this matter, it is noted that a report regarding the investigation of route options for Ross Lane was presented to the Ordinary Meeting of the Council held on 27 June 2013, at which the Council resolved as follows (Minute No. 270613/42):

*That Council notes the contents of this report on the long term options for Ross Lane and confirms it will take no further action on this item until the 2013/14 review of the Council's Section 94 Roads Contributions Plan is completed.*

The review of Council's Section 94 Roads Contributions Plan has been commenced and consequently this matter will be further considered by the Council, in due course.

**Sustainability Considerations**

- **Environment**  
The draft development controls, the subject of this report, include provisions that seek to recognise and protect the natural environment from adverse impacts associated with future development.
- **Social**  
The draft development controls, the subject of this report, include provisions relating to the provision of community facilities to meet the future social needs of the community.
- **Economic**  
The adoption of development controls, the subject of this report, will progress the availability of additional development land to the market, which is expected to have positive economic consequences for the shire.

**Legal / Resource / Financial Implications**

The public exhibition and reporting of the draft development controls can be accommodated within existing resources.

Council is required to exhibit the draft DCP for a period of at least 28 days in accordance with the terms of the *Environmental Planning and Assessment Act 1979* and associated regulation.

**Consultation**

This report proposes that the draft development controls that are the subject of this report be publicly exhibited for 4 weeks, in accordance with the requirements of *the Environmental Planning and Assessment Act 1979*.

As outlined above, the draft DCP provisions have been prepared in consultation with landholders in the precinct.

### **Options**

1. That Council endorses the Cumbalum Precinct B draft development controls, the subject of this report, for public exhibition purposes.

Should the Council support this option, the draft DCP will be publicly exhibited. The amendments will constitute Amendment No.2 to the Ballina Shire DCP 2012. Under this approach the DCP will refer to 'Cumbalum Precinct B' rather than 'Tintenbar' for the purpose of the public exhibition.

Following public exhibition, the matter will be reported back to the elected Council for further deliberation.

Due to the history and planning context relating to this matter, this option is recommended.

2. That Council hold a workshop to further discuss the matters outlined in this report.

The development of Cumbalum Precinct B has been the subject of detailed and lengthy deliberations by the Council, to date. Consequently, a workshop in advance of the commencement of exhibition of the draft DCP amendments is not recommended.

Alternatively, Councillors may wish to convene a workshop during or following the exhibition period.

3. Cease further work on the DCP.

Given that Cumbalum Precinct B is likely to be rezoned to enable urban development in the near future, it is prudent to ensure that suitable local planning provisions to guide development and character outcomes are in place. Therefore, this option is not recommended.

**RECOMMENDATIONS**

1. That the draft development control plan amendment for Cumbalum Precinct B be placed on public exhibition, in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*.
2. That Council receive a further report addressing the exhibition and submissions received following the conclusion of the public exhibition period.
3. That Council receive a separate report regarding the process involved in identifying an alternative name for Cumbalum Precinct B for the purpose of future geographic reference.

**Attachment(s)**

1. Draft Development Controls - Cumbalum Precinct B (Under separate cover)
2. Draft General DCP Map Amendments
3. Cumbalum Precinct B Commercial Economic Needs Assessment Report
4. Cumbalum Precinct B Proponents' Request to Lift VPA Obligation Relating to DA Lodgement

### 9.3 **Ballina Shire Cultural Plan**

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#### 9.3 **Ballina Shire Cultural Plan**

**Delivery Program** Community Facilities and Services

**Objective** To outline the draft Ballina Shire Cultural Plan and seek endorsement for its public exhibition.

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#### **Background**

Councillors considered the preparation of a cultural plan for the Shire in early 2012. In endorsing the recommendations of Council's 23 April 2012 Finance Committee Meeting at the Ordinary Meeting held on 26 April 2012, Councillors resolved to "include the development of a Cultural Policy in the draft 2012/13 Operational Plan" (Minute No. 260412/35).

This report provides an outline of the process undertaken to develop a cultural plan for Ballina Shire and seeks endorsement from Council for the public exhibition of the draft *Our Community: Our Culture Ballina Shire Cultural Plan 2014 -2020*. A copy of the draft plan has been provided to Councillors under separate cover.

A cultural plan is a document that sets out what cultural activity a community values most, how this activity can be fostered through having cultural activity goals and how these goals will be achieved. It is underpinned by understanding what cultural activity already takes place in a community, (including where and how) and determining whether the range of cultural activity that already takes place can meet future needs or expectations.

Cultural activity is often understood as being activities associated with creativity or the arts. Cultural activity can however, be broader ranging and include elements such as sport, religion and heritage. The cultural activity valued by any community is shaped by its natural and built environment, as well as people – their age, gender and cultural and social background. Each community values different cultural activity, reflecting its community character.

Domains of cultural activity covered in the draft cultural plan for Ballina Shire include:

- Visual arts and crafts (painting, drawing, sculpture, photography etc.);
- Cultural and natural heritage (natural and built environments);
- Performance and celebration (theatre, opera, music, festivals etc.);
- Books and press (fiction, non-fiction, poetry, plays etc.);
- Audio visual and interactive media – (including film, gaming, internet podcasting etc.);
- Design and creative service (including fashion, graphic design, architecture, advertising);
- Active and passive recreation (including organised sporting activities);
- Education (including formal and informal education for children, adult and community);

### 9.3 Ballina Shire Cultural Plan

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- Faith and spirituality; and
- Local food (local cuisine and dining experiences).

A cultural plan assists in matching the cultural needs and wishes of a community with its cultural assets and/ or resources. Cultural assets are recognised as the places, features, buildings and people that support cultural activity taking place.

Council's overarching community plan *Our Community: Our Future Community Strategic Plan 2013- 2023* identifies 'connected community' as one of its four key planning directions. Fostering cultural activity contributes to achieving this and other broader community planning goals. This may be done by improving the delivery of existing cultural activities or by promoting new cultural activity.

Cultural activity can be fostered through Council's own cultural activity program, promoting community partnerships or assisting community groups. Council also has an interest in cultural planning as a key provider, or manager, of community spaces and facilities on, or in, which cultural activity takes place.

#### **Key Issues**

- Fostering cultural activity to enhance a connected community.
- Cultural asset mapping.
- Matching community cultural needs and wishes with cultural assets and/or resources.
- Public exhibition of the draft cultural plan.

#### **Information**

Council engaged local consultant Kate Gahan to assist in the development of a cultural plan for Ballina Shire. A central challenge of preparing the cultural plan was to balance the varied needs and desires of the community concerning cultural activity.

Community feedback was sought to determine what the community values most, and whether cultural activity needs are being met. Community responses were obtained by various means including a postcard survey, online survey and focus groups. The community and stakeholder consultation undertaken is further outlined under the consultation section of this report and in Appendix 1 of the draft plan.

The community and stakeholder feedback obtained was used to inform the preparation of a draft cultural plan document. The plan entitled *Our Community: Our Culture* is the Shire's first cultural plan. It emphasises strengthening the visibility of our local cultural attributes and the opportunities for both Council, and the community, to develop and hold cultural activity across our shire.



### 9.3 Ballina Shire Cultural Plan

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*Our Community: Our Culture* is designed to be a flexible plan, meaning it establishes a foundation on which to grow cultural activity in our community. Most importantly, it is a framework which identifies the key areas our community has said it values most to guide the future development of cultural activity in the shire. The plan contains a number of elements to assist Council, and the community, in directing the growth of cultural activity throughout our shire.

The plan provides a summary of the Shire's key cultural activity assets. These assets reflect the varied type of cultural activity considered in preparing this plan. In turn, cultural assets reflect the nature of the Ballina Shire community and that people value different cultural activity for different reasons. *Our Community: Our Culture* has considered whether these assets meet our current needs for cultural activity and how they might be utilised better by the whole community to develop and hold cultural activity.

Fostering community sustainability underlies the plan's vision and objectives. The vision, "*our culture reflects us, is shaped by and for us*" is an all-encompassing statement to underpin maintenance and development of cultural activity in the Shire. This vision is based on what the community indicated it presently values, as well as what it desires for future cultural activity in the Shire. The vision reflects the community's desire to:

- Identify the natural environment as a defining cultural asset as it underpins the lifestyle we value.
- See ourselves in our community. To know and see the past in the natural and built environments, and see it reflected in the creative endeavours and cultural events held in the community.
- Be participants in shaping cultural activity.
- Be able to access cultural activity that is valued, and share it with others to enhance its value.

Reflecting the cultural vision, five cultural activity objectives embrace key areas of cultural activity in Ballina Shire:

- **Sense of Place:** Foster cultural activity that promotes the heritage, stories and unique features that are the Ballina Shire.
- **Aboriginal Culture:** With the Shire's Aboriginal community, promote understanding of local Aboriginal identity, culture and heritage.
- **Great Outdoors:** Care for, or enhance, our natural and other outdoor environments which underpin our special lifestyle.
- **Art Smart:** Encourage and support our creative industries to be sustainable and accessible.
- **Cultural Space:** Better utilise existing cultural infrastructure, as well as respond to changing needs, to hold and encourage cultural activity.
- **Family Fun:** Shape the Shire's cultural image and infrastructure to reflect a family friendly place to live within and visit.

The plan provides an explanation for each of the cultural activity objectives, highlighting objectives, attributes, strengths and values to the community. Following each objective are listed the current cultural activities around the Shire that will be built on. Listed also are the opportunities that have been identified for reinforcing the objectives across the community.

Following the opportunities are the ways Council currently fosters the objective through its policies, activities or assets. The potential projects that have been identified suggest ways that Council and the community can work towards achieving the objectives, based on ideas the community has suggested or that Council has identified.

As outlined below, the plan has been based on an extensive community engagement program. A key element of this was a community survey. Appendix 3 in the draft cultural plan provides an overview of the responses to the postcard and online survey that were undertaken.

### Sustainability Considerations

- **Environment**

The environmental benefits of fostering cultural activity can include improved public spaces through infrastructure and recognition of natural areas that support cultural activity.

- **Social**

*Our Community: Our Culture* sits under Council's overarching *Community Strategic Plan – Our Community: Our Future 2013- 2023*. The Community Strategic Plan identifies 'connected community' as one of its four key planning directions. Fostering cultural activity is one way to achieve this, and other broader community planning goals. Social benefits include:

- A strong sense of local identity and an awareness of distinctive attributes of people and places in the community;
- More vibrant community life and increased community pride;
- Increased opportunities to express creative skills and needs;
- Increased quality of life.

The social benefit of cultural activity in the Shire is also reflected in the number of Shire residents who volunteer to support it, including many of the senior members of the community.

- **Economic**

The Cultural Plan recognises the significant contribution cultural activities, including the arts and recreation, make to the Shire's economy.

The plan seeks to increase participation in, and access to, cultural activity and in so doing encourage increased local opportunities and employment for community residents working in cultural and creative industries.

**Legal / Resource / Financial Implications**

As this plan is a strategic level document for the purposes of cultural planning in the Shire, there are no legal implications associated with its endorsement for exhibition purposes.

However, resourcing will need to be considered before the potential projects or activities suggested in the plan can be actioned. Appendix 2 of the draft plan provides indicators about how the potential projects and activities listed for each of the objectives are, or may be, resourced.

Key opportunities or projects identified in the strategy, once nominated for action, will be integrated into Council's delivery programs and operational plans over time. Funding and resource provision in relation to these activities would therefore be considered in the context of the broader budgetary process.

**Consultation**

The community engagement phase of the Cultural Plan commenced in July 2013. The engagement program undertaken included the following:

- An internal working group – Ballina Shire Council staff (including gallery, open spaces and reserves, tourism, social planning and sustainability planning staff), Arts Northern Rivers CEO and external project consultant.
- Publication and circulation of an issues paper (an eight-page booklet designed to support participation in the online survey by providing an introduction cultural activity and cultural planning as well as facts and figures concerning the Ballina Shire community).
- Completion of a postcard survey (to provide snapshot data for cultural activity in the shire and promote the online survey distributed to 20 select locations around the Shire).
- Completion of an online survey (advertised through postcard, email networks, local media and Northern Rivers Community Gallery, also distributed in hard copy to select locations).
- Focus groups (creative industries, Aboriginal, Youth).
- Youth Forum 2012 feedback.
- Councillor workshop (December 2013).

Significantly, Council received 266 responses to the survey and 120 responses to the postcard survey. This is considered to be an excellent return rate for the survey.

If endorsed by the Council, the draft plan will be placed on public exhibition. Participants of the focus groups and respondents to the survey will be re-engaged during the exhibition process to provide further opportunity for community and stakeholder comment.

**Options**

1. Council may decide not to endorse the draft plan for public exhibition and cease the project. Based on the community consultation to date and general community support observed for this plan, this option is not recommended.
2. Council may elect to finalise the draft plan without going to public exhibition. This option is not recommended, as further community feedback on the draft plan before implementation is highly desirable.
3. Council may elect to exhibit the draft plan with changes. With respect to this option, minor adjustments have been made to the draft following suggestions arising from the Councillor briefing. Further opportunities for changing the draft plan can be considered once submissions gathered through the public exhibition period have been reviewed and as such, this option is not recommended.
4. Council may endorse the attached draft cultural plan for public exhibition (subject to final formatting and typographic adjustments). The plan exhibition would be supported by case studies highlighting a variety of cultural activities and projects that have occurred or are in progress throughout the Shire. Based on the earlier consultation and the document drafting undertaken to date, this option is recommended as it provides an opportunity for further stakeholder and community feedback.

**RECOMMENDATIONS**

That Council endorses the draft cultural plan *Our community: Our Culture Ballina Shire Cultural Plan 2014 -2020* for public exhibition.

**Attachment(s)**

1. Draft Our Community: Our Culture Ballina Shire Cultural Plan 2014 - 2020 (Under separate cover)

## 9.4 Policy (Review) - Community Gardens

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### 9.4 Policy (Review) - Community Gardens

**Delivery Program** Governance and Finance

**Objective** To review the Community Gardens Policy.

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#### **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.

The purpose of this report is to review the Community Gardens Policy.

#### **Key Issues**

- Policy contents and relevance.

#### **Information**

This policy was developed in 2009, and adopted by Council on 25 March 2010, in response to a growing interest from the community for the creation of community gardens.

The policy covers issues such as the establishment of community gardens on Council and Crown lands, site selection criteria, management arrangements, responsibilities, and rights, as well as insurance and risk management obligations.

Council has had a number of enquiries since the policy's implementation relating to the set up of community gardens. The Ballina Community Garden has been established on Saunders Oval since 2012.

The policy has been reviewed and no changes have been identified as being required.

#### **Sustainability Considerations**

- **Environment**  
Community gardens provide a means to assist with educating the community on a broad spectrum of environmental issues. They also encourage cultivation of food locally.
- **Social**  
Community gardens bring people from all walks of life and all ages together, building stronger, more integrated communities.
- **Economic**  
Community gardens provide participants with the opportunity to raise their own food at a very low cost.

## **9.4 Policy (Review) - Community Gardens**

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

There are no legal, resource or financial implications relating to this matter.

### **Consultation**

As no changes are identified it is recommended that Council resolve to continue with the policy as adopted in 2010. The document will need to be exhibited for public comment. If any submissions are received they can be reported back to Council. There will not be a need for any further report if there is no public comment.

### **Options**

Council may accept or amend the policy as presented.

As no changes to the policy have been identified it is recommended that the policy be adopted as presented subject to a public exhibition period. If no submissions are received from the exhibition process then no further action is required.

### **RECOMMENDATIONS**

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

### **Attachment(s)**

1. Policy C15 - Community Gardens

**10.1 Use of Council Seal**

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**10. General Manager's Group Reports**

**10.1 Use of Council Seal**

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**RECOMMENDATIONS**

That Council affix the Common Seal to the following document.

US	<p>Ballina Shire Council Lease to Airservices Australia, Part Lot 7 DP 1043261 Southern Cross Drive, Ballina (part of Ballina Byron Gateway Airport) for thirty years with a further two terms of ten years at \$1.00 rent p.a for an aviation rescue and fire fighting service.</p> <p>Explanation: Council has been negotiating with Airservices Australia regarding the installation of an aviation fire and rescue building to be constructed at the Ballina Byron Gateway Airport (BBGA). This installation is a mandatory requirement of CASA when the passenger number reach 350,000 per year. BBGA is currently servicing approximately 383,000 for the last twelve months. Construction is to commence mid 2014 with expected completion by December 2014. The construction is being funded by Airservices Australia with no expense to Council. This infrastructure is essential for the growth of the airport and will generate employment with the estimated cost project understood to be in the order of \$12 million.</p>
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**Attachment(s)**

Nil

## 10.2 Investment Summary - December 2013

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### 10.2 Investment Summary - December 2013

**Delivery Program** Governance and Finance

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

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#### 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 December 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 December 2013 was \$72,838,000. This represents a decrease from November of \$999,000.

The balance of the cheque account at the Commonwealth Bank, Ballina as at 31 December 2013, was \$780,292.

Council's investments as at 31 December are at an average (weighted) rate of 3.76% which is 1.15% above the 90 Day Bank Bill Index of 2.61%.

The majority of the approximately \$73 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
<b>Total</b>		<b>100%</b>

\* Based on reserves held as at 30 June 2013

#### Key Issues

- Investment return
- Compliance with Investment Policy



## 10.2 Investment Summary - December 2013

### Information

The Reserve Bank does not meet in January, so there is no change to the cash rate to report.

TCorp (New South Wales Treasury Corporation) is now providing a Monthly Economic Commentary specifically for the Local Government sector. The following excerpt is from the December commentary.

#### '2014 National Growth Outlook

Australia's economy faces some headwinds in 2014. The RBA has highlighted that mining sector investment is ebbing from its peak of around 9% of GDP. Governments are imposing spending austerity to cope with large forecast deficits. Subdued wage growth and consumer confidence are a restraint on household spending. Profitability in the non-mining business sector shrank to the lowest levels in a decade, suggesting that investment spending and hiring will be restrained. And the response from interest-sensitive sectors has been more muted than in the past.

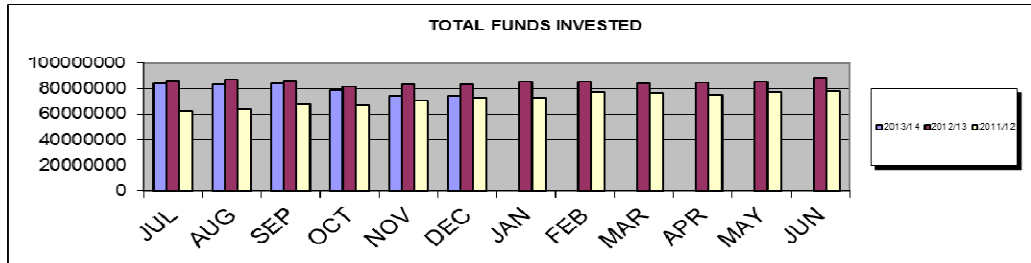
A major engine of growth will be net exports. As mining sector investment falls, so do imports of capital equipment. And as those new mining projects go into production, it provides a boost to exports. So the end of the mining investment boom creates a huge boost to *net* exports.

The shift from mining investment to production also impacts on the labour market. Westpac estimates that the Gorgon gas project employs 35,000 workers in its construction, but only 300 to operate once it's completed. And while those lost jobs will boost unemployment, it will also provide a benefit to national productivity.'

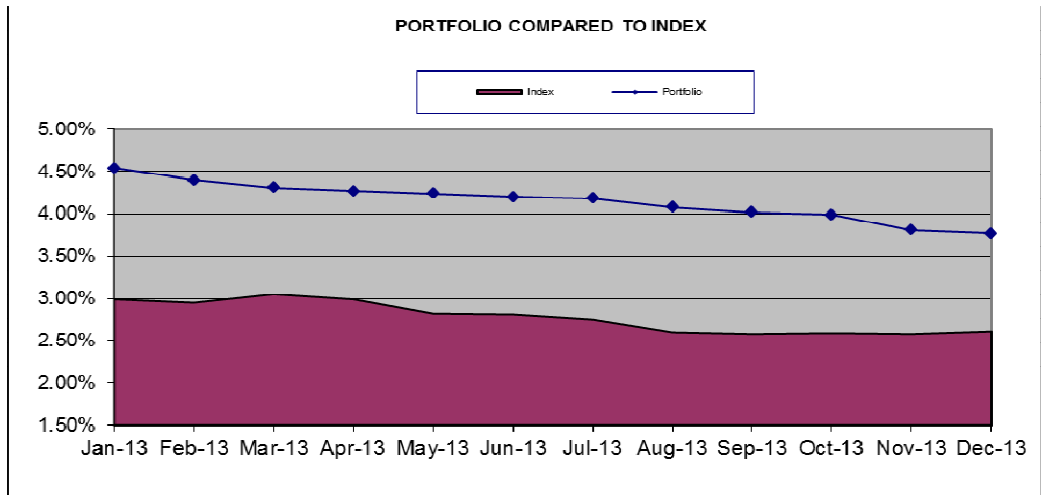
#### A. Summary of investments by institution

Funds Invested With	ADI Rating	Previous Month (\$'000)	Current Month (\$'000)	Quota %	% of Total	Total
<b>Grandfathered Investments</b>						
Deutsche Bank	A+	4,000	4,000	0	5.5	
Goldman Sachs	AA-	1,000	1,000	0	1.4	
National Australia Bank	AA-	1,788	1,788	0	2.5	
National Wealth M'tment Holding	A	2,000	2,000	0	2.7	12%
<b>Rated Institutions</b>						
AMP Bank	A+	0	2,000	20	2.7	
Bank of Queensland	BBB+	5,000	5,000	10	6.9	
Commonwealth Bank of Aust	AA-	7,049	3,050	20	4.2	
Defence Bank Ltd	BBB+	1,000	1,000	10	1.4	
Greater Building Society	BBB	2,000	2,000	10	2.7	
Heritage Bank	BBB+	7,000	7,000	10	9.6	
Illawarra Mutual Bld Soc	BBB	2,000	2,000	10	2.7	
ING Bank Ltd	A	14,000	14,000	20	19.2	
Members Equity Bank	BBB	5,000	6,000	10	8.2	
National Australia Bank	AA-	10,000	10,000	20	13.7	
Newcastle Perm Bld Society	BBB+	2,000	2,000	10	2.7	
Rural Bank Ltd	A-	2,000	2,000	10	2.7	
Suncorp Metway Bank	A+	7,000	7,000	20	9.6	
Westpac Banking Corporation	AA-	1,000	1,000	20	1.4	88%
<b>Unrated ADI's</b>				\$1m	0.0	
<b>Total</b>		<b>73,837</b>	<b>72,838</b>			<b>100%</b>

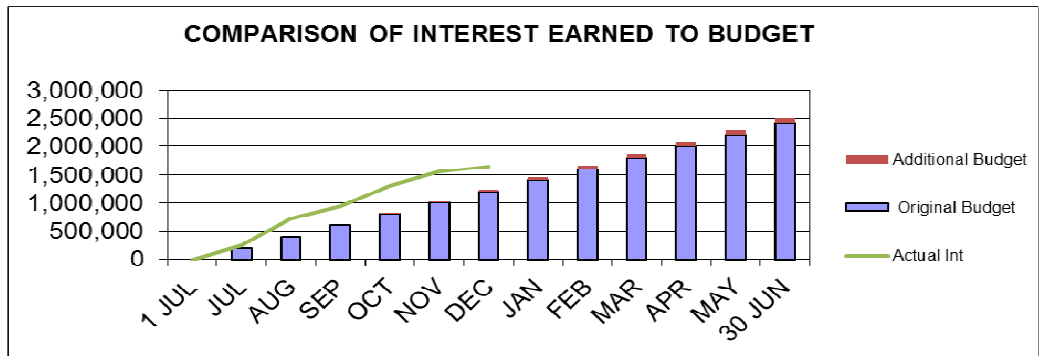
**B. Monthly Comparison of Total Funds Invested**



**C. Comparison of Portfolio Investment Rate to 90 Day BBSW**



**D. Progressive Total of Interest Earned to Budget**



## 10.2 Investment Summary - December 2013

### E. Investments held as at 31 December 2013

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
23/04/04	Deutsche Bank	FRN	3.59%	23/04/14	2,000	1,998
23/04/04	Deutsche Bank	FRN	3.59%	23/04/14	2,000	1,998
20/09/04	National Australia Bank (ASX Listed)	FRN	3.83%	Perpetual	1,788	1,325
12/04/06	Goldman Sachs	FRN	3.09%	12/04/16	1,000	988
16/06/06	National Wealth M'ment Holdings	FRN	3.22%	16/06/16	2,000	1,914
at call	Commonwealth Bank Of Australia	FND	2.45%	at call	1,059	1,059
24/01/12	ING Bank Ltd	FRTD	4.55%	24/01/17	1,000	1,000
06/02/12	Westpac Bank	FRN	4.24%	06/02/17	1,000	1,036
25/01/13	Commonwealth Bank Of Australia	TD	4.36%	25/01/18	1,991	2,003
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
05/06/13	National Australia Bank	FRTD	3.86%	05/06/15	2,000	2,000
07/06/13	Greater Bld Society	FRN	4.04%	07/06/16	2,000	2,000
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
24/07/13	ING Bank Ltd	TD	4.00%	20/01/14	1,000	1,000
30/07/13	ING Bank Ltd	FRTD	4.05%	30/07/14	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
19/08/13	Members Equity Bank	TD	3.95%	17/02/14	2,000	2,000
02/09/13	Suncorp-Metway Bank	TD	3.85%	03/03/14	3,000	3,000
05/09/13	Suncorp-Metway Bank	TD	3.75%	04/03/14	2,000	2,000
16/09/13	ING Bank Ltd	TD	3.71%	17/03/14	1,000	1,000
16/09/13	ING Bank Ltd	TD	3.72%	14/04/14	3,000	3,000
16/09/13	Members Equity Bank	TD	3.95%	14/01/14	1,000	1,000
25/09/13	Rural Bank Ltd	TD	3.80%	23/01/14	2,000	2,000
14/10/13	National Australia Bank	TD	3.70%	13/01/14	3,000	3,000
28/10/13	Heritage Bank	TD	3.65%	25/02/14	1,000	1,000
29/10/13	National Australia Bank	TD	3.67%	26/02/14	2,000	2,000
29/10/13	Illawarra Mutual Bld Society	TD	3.50%	28/04/14	2,000	2,000
31/10/13	Heritage Bank	TD	3.80%	31/10/14	1,000	1,000
01/11/13	National Australia Bank	TD	3.70%	30/01/14	2,000	2,000
06/11/13	Bank of Queensland	TD	3.80%	06/05/14	1,000	1,000
06/11/13	Newcastle Permanent Bld Society	TD	3.60%	04/02/14	2,000	2,000
13/11/13	National Australia Bank	TD	3.75%	13/05/14	1,000	1,000
22/05/13	Bank of Queensland	TD	3.80%	22/05/14	3,000	3,000
25/11/13	Suncorp-Metway Bank	TD	3.65%	25/05/14	2,000	2,000
26/11/13	Bank of Queensland	TD	3.80%	27/05/14	1,000	1,000
26/11/13	ING Bank Ltd	TD	3.81%	26/05/14	1,000	1,000
23/12/13	AMP Bank	TD	3.90%	23/06/14	2,000	2,000
23/12/13	Members Equity Bank	TD	3.70%	24/03/14	3,000	3,000
<b>Totals</b>					<b>72,838</b>	<b>72,321</b>
FND = Managed Fund		FRN = Floating Rate Note				
TD = Term Deposit		FRTD = Floating Rate Term Deposit				

**RECOMMENDATION**

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

**Attachment(s)**

Nil

### 10.3 Councillor Expenses

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#### 10.3 Councillor Expenses

**Delivery Program** Governance

**Objective** To seek Council support for the payment of expenses for Councillors.

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#### **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). Also the reimbursement of expenses is clarified in that policy.

The report that now follows deals with Councillor travel and reimbursement for Councillor related expenses.

#### **Key Issues**

- Benefit of functions and cost
- Compliance with Expenses Policy

#### **Information**

##### ***Cr Cadwallader – Claim for Expenses in Excess of Three Months***

Cr Cadwallader has submitted a claim for expenses dating back to May 2013 (internet and phone related expenses) and July 2013 (travel related expenses). Clause 2.1.1 of the Councillor Expenses & Facilities Policy states in part, as follows:

“To ensure claims are submitted promptly and accurately any claims submitted in excess of three months of the time of expenditure will not be approved”.

Council approval is therefore required to approve the claims for May, June, July and August 2013.

##### ***Cr Cadwallader– Expense Reimbursement***

Cr Cadwallader is seeking reimbursement for costs associated with attendance at the National Seachange Taskforce AGM, held in Perth in November 2013. The costs total \$80.52 and are for travel to and from Ballina Airport, cab fares and refreshments. Other costs of attendance (airfares and accommodation) at Seachange Taskforce meetings are covered by the Taskforce.

Cr Cadwallader, at the AGM, was successful in being re-elected as a NSW representative on the National Sea Change Taskforce Committee of Management. As this travel is outside the region, Council approval is required to reimburse this amount in accordance with Clause 2.2.2 of the policy.

### Sustainability Considerations

- **Environment**  
Environmental, social and economic matters may be discussed at Seachange Taskforce meetings.
- **Social**  
As above.
- **Economic**  
As above.

### Legal / Resource / Financial Implications

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

### Consultation

The Councillor expenses policy is exhibited each year for public comment.

### Options

1. Approve or not approve the payment of the claim in excess of the three month timeframe from Cr Cadwallader. The recommendation is for approval.
2. Approve or not approve the reimbursement of Seachange Taskforce expenses for Cr Cadwallader. The recommendation is for approval.

### RECOMMENDATIONS

1. That Council authorises the claim for expenses from Cr Cadwallader in excess of the three month timeframe as per the contents of this report.
2. That Council authorises the reimbursement of Seachange Taskforce expenses totalling \$80.52.

### Attachment(s)

Nil

## 10.4 Water Charges Write Off – Water Leak

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### 10.4 Water Charges Write Off – Water Leak

**Delivery Program** Governance and Finance

**Objective** To obtain approval to write off \$1,024.04 in water consumption charges in accordance with our Concealed Water Leak Policy for 26 Owens Crescent Alstonville. – Rate Assessment 290215.

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#### **Background**

This report describes a water leak event that falls within the Concealed Water Leak policy. The amount proposed to be written off exceeds the General Manager's authority and requires Council approval. Amounts less than \$1,000 are written off under the General Manager's delegated authority with a list of all write offs reported to Council annually.

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

Write offs not covered by specific sections of the LGA must be carried out by Council resolution, unless the General Manager has been provided with delegated authority by the council. The existing delegated authority for the General Manager provides authority to write off debts to a maximum of \$1,000 per debt.

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

#### **Key Issues**

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

#### **Information**

On 12 September 2013 water meter number MK67960 located at 26 Owens Crescent, Alstonville was read. Council's audit process revealed that the meter had registered around four times more water consumption during the June 2013 to September 2013 quarterly billing period than it had during any previous water billing quarter. The total leak was estimated at 1,099 kilolitres.

The water leak was underground and away from the service area of the commercial units that are located on the land. Under Council's policy guidelines the water consumption charges adjustment is calculated in two parts as follows:

*Part one adjustment* – The increase in consumption determined by Council to be above normal consumption is to be adjusted to the lower step rate per kilolitre. In this instance this calculation is split over two financial years (2012/13 and 2013/14).

## 10.4 Water Charges Write Off – Water Leak

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It was assessed that the water consumption incurred by the leak event for the **2012/13** financial year was 78 kilolitres, calculated at the then step two rate of \$2.66, which was \$0.89 higher than the step one rate. This difference totals \$69.42 (i.e. 78 x 89 cents).

For **2013/14**, it was assessed that 497 kilolitres was calculated at the step two rate of \$2.87 which is \$0.96 higher than the current step one rate of \$1.91. This difference totals \$477.12 (i.e. 497 x 96 cents).

This results in a total part one adjustment of \$546.54.

*Part two adjustment* – The water consumption charges are adjusted to 50% of the increase in consumption determined to be above normal consumption to a maximum of 250 kilolitres. In this case the water leak consumption is above the maximum, so the maximum 250 kilolitres is applied at a rate of \$1.91 per kilolitre, being \$477.50 (i.e. 250 x \$1.91).

This means the total proposed water consumption charges write off is \$1,024.04 (\$546.54 plus \$477.50).

Volumetric based wastewater (sewer) charges have also been adjusted as a result of this water leak. Volumetric wastewater charges are based on the estimated percentage of water consumed at the property that is returned to Council's wastewater system.

In the case of water leaks, where the water is not returned to the wastewater system, volumetric wastewater charges are processed as an account adjustment rather than a write off. In this case \$1,903.32 in volumetric wastewater charges was cancelled.

### Sustainability Considerations

- **Environment**

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

- **Social**

This policy can provide social benefits particularly where the cost has been incurred through no fault of the property owner.

- **Economic**

In regard to the leakage consumption, Council will retain income of \$1,583.65. In terms of economic outcomes, it is relevant to point out that Council pays Rous \$1.52 per kilolitre for the bulk supply, which means our direct costs to Rous for the 1,099 kilolitres leak, will be \$1,670.48, which is \$86.83 more than that we will retain.



## **10.4 Water Charges Write Off – Water Leak**

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

Council's water charging policy is currently under review and this review includes the Concealed Water Leak policy. The review is proposed to be presented to Council at a Finance Committee meeting in the first half of 2014 so that it is considered for the 2014/15 Operational Plan.

### **Consultation**

This report results from significant consultation between Council and the property owner.

### **Options**

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

### **RECOMMENDATION**

That Council approves the total write off of \$1,024.04 in water consumption charges in accordance with Council's Concealed Water Leak policy and pursuant to clause 131 of the Local Government (General) Regulations 2005 and section 607 of the Local Government Act 1993 (LGA), for 26 Owens Crescent, Alstonville, as outlined within this report.

### **Attachment(s)**

Nil

## **10.5 Lennox Head Bowling Club - Lease**

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### **10.5 Lennox Head Bowling Club - Lease**

**Delivery Program** Commercial Services

**Objective** To clarify an earlier resolution of Council in respect to the lease for the Lennox Head Bowling Club.

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#### **Background**

At the Ordinary Meeting held 26 September 2013 Council resolved as follows in respect to the lease to Club Lennox Ltd for the Lennox Head Bowling Club:

1. *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 concession of the market value for the land as follows.*

*Year 1 – 20%, Year 2 – 30% and Year 3 - 50%*

2. *That Council ensures that the lease includes security over the poker machine licences.*

3. *That Council write to Ramsgate seeking compensation (of the difference between the concession amount) for the first two years of the lease period.*

Also, at the Ordinary meeting held 29 October 2013, Council resolved as follows:

1. *That Council approves the transfer of the existing lease and licence for the Lennox Head Bowling Club from Ramsgate Pty. Ltd. to Club Lennox Ltd, subject to the following amendments:*

a) *Revised rental based on the terms resolved by Council at the September 2013 Ordinary meeting*

b) *A caveat or other appropriate legal restriction being placed over 20 poker machine licences to the benefit of Council.*

c) *That the caveat over 10 of the poker machines in point b) will only apply up until 50% rental is being paid.*

2. *That Council approves the Council seal to be attached to any legal documents associated with this transfer.*

In response to these resolutions:

a) Council has written to Ramsgate seeking compensation – they subsequently declined in writing

b) An assignment of lease has been signed by Council, Ramsgate and Club Lennox that includes a Council interest in respect to ten poker machines and while ever the rental is reduced from full market value, Council retains an interest in another ten poker machines

## 10.5 Lennox Head Bowling Club - Lease

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c) Club Lennox has re-opened the Lennox Head Bowling Club. In preparing the assignment of lease, as per the resolution from September 2013, the rental is 20% of market value for year one, 30% for year two and 50% for year three, however, as this resolution is silent for year four onwards the assignment is now based on year four onwards returning to 100% of market value.

Club Lennox did not agree this was the position of Council and staff support that view, however as the resolution was silent, the lease was prepared based on 100% market value from years four onwards.

The purpose of this report is to clarify this matter.

### Key Issues

- Clarification of lease rental terms

### Information

As Club Lennox was in a hurry to ensure the Club was open as early as possible they signed the assignment of lease prior to this matter being clarified by Council. In signing the lease Council staff provided a commitment this matter would be reported to Council, as soon as possible, and that the 50% was supported by staff.

Traditionally Council has always charged 50% of the market value for this building when the Club is operated by a community based group. It was only when Ramsgate Pty. Ltd. took control of the Club that the rental increased to 100%.

The reports to Council on the rental rebate indicated that 50% was the target rental, when it is being operated by Club Lennox, and that remains the preferred position of staff.

This concession is able to be reviewed every five years, as part of the review to market for the lease.

### Sustainability Considerations

- **Environment**  
Not Applicable
- **Social**  
Club Lennox is operating the Club with a stronger emphasis on broad community involvement.
- **Economic**  
Any concessions result in a loss of current revenue to Council.

## **10.5 Lennox Head Bowling Club - Lease**

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

The Lennox Head Bowling Club is located on Council owned community land and part of a road reserve. There are two leases - one for the community land and the other for the road reserve. 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 market rental for this lease is \$41,542 per annum, with a review to market every five years.

The road reserve lease was only for a period of four years, with the lease expiring on 30 August 2010. Since that date the lease has been operating on a month to month basis. The market 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.

### **Consultation**

There has been on-going consultation with Club Lennox on this matter.

### **Options**

The options are to confirm that the lease remains at a 50% rebate for years four and five or returns to 100%. The earlier correspondence from Club Lennox was based on the 50% rebate continuing as per this report, as that has been the historical approach followed by Council when the Club is being operated by a community based group.

The recommendation is to ensure that the lease reflects a 50% rebate for years four and five.

### **RECOMMENDATIONS**

1. That Council confirms that the 50% rebate for the lease of the Lennox Head Bowling Club, to Club Lennox, is applicable for years four and five of the lease, with Council noting that this concession will be reviewed every five years, as part of any review to market.
2. That Council approves the attaching of the Council seal to any documents associated with the implementation of point one.

### **Attachment(s)**

1. Site map

## **10.6 Policy (Draft Review) Donations - Financial Assistance**

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### **10.6 Policy (Draft Review) Donations - Financial Assistance**

**Delivery Program** Governance and Finance

**Objective** To review the Donations - Financial Assistance Policy

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#### **Background**

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Donations – Financial Assistance Policy.

Council first adopted this policy in February 2005.

#### **Key Issues**

- Whether the policy meets the requirements of Council and current legislation.

#### **Information**

This review of this policy identified only minor changes as follows:

- The template for Council policies has changed since this policy was adopted and the new template includes information on definitions, policy history etc.

The changes have been marked in yellow.

Otherwise the policy is still considered to be contemporary and reflects current legislation therefore no further changes are recommended. A copy of the amended policy is attached to the report.

#### **Sustainability Considerations**

- **Environment**  
May be applicable depending on the nature of the donation application.
- **Social**  
Donations such as those requested provide invaluable support to community groups.
- **Economic**  
All recipients of donations will benefit financially.

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

Application of funds must be considered in terms of all competing demands for Council's resources.

## **10.6 Policy (Draft Review) Donations - Financial Assistance**

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### **Consultation**

As the changes are only minor it is recommended that Council adopt the policy as presented, however the document will also be exhibited 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.

### **Options**

Council may accept or amend the proposed changes to the policy. The changes included are largely house keeping therefore it is recommended that the policy be adopted as presented.

It is also recommended that if no submissions are received from the exhibition process, the policy be adopted with no further actions required.

### **RECOMMENDATIONS**

1. That Council adopt the amended Donations – Financial Assistance 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. Draft Policy - Donations - Financial Assistance

## **10.7 Business Promotion and Development Levy - Consultation**

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### **10.7 Business Promotion and Development Levy - Consultation**

**Delivery Program** Governance and Finance

**Objective** To report on the outcomes from the consultation process for the proposed business promotion levy and to determine whether Council wishes to advance this proposal.

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#### **Background**

At the June 2013 Ordinary meeting Council resolved as follows:

- 1. That Council commence the process of applying to the State Government for a business rate levy of 8% across all Ballina businesses from 2014/15 with the endorsement of Ballina Chamber of Commerce & Industry Inc.*
- 2. Pending endorsement from Alstonville and/or Lennox Head Chamber of Commerce, Council supports broadening the levy to apply to the whole shire (approximately \$280,000 if whole of shire are levied).*
- 3. The funds are to be administered by the Chambers of Commerce proportionate to the number of businesses within their region (i.e. 65% in Ballina, 23% in Alstonville and 12% in Lennox) overseen by the General Manager to ensure transparent and appropriate fund expenditure and adequate acquittals.*
- 4. Activities for the project include marketing, development and promotion activities for all business sectors (including, professional services, hospitality, trade, manufacturing, industry and retail), business development initiatives, and town revitalisation projects.*
- 5. That Council contribute \$50,000 from reserve funds in 2013/14 to the Chambers to be allocated in consultation with the General Manager.*
- 6. That Council retain 10% of the levy funds in the first two years to repay its initial contribution plus interest (approx. \$56,000).*

In response to points one to four, a comprehensive consultation process has been undertaken with the business community and the report that follows provides details on the feedback received.

In respect to point five, Council is working with the three Chambers of Commerce (Ballina, Lennox Head and Alstonville / Wollongbar) on the expenditure of these monies with \$20,000 ear marked for a Housing Expo Campaign that is designed to stimulate residential housing development, along with encouraging people who currently rent, to build or buy. The remaining \$30,000 has been allocated to a broader shire wide marketing campaign, with Council's Tourism Co-ordinator liaising with the Chamber representatives in determining how this campaign will roll out. Both of these projects will be implemented during 2014.

Point six is only relevant if the proposal in points one to four proceeds. If Council does not proceed with the proposed levy it will not be reimbursed the \$50,000 in funds allocated for business marketing and promotion activities in 2013/14.

## 10.7 Business Promotion and Development Levy - Consultation

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### Key Issues

- Feedback from consultation process

### Information

The proposed business promotion levy is a rate based levy that will be charged on property owners, where their property is categorised as business in Council's rating system. The levy could be paid by the property owner or alternatively where there are tenants, the lease agreements with the tenants could result in the levy being payable by the tenants.

In respect to the consultation process undertaken, Council issued correspondence to approximately 1,150 business property owners, based on information held in Council's rating database. The correspondence from Council (copy included as the first attachment to this report) encouraged those owners to provide feedback to Council either through an on-line survey or by written response (email or letter).

Where the tenant is liable for the Council rates, property owners were encouraged to liaise with their tenants before responding, or alternatively tenants could respond directly to Council. A tenant survey was also provided on-line.

In addition to this consultation, the three Chambers of Commerce undertook consultation directly with their members by way of public meetings and individual consultation.

As a result of the various consultations undertaken Council has received the following responses:

- Written (letter or email) responses - 57
- On-line survey - Property Owners – 134 (a password was needed to access this survey to ensure only property owners provided feedback)
- On-line survey – Tenant – 39
- Petition – 105 signatures opposing proposal

Copies of all the written responses and the petition are included as attachments to this report, along with the various additional comments that were provided with the on-line surveys.

### Summary of Feedback – Numbers and Percentage

Feedback	Support	Oppose	Lower % Levy
Written	10 (18%)	46 (81%)	1 (1%)
Owner Survey	9 (7%)	120 (90%)	5 (3%)
Tenant Survey	8 (21%)	28 (72%)	3 (7%)
Petition	0 (0%)	105 (100%)	0 (0%)
<b>Totals</b>	<b>27 (8%)</b>	<b>299 (90%)</b>	<b>9 (2%)</b>

The opposition rate reduces to 84% once the petition is removed.

This is a reasonably good response rate for a Council consultation process. It should be noted that Council owns approximately 100 properties that are categorised as business (i.e. commercial properties, water and wastewater properties etc) and no feedback was provided in respect to these properties.



## **10.7 Business Promotion and Development Levy - Consultation**

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In total there are approximately 1,250 properties categorised as business in Council's rating system (i.e. approximately 100 owned by Council and the balance in private or other public ownership).

Council now needs to determine, based on this feedback, whether or not an application will be forwarded to IPART for the proposed business levy.

Applications for rating special variations for 2014/15 must be submitted to IPART by 24 February 2014 therefore a decision needs to be made at this meeting. IPART has advised that applications will be determined by mid June 2014.

If Council is going to proceed with the application it must also adopt a recently advertised amendment to our existing Delivery Program. As reported to the October 2013 Ordinary meeting of Council, for IPART to assess any application, a council must demonstrate that the special variation proposal has been included in the council's long term financial plan (LTFP) and the adopted Delivery Program.

Following the June 2013 resolution to undertake this consultation process, the proposed business levy was included in our LTFP but it had never been flagged in our Delivery Program. As a result of this, at the October 2013 Ordinary meeting, Council resolved to exhibit an amendment to the Delivery Program; i.e.

*That Council approves the exhibition of an amendment to our Delivery Program to include references to the proposal to apply for an 8% variation to our rate income from business properties for business promotion and development activities.*

This amendment was exhibited with no submissions received to this proposal. This means the amendment will need to be adopted if Council's preferred position is to proceed with an application to IPART.

This information is important for Council as there has been some discussion in respect to rate variation applications for items such as swimming pool improvements or other major infrastructure projects.

Based on the latest IPART guidelines Council would not be in a position to apply for any other additional rate increases for the 2014/15 financial year.

Planning would need to be undertaken as part of the 2014/15 budget deliberations to allow an application to be lodged for the 2015/16 financial year.

### **Sustainability Considerations**

- **Environment**  
Not Applicable
  
- **Social**  
Council needs to be mindful of any social impacts that may arise from the imposition of extra Council charges.

## **10.7 Business Promotion and Development Levy - Consultation**

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- **Economic**

One of the key objectives of the proposed business levy is to promote economic activity within the Ballina Shire.

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

If Council resolves to proceed with the application there will be limited resource implications in completing the application.

### **Consultation**

A comprehensive consultation process has been undertaken with a reasonable level of feedback received.

### **Options**

The options available to Council are to proceed with an application for a business promotion levy, not proceed or to proceed with an amended proposal.

In respect to the option to proceed, Council can reason that despite the large number of objections there are tangible benefits to be gained to Ballina Shire through the introduction of the proposed levy. Many councils still apply for special variations, despite objections, as the council is of the opinion that even though a proposal may be unpopular, the benefits to the community justify proceeding.

One of the difficulties with a proposal of this nature is demonstrating the benefits to the people paying the additional rates. This type of proposal is not new and there are examples of local government areas such as Lismore and Port Macquarie where special business rates have been levied for many years and the majority opinion is that there are benefits gained through the business development activities undertaken.

One of issues identified through the consultation process is that many of the responses are questioning whether their business would benefit directly from a levy.

The proposal is to undertake activities not only related to marketing, but also to business development, training and education and if the levy proceeds it will be imperative to ensure a suite of activities is delivered to meet the needs of all the stakeholders responsible for the payment of the levy.

The alternative option is not to proceed. Many of the submissions have stated that they undertake their own marketing activities and do not wish to be part of a compulsory process. A number of submissions have also identified that such campaigns should be voluntary rather than compulsory.

Points such as this are reasonable and again the key question is to determine whether Council should override these objections and make a formal application to IPART on the basis that the overall benefit will outweigh the objections.

## **10.7 Business Promotion and Development Levy - Consultation**

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Even if Council does resolve to lodge an application, IPART will assess all of the feedback received prior to making a final determination.

If Council does not proceed with an application for 2014/15 it could also revisit this matter in six to 12 months. During the next six months, campaigns will be implemented for the \$50,000 in funding approved by Council and dependent on the success of these activities there may well be a higher level of support for this type of levy once business owners can see the benefits gained from co-operative campaigns.

Another option available is for Council is to proceed with an amended application.

For example the Ballina and Alstonville / Wollongbar Chambers of Commerce have supported the levy, whereas the Lennox Head Chamber of Commerce has not provided their support. In response to this, Council could resolve to proceed with an application for businesses located in Ballina and Alstonville / Wollongbar townships. This would reduce the funds available but it would still allow a reasonable amount of monies to be collected for business promotion and development activities.

Another option would be to apply for a lower percentage increase; such as 5% instead of 8%.

In summary there is a wide range of options available and in respect to the preferred recommendation, both the option to proceed and not proceed are included. Ultimately it is a matter for Councillors to determine, based on the feedback, if it is appropriate for Council to lodge a formal application to IPART.

**RECOMMENDATIONS**

**Option A**

1. That based on the feedback received Council remains of the opinion that there are benefits to be gained from a shire wide business promotion levy, particularly due to the support from the Ballina and Alstonville / Wollongbar Chambers of Commerce, and therefore authorises the General Manager to submit an application to IPART for the proposed special business levy, as exhibited for public comment, and as detailed within this report.
2. That Council approves an amendment to our existing Delivery Program to include a reference to this levy as exhibited.

**OR**

**Option B**

1. That based on the feedback received Council resolves not to proceed with an application to IPART for the proposed special business levy as there has been significant objection to the proposal.
2. That Council not adopt the exhibited amendment to our existing Delivery Program, to include a reference to the special business levy, as this levy is no longer proceeding.

**Attachment(s)**

1. Letter to business owners
2. Promotional Flyer
3. Comments from business property owner survey
4. Comments from tenant survey
5. Chambers of Commerce responses
6. Submissions received in favour of the proposal
7. Submissions received in opposition to the proposal
8. Petition received in opposition to the proposal

11. Civil Services Group Reports

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**11. Civil Services Group Reports**

Nil Items

12. Public Question Time

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**12. Public Question Time**

### **13.1 Notice of Motion - Recording of Council Committee Meetings**

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#### **13. Notices of Motion**

#### **13.1 Notice of Motion - Recording of Council Committee Meetings**

**Councillor** Cr Jeff Johnson

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I move that

1. Council gives in-principle support for the recording of Council Committee meetings (Environment and Sustainability, Facilities, Commercial and Civil Services)
2. Council receives a report at the February Ordinary Meeting outlining the costs and staff time involved to record and upload these meetings to the Ballina Shire Council website, or to provide the recordings to interested members of the public on request.

#### **Councillor Comment**

Ballina Shire Council has already invested funds to enable the Council Chambers to be set up to record meetings, both audio and visual. For the last 4 years Council has only been recording its monthly Ordinary Meetings.

At present, some of the major decisions that this Council makes are debated during committee meetings that are currently not being recorded. During the monthly Ordinary meetings the minutes of these committee meetings are usually passed without debate or comment, thus depriving the public from being able to hear the reasons why Councillors have voted the way they have.

This Council should always seek to improve its transparency and accountability to the public. Recording the committee meetings and making these recordings available to the public would be a positive step forward as it would allow the public to view and access this information. One of Council's stated objectives is to improve transparency and be open and accountable to the public.

I believe that all Council meetings should be recorded and available to the public free of charge via Council's website.

#### **Staff Comment**

The Council Chambers is equipped to record both audio and video.

If this motion is passed, Council's Code of Meeting Practice will require an amendment to Clause 8.4, point (6), which states as follows:

### **13.1 Notice of Motion - Recording of Council Committee Meetings**

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- (6) Council makes full audio and visual recordings of Ordinary Council meetings, excluding deputations, public question time and confidential session. In accordance with Proactive Release provisions of the Government Information (Public Access) Act 2009 these recordings are available to the public at a fee determined by Council.

#### **COUNCILLOR RECOMMENDATIONS**

1. Council gives in-principle support for the recording of Council Committee meetings (Environment and Sustainability, Facilities, Commercial and Civil Services)
2. Council receives a report at the February Ordinary Meeting outlining the costs and staff time involved to record and upload these meetings to the Ballina Shire Council website, or to provide the recordings to interested members of the public on request.

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

Nil



**13.2 Notice of Motion - Coastal Recreational Pathway Position**

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**13.2 Notice of Motion - Coastal Recreational Pathway Position**

**Councillor**

Cr Smith

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I move

That Council re-affirm its position with regards to the construction priority of the coastal cycleway/ recreational pathway by confirming the resolution of the Civil Committee of 12/11/2011, that priority be given to the construction of the recreational pathway between Pat Morton Lookout car park and Angels Beach as the next stage of this project.

**Councillor Comment**

Taking into consideration where Council is at with regards to final design and pre-construction work, now is an appropriate time for the new Council to re-affirm its previous position.

**COUNCILLOR RECOMMENDATIONS**

That Council re-affirm its position with regards to the construction priority of the coastal cycleway/ recreational pathway by confirming the resolution of the Civil Committee of 12/11/2011, that priority be given to the construction of the recreational pathway between Pat Morton Lookout car park and Angels Beach as the next stage of this project.

**Attachment(s)**

Nil

14. Advisory Committee Minutes

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**14. Advisory Committee Minutes**

Nil Items

## **15.1 Mayoral Meetings**

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### **15. Reports from Councillors on Attendance on Council's behalf**

#### **15.1 Mayoral Meetings**

**Councillor** David Wright

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Activities since the December 2013 Ordinary meeting:

<u>Date</u>	<u>Function</u>
31/12/13	New Year's Eve, Alstonville Showground
1/1/14	Lennox Head bush fire backburn
8/1/14	Australia Day Committee
8/1/14	Meeting Sam Gayland – City of Yarra Council re Biochar
12/1/14	Lennox Head Markets at Cultural & Community Centre
22/1/14	Meeting with staff re Australia Day
23/1/14	Ordinary Meeting
26/12/13 to 22/1/14	Nearly daily visits to Shelly's and Lighthouse Beach/Café/Surf Club

#### **RECOMMENDATIONS**

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

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

Nil

16. Questions Without Notice

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**16. Questions Without Notice**

17. Confidential Session

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**17. Confidential Session**

Nil Items