



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 27 March 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 Southern Cross K-12 School.

2. Acknowledgement of Country

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

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

3. Apologies

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 27 February 2014 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 27 February 2014.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2013/385- 59 Teakwood Drive, Alstonville

8. Development and Environmental Health Group Reports

8.1 DA 2013/385- 59 Teakwood Drive, Alstonville

Applicant	W R Moss and J E Burrows-Moss
Property	Lot 1 DP 856017, No. 59 Teakwood Drive, Alstonville
Proposal	Conversion of Existing Shed to Dwelling
Effect of Planning Instrument	The land is zoned RU1 under the provisions of the Ballina LEP 2012
Locality Plan	The subject land is depicted on the locality plan attached to the January 2014 report.

Introduction

At the January 2014 Ordinary Meeting it was resolved to defer the determination of this matter pending the obtainment of legal advice, relating to the obligations of Council and relevance of the Section 88B Instrument that affects the subject property.

Legal advice has now been obtained and is attached. In short, private covenants do not prevent Council from issuing development consents under the Ballina Local Environmental (BLEP) 2012 and Environmental Planning and Assessment Act (EPAA).

The objectors' have also sought their own legal advice on the matter, with such advice also attached. The advice acknowledges that under the BLEP and EPAA, the Council is empowered to use its discretion to determine what development is lawful and can be carried out, however consideration must be given to the provisions of the EPAA, BLEP 2012 and Development Control Plan (DCP) 2012.

A copy of the 23 January 2014 Ordinary Meeting report is also attached.

Report

Council's legal advice confirms that Section 28 of the EPAA 1979 and Regulation 1.9A of the BLEP 2012, suspends the operation of private covenants from a Council approval perspective, where development consent is granted for development in accordance with the BLEP and EPAA.

This advice does not infer Council is able to ignore the relevant planning considerations under section 79C of the EPAA, the BLEP 2012 and DCP 2012.

The advice further confirms that the private covenant cannot be relied upon as a reason for the refusal of the development.

The objectors' advice draws attention to the wording in clause 1.9A of the BLEP, namely the enabling of development "in accordance with this Plan".

8.1 DA 2013/385- 59 Teakwood Drive, Alstonville

Section 28 of the EPAA also refers to the enabling of development “in accordance with an environmental planning instrument”.

The objectors’ legal opinion emphasises that consideration is required to be given to the provisions of both the BLEP 2012 planning instrument and DCP 2012 planning controls. This fact is not in dispute and is part of Council’s normal assessment process with all development applications.

The objectors’ legal advice further argues that the proposal is non-compliant with the objectives of the BLEP and DCP 2012, with the shed design and location being considered as not compatible and out of character with the surrounding rural residential development in the area. This is a merit based opinion.

The merit based issues relating to the BLEP and DCP controls and objectives have been covered in the January 2014 Ordinary Meeting report, where it was assessed that the modified shed reasonably satisfies the planning provisions in the particular circumstances of the development site’s locality.

The shed is a considerable distance from Teakwood Drive (approximately 80 metres), is well screened with landscaping, is separated by a considerable distance from adjoining dwellings and is well screened.

The construction of the modified shed is also coloured of earthen tones and not out of character with the existing rural residential setting or the type of development that would normally be expected in similar settings.

Conclusion

Council is able to approve the development notwithstanding the private covenant that burdens the land.

The recommendation remains unaltered in that the application is consistent with both the BLEP 2012 and DCP 2012 objectives and considered worthy of approval.

RECOMMENDATION

That Development Application 2013/385 for the Change of Use of the existing farm shed to a Dwelling at Lot 1 DP 856017, No. 59 Teakwood Drive, Alstonville, be **APPROVED** subject to appropriate conditions of consent.

Attachment(s)

1. W J Grace & Co Solicitors - Legal Advice to Council
2. McCartney Young Lawyers - Legal Advice to Mr R James & Ms S Austin
3. Report to January 2014 Council Meeting

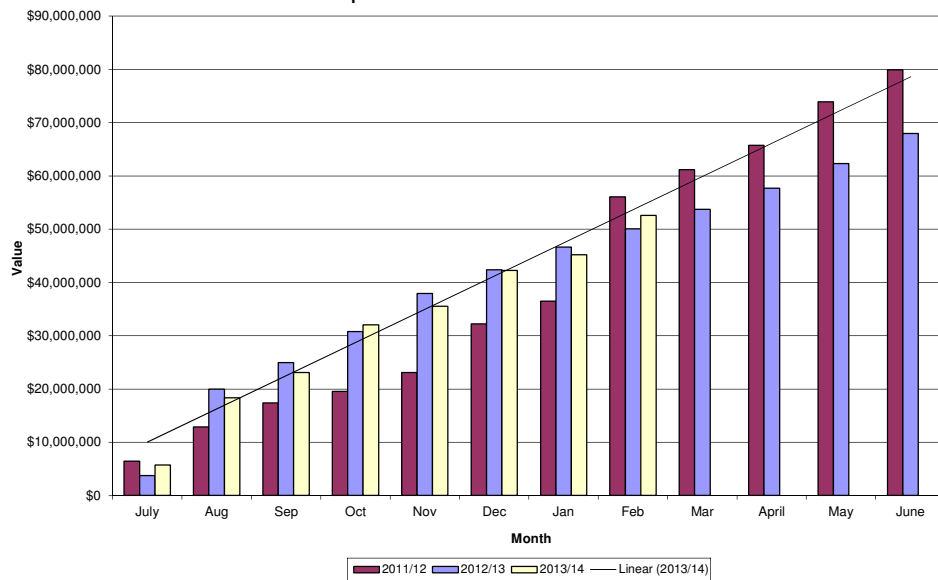
8.2 Development Consent Statistics - February 2014

8.2 Development Consent Statistics - February 2014

During the period of 1 February 2014 to 28 February 2014 the Development and Environmental Health Group issued Development Consent comprising of:

Number of Applications	Value of Work
11 Other Building Related	\$ 1,215,400
23 Dwelling/Duplexes/Residential Flat Buildings	\$ 6,138,000
2 General Developments	\$ 5,000
Total Value	\$ 7,358,400

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.



RECOMMENDATION

That Council notes the contents of the report on development consent statistics for 1 February 2014 to 28 February 2014.

Attachment(s)

Nil

8.3 Development Applications - Works in Progress - March 2014

8.3 Development Applications - Works in Progress - March 2014

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	Determination Pending
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 ² to 773m ² , associated road, earth and	Awaiting Additional Information

8.3 Development Applications - Works in Progress - March 2014

DA No.	Date Rec'd	Applicant	Proposal	Status
			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	Determination Pending
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	Awaiting Additional Information

8.3 Development Applications - Works in Progress - March 2014

DA No.	Date Rec'd	Applicant	Proposal	Status
			One Norfolk Island Pine and One Pandanus and Incorporate Two Levels of Car Parking Within the Building - 274 River Street, Ballina	
2013/446	18/11/2013	Newton Denny Chapelle	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	Awaiting Additional Information
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	To erect an	Awaiting

8.3 Development Applications - Works in Progress - March 2014

DA No.	Date Rec'd	Applicant	Proposal	Status
		Denny Chapelle	industrial building for the purposes of a warehouse and distribution centre operating 24 hours, seven days a week - 19 Piper Drive, Ballina	Additional Information
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	Determination Pending
2014/19	24/01/2014	Visionstream Pty Ltd	To erect a telecommunications (fixed wireless broadband) facility comprising a 30 metre high monopole tower with antennas, compound area, equipment and associated works – 55 Beacon Rd, Teven	Awaiting Additional Information
2014/31	5/02/2014	Newton Denny Chapelle	Staged development application pursuant to S.83B for a residential subdivision comprising two stages, with stage one including 159 residential lots, five public reserve lots, tree removal, civil	Awaiting Additional Information

8.3 Development Applications - Works in Progress - March 2014

DA No.	Date Rec'd	Applicant	Proposal	Status
			infrastructure works and associated easements and stage two consisting of concept approval for nine residential lots and one public reserve lot - 78 Hutley Drive & Henderson Lane, Lennox Head	
2014/42	11/02/2014	Ardill Payne & Partners	Replacement of underground petroleum storage tanks and fuel bowsers and associated works - 44-48 Byron Street, Lennox Head	Determination Pending
2014/44	12/02/2014	Civiltech Consulting Engineers	Two lot subdivision, demolition of existing sheds, tree removal and erection of two new sheds and one dwelling house - 54-56 Moon Street, Ballina	Being Assessed
2014/46	13/02/2014	RJ & L Johnson	To establish a bed and breakfast facility - 412 Friday Road, Brooklet	Referred to Government Departments
2014/63	24/02/2014	Northern Rivers Surveying Pty Ltd	Two Lot Subdivision to Create 1 x 87.5 ha and 1 x 1 ha allotments and Erection of a Shed Upon Proposed 1 ha allotment for Use as a Home Industry - Macadamia Nut	On Exhibition

8.3 Development Applications - Works in Progress - March 2014

DA No.	Date Rec'd	Applicant	Proposal	Status
			Processing - 61 Jorgensens Lane, Brooklet and 145 Brooklet Road, Newrybar	
2014/79	04/03/2014	Trustees for the Roman Catholic Church for the Diocese of Lismore	Erection of a Storage and Bus Shed - 2-30 Redford Drive, Skennars Head	Being Assessed
2014/80	04/03/2014	Newton Denny Chapelle	Erection and Strata Title Subdivision of a Multit-Dwelling Housing Development Comprising Six x Three Bedroom Single Storey Dwellings - 8 Megan Crescent, Lennox Head	On Exhibition
2014/82	04/03/2014	Signmanager Pty Ltd	Erection of advertising sign - 23 De-Havilland Drive, Ballina	Being Assessed

8.3 Development Applications - Works in Progress - March 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 ³ (in situ) - Lot 32 DP 1151612, Newrybar Swamp Road, Lennox Head	Approved by JRPP meeting 19/3/2014
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				

RECOMMENDATION

That Council notes the contents of the report on the status of outstanding development applications for March 2014.

Attachment(s)

Nil

9.1 LEP Amendment Request - North Creek Foreshore, Ballina

9. Strategic and Community Facilities Group Reports

9.1 LEP Amendment Request - North Creek Foreshore, Ballina

Delivery Program Strategic Planning

Objective To seek the Council's direction in relation to a request to amend the Ballina Local Environmental Plan 2012 for land on the North Creek foreshore off Camden Street, Camden Lane and Skinner Street, Ballina.

Background

On 8 November 2013 Council received a request to amend the *Ballina Local Environmental Plan 2012* as it applies to four land parcels adjacent to the North Creek foreshore in Ballina, as shown in the locality map in Attachment 1.

Table 1 – Subject Property Details

Parcel	Address	Lot/DP	Owner	Area
1001966	2 Skinner Street	Lot 10 DP 1126929	KL Jambor	1653m ²
1001640	5 Camden Lane	Lot 1 DP 1119099	JA Carmont	1428m ²
1000693	3 Camden Lane	Lot 3 DP 1079380	WG Edwards	1227m ²
16046	1 Camden Street	Lot 33 DP 872966	MJ Gribble	1227m ²

The subject land is currently zoned part R2 Low Density Residential zone and part W1 Natural Waterway zone under the *Ballina Local Environmental Plan 2012* (BLEP 2012) as detailed in the zoning map contained in Attachment 2. The proposal seeks to rectify what the landowners have described as a “zoning error” and to also enable the permissibility of coastal protection works (such as a seawall or revetment wall) on the subject land. A copy of the request for the LEP amendment is included in Attachment 3.

Further consultation with the landowners following the submission of the request has confirmed their desire to provide coastal protection works on the land currently within the W1 Natural Waterways zone. Coastal protection works are prohibited in the W1 zone. To address this, the landowners have proposed that the existing R2 Low Density Residential zone currently applied to parts of the subject land be extended over the entirety of the subject land and into the waterway.

While the rezoning of the subject land would enable consent to be granted for coastal protection works, the details submitted with the proposal do not address the potential development options the sites may be provided with should the R2 zone be applied into the waterway. These include additional dwellings and a potentially significant encroachment of the built environment into the foreshore area of North Creek.

9.1 LEP Amendment Request - North Creek Foreshore, Ballina

The purpose of this report is to invite the Council to consider the various issues raised by the proposed rezoning and to seek direction in relation to whether or not the proposal has merit and should be progressed.

Key Issues

- Suitability of a residential zone in the subject circumstances.
- Enabling permissibility of coastal protection works.
- Maintenance of foreshore building setbacks.
- Preserving the public amenity of the North Creek foreshore.

Information

History - Accretion

The current configuration of the subject lots dates back to 1955 and the registration of DP 26409 (see extract in Attachment 4). DP 26409 created four residential allotments with frontage to North Creek. The eastern (creek front) boundaries of the lots are identified on the 1955 subdivision plan as "high water mark".

Due to the relatively uncommon occurrence of shoreline accretion to the frontages of the subject site, since 1955 the area/shape of each of the four lots has been subsequently redefined through the registration of amended plans. These redefinitions, being legitimate under NSW property regulations and not requiring Council consent, have resulted in the gradual increase in land area of each site as detailed in Table 2.

Table 2 – History of Accreted Land Area

Current Lot & Address	Original Lot & Area	Current Lot Area	Area Increase 1955-2014
Lot 10 DP 1126929 2 Skinner Street	Lot 7 DP 26409 1201.4m ²	1653m ²	451.6m ²
Lot 1 DP 1119099 5 Camden Lane	Lot 8 DP 26409 860m ²	1428m ²	568m ²
Lot 3 DP 1079380 3 Camden Lane	Lot 9 DP 26409 695.6m ²	1227m ²	531.4m ²
Lot 33 DP 87266 1 Camden Street	Lot 10 DP 26409 701.9m ²	1227m ²	525.1m ²

As shown in Table 2, each of the lots has benefitted from the unique situation of gaining land over time due to the shoreline accretion process. This was a legitimate action permissible through the registration of redefinition surveys where boundaries were based on mean high water mark (MHWM). Since 2003, legislative amendments now place prohibitions on the application of redefining boundaries as a result of shifting MHWM. It is noted that of the deposited plans referenced in the table above, those registered since the legislative change have removed the reference to MHWM and now apply fixed boundaries to the subject lots.

The result of the accretion, combined with the redefinition of the boundaries of the lots, means that each site has considerably more land area now than it did when initially created in 1955. A map illustrating the comparison between the current boundaries and the original 1955 boundaries is contained in Attachment 5.

9.1 LEP Amendment Request - North Creek Foreshore, Ballina

History - Zoning

The subject LEP amendment request relates to the zoning applied to the subject sites. Currently the sites are zoned part R2 Low Density Residential (western part of the lots) and part W1 Natural Waterways (eastern part, shoreline area of the lots) under the *Ballina Local Environmental Plan 2012* (BLEP 2012). The map contained in Attachment 5 illustrates the zone boundary, which approximates the original 1955 eastern property boundaries.

Although the proponents suggest the current zone boundary is an error, it is noted that the BLEP zone boundary as shown on the map in Attachment 5 is in the same location as the zone boundary in the *Ballina Local Environmental Plan 1987* (BLEP 1987) that formerly applied to the sites. Under the BLEP 1987, the western parts were zoned 2(a) – Living Area with the eastern, accreted parts of the sites being unzoned. A comparison of the BLEP 2012 and BLEP 1987 zone boundaries as they affect the subject sites is illustrated on the maps contained in Attachment 6.

The BLEP 1987 zone boundary, and subsequently the BLEP 2012 zone boundary, closely reflect the original 1955 property boundaries which would have been applicable at the time of drafting of the BLEP 1987. When the BLEP 1987 was drafted, the beds of all major coastal waterways, such as North Creek, were unzoned. Therefore, based on the zoning history of the site, it is considered that the zone boundary placement is not an error but reflects the property boundaries as they were at the time the BLEP 1987 was drafted.

The proponents made two submissions in response to the public exhibition of the Draft Ballina Local Environmental Plan 2010. The submissions objected to the proposed application of the W2 Recreational Waterways zone (W2 was the waterway zone proposed at that time) over the formerly unzoned areas of the sites. Importantly, the submissions did not raise the potential for coastal protection works as a reason for the objections.

A waterways zone was proposed (and ultimately applied) over the land under the draft LEP in response to Council's May 2006 resolution relating to the land (see below), in recognition of the special building line for the properties under the DCP and having regard for the historic residential zone boundary on the land.

The submissions were considered by the Council's Environmental and Sustainability Committee in May 2011 when reviewing the Draft Ballina Local Environmental Plan 2010. The recommendation endorsed by the Committee in relation to the objection to the W2 zone was as follows:

No change. Waterways zone applied to reflect building line applied to properties. Note: W1 zone to be applied in recognition of bird roosting issues. Note: change to zone boundary alignment for 1 Camden Street.

It is noted that in the drafting of the BLEP 2012 the zoning boundary through Lot 33 (PN 16046, 1 Camden Street) was corrected in relation to the location of the existing dwelling on that site. However, a similar change was not made to rectify the similar situation on Lot 10 (PN 1001966, 2 Skinner St) where the existing dwelling straddles the zone boundary (see Attachment 5).

History - Foreshore Building Line

The application of a foreshore building line to the subject sites was considered by the Council on several occasions prior to being adopted and incorporated into the development control plan (DCP) in 2006. These occasions are summarised as follows:

27 May 1999 – A report was submitted to the Council detailing the situation of accretion and the resultant potential building options on the subject sites due to their (then) medium density categorisation in the DCP. It was proposed to amend the DCP to apply a foreshore building line and change the land use category to “duplex” for three of the sites. Council resolved to prepare a draft amendment to the DCP to reflect the above.

25 November 1999 – The outcomes of the public exhibition of the above draft DCP amendment were reported to the Council. The report considered several submissions; four from the affected landowners objecting and two from community members seeking protection and public access to the foreshore. It was recommended to adopt the draft amendments to the land use designations in the DCP and to apply an appropriate foreshore building line to the sites after an inspection of the site and its visual environment. However, the Council resolved to not proceed with the amendment to the DCP and to reconsider the matter of the building line upon receipt of a development application for any of the sites.

19 January 2006 – The proposed amendment to the DCP was revisited in response to development enquiries received by Council officers and the absence of a clear direction in relation to the Council’s preferred development outcomes for the sites. The building line proposal was raised again, with the recommendation of staff that the DCP be amended to change the sites’ medium density land use category and to apply a foreshore building line. The Council resolved to reactivate the earlier DCP amendment proposal, adapt it for the regulatory environment current at that time and re-exhibit the amendment.

27 April 2006 – The outcomes of the re-exhibition of the proposed DCP amendment were reported to the Council. Again, submissions of objection were received from the affected landowners with additional submissions (including a petition) from members of the community seeking protection of the values of the foreshore area. A mixed response was received from the landowners with the (then) owners of No. 2 Skinner Street wishing to retain the medium density designation while the other owners were happy with the change in density designation to low density. The owner of No. 1 Camden Street indicated a preference to retain a dwelling designation to enable ‘duplex’ development. It was resolved by the Council at this meeting to defer the matter for discussion at the Council’s Environmental Committee.

4 May 2006 – The matter was reported in further detail to the Council’s Environmental Committee. This report recommended the application of a foreshore building line and no change to the DCP land use categories of the sites for the time being. The Committee, in turn, recommended to apply foreshore building lines to the sites, to amend the land use categories for three of the sites (to L1 Low Density Residential (Large Lots)) and to review the unzoned parts of the sites as part of the LEP review, including investigating the opportunity to apply an open space zone to parts of the foreshore area.

9.1 LEP Amendment Request - North Creek Foreshore, Ballina

The Council's position in relation to the subject sites was confirmed through the adoption of the Environmental Committee Minutes by the Council at its Ordinary Meeting held on 25 May 2006 [Minute No. 250506(053)]. The Environmental Committee's Minutes provide that:

1. *In respect of building lines, that Option 4 contained in the report to Council dated 27 April 2006 be adopted insofar as it relates to Nos. 3 and 5 Camden Lane and No. 2 Skinner Street.*
2. *That the category for 1 Camden Street, 3 and 5 Camden Lane and 2 Skinner Street be category L1, for the purpose of the DCP.*
3. *That staff investigate as part of the review of the LEP the opportunity to zone all or part of the currently unzoned land as 6(a) Open Space or other appropriate zone.*
4. *That the zoning of the unzoned part of No. 1 Camden Street be reviewed as part of the review of the LEP with the aim of correcting the anomalous zoning situation as it currently exists in relation to the buildings thereon.*

A copy of the map produced to illustrate the above is contained Attachment 7.

The adopted development provisions/guidelines (land use categories and foreshore building line) were incorporated into Council's DCP and have subsequently been transferred into the regime of the *Ballina Local Environmental Plan 2012* and *Ballina Shire Development Control Plan 2012* that commenced in early 2013. The subject sites are currently partly zoned R2 Low Density Residential with the adopted foreshore building line provisions transferred into the 2012 DCP. Part of the land is also subject to a 1200m² minimum lot size standard for subdivision under the LEP consistent with the current extent of the R2 residential zoning.

Other Issues

Erosion protection works

In January 2012, Council officers investigated the placement of sandbags within the foreshore area of No. 2 Skinner Street (Lot 10 DP 1126929) that had not been approved by Council. The sandbags had apparently been placed to mitigate the effects of coastal erosion.

In response, the landowner advised that the sandbags had been placed as emergency protection to prevent the loss of landscaping. It was also advised by the landowner that a more permanent protection structure would be sought in conjunction with the adjoining landowners to provide protection against coastal erosion. Following further assessment by Council officers, no enforcement action was taken against the landowner in relation to the placement of the sandbags.

DA 2013/75 – Retaining wall for erosion protection

In March 2013 a development application was lodged with Council on behalf of the four landowners seeking development consent for the provision of a rock retaining wall along the foreshore frontage of the subject sites. The development application defined the proposal as "erosion protection works". Details of the proposed protective wall are shown in Attachment 8.

9.1 LEP Amendment Request - North Creek Foreshore, Ballina

The proposed rock wall was to be located in the W1 Natural Waterway zone under the BLEP 2012. The statement of environmental effects (SEE) submitted in support of DA 2013/75 was ambiguous in detailing the “erosion protection works” and, in relation to the BLEP 2012, for what consent was being sought. While the SEE referenced the W1 zone as the location of the proposed rock wall it also indicated, in reference to the W1 zone, that “it is considered that [the W1 zone] is an anomaly in the zoning and is anticipated to be rectified in due course.”

Following a preliminary assessment of DA 2013/75 by Council staff, further information was requested from the applicant. Due to the ambiguities in the development application documentation, further clarification was sought from the applicant to clarify how the development is permissible on the land.

The proposed rock wall was defined by Council as “coastal protection works” which, under the *Coastal Protection Act 1979*, are defined as “*activities or works to reduce the impact of coastal hazards on land adjacent to tidal waters and includes seawalls, revetments, groynes and beach nourishment.*” The BLEP 2012 adopts the same definition. Because “coastal protection works” are not in the land use table of the W1 Natural Waterway zone, they are prohibited development. As a result, the development application was subsequently withdrawn by the applicant.

Sustainability Considerations

- **Environment**

The submitted request seeks Council endorsement of a proposal to rezone land on the North Creek foreshore that is currently zoned W1 Natural Waterway. Part of the subject land within the W1 zone comprises dry land managed as private yard space within an urban environment.

There are also parts of the land currently zoned W1 that are part of the natural waterway environment. This includes the intertidal bed of North Creek and its sandy shoreline. In this regard, further consideration must be given to the proposal and its potential impacts on the waterway and the most appropriate location for the W1 zone boundary.

- **Social**

The submitted request is seeking Council endorsement for a proposal to adjust the zoning of an area, apparently, to primarily enable the permissibility of coastal protection works. While the principle of enabling coastal protection works on the subject land is not necessarily opposed, it must also be considered in regard to its potential impacts on the public amenity and natural attributes of the waterway. The proposal must therefore be considered in relation to achieving the best social outcomes in the adjustment of the sites’ current zone boundaries.

- **Economic**

The subject LEP amendment, as proposed, seeks to apply the R2 Low Density Residential zone to each of the subject sites in their entirety. This will include parts of the foreshore and intertidal areas of North Creek. The rezoning of the land to R2 will have the effect of enhancing the development opportunities for the subject sites and result in potentially positive economic outcomes to the benefit of the landowners. On the other hand, a compelling public benefit potentially derived from the proposed rezoning is not easily identifiable.

Legal / Resource / Financial Implications

The LEP amendment is being sought by the proponent to adjust the zoning provisions for the subject sites to enable the permissibility of coastal protection works, and to potentially enable other development. Where the request is endorsed by the Council, the proposal will be assessed and considered subject to the adopted fee structures for planning proposals as specified in Council's Schedule of Fees and Charges.

Should the amendment proceed to the formal planning proposal status, it will be accommodated within the work program of the Strategic and Community Facilities Group as resources permit.

Consultation

Due to the initial stage of the amendment process, no public or external consultation has yet been undertaken. If the Council resolves to support the LEP amendment, a planning proposal will be drafted for approval by the Council and submission to NSW Planning and Infrastructure for Gateway determination.

If NSW Planning and Infrastructure determines the planning proposal favourably, the proposal will be placed on public exhibition in accordance with the requirements specified in the Gateway determination.

Options

1. Decline to support the LEP amendment request.

In consideration of the issues raised in this report, Council has the option to resolve to decline the request to amend the LEP to adjust the zoning of the land. This option would also mean that the current zone boundary would remain in its current location and the DCP foreshore building line provisions will continue to apply. The coastal protection works desired by the landowners would remain prohibited development in the W1 zoned parts of the subject sites.

Retaining the existing situation maintains Council's 2011 decision associated with the zoning of the land during the LEP renewal and the historic residential zone arrangement over the land. It should be noted that, if this option is preferred, the proponents may choose to exercise their options in seeking a review of the proposal by NSW Planning and Infrastructure.

9.1 LEP Amendment Request - North Creek Foreshore, Ballina

On balance, subject to the completion of further technical assessment, the opportunity for the landowners to seek consent for coastal protection works east of the current R2 zone boundary appears reasonable. Given this, ceasing further consideration of the proposal is not recommended.

2. Endorse the LEP amendment request as submitted.

Council has the option to consider the application of the R2 Low Density Residential zone to the entire area of each of the lots as proposed in the LEP amendment request. While this would facilitate the landowners' desire to provide coastal protection works on the land, it would also mean that the entire foreshore area, including areas of the bed of North Creek, would be zoned to allow residential land uses and associated development. It would also enable coastal protection works eastward of the current shoreline of North Creek (i.e. within the waterway).

While the DCP currently applies a building line to the foreshore in this location it should be noted that legislative provisions require a DCP to provide guidance in areas such as facilitating permissible development and achieving the objectives of land use zones. Therefore, the building line is open to greater potential for variation under this scenario compared to the current zone arrangement which prohibits residential dwellings east of the current R2 zone boundary.

This option is not recommended as it is not considered to provide for a suitable balance between public and private interests in the circumstances.

3. Proceed with a proposal to adjust the R2 zone boundary over part of the land.

Council has the option to review and realign the current zone boundary that may work to achieve a more desirable outcome for the sites having regard for public amenity and the extent of the North Creek waterway. While there is a number of ways this could be achieved, the preferred option in this regard is detailed below.

The current R2/W1 boundary can be adjusted to follow either the current North Creek shoreline or a more defined and fixed zone boundary landward of the shoreline. It is considered desirable in this case to place the boundary slightly to the landward side of the current beach profile. This is to provide a balance between property protection potential and public amenity. This option also provides for a zone line generally consistent with the character of the North Creek shoreline to the north and south of the subject sites, consistent with the historic accretion of land enjoyed by the properties. The recommended location for the adjusted R2/W1 boundary is shown on the map contained in Attachment 9.

This scenario would see the beach area and creek bed retained within the W1 zone while applying the R2 zone to the majority of the dry land within the subject sites. This would also allow the landowners to seek development consent for coastal protection works not on the immediate foreshore but rather set back from the beach profile and within the R2 zone.

9.1 LEP Amendment Request - North Creek Foreshore, Ballina

It should be noted that such works can impact on the beach and shoreline profile both immediately adjacent to and beyond the location of the works. These impacts would be considered as part of a future development application, depending on the details of any proposed structures. Other impacts such as mangrove removal would also need to be considered with any development application.

The adjustment of the R2/W1 boundary will also allow the correction of the current zone boundary that traverses the north eastern corner of the dwelling on Lot 10 which should be located fully within the R2 zone.

If this option is progressed, the 1200m² minimum lot standard for subdivision would also be extended eastward to match the realignment of the R2 zone boundary.

Under this option, the current foreshore building lines in the DCP would remain and will function, to an extent, to provide guidance to the setback of residential buildings from the foreshore.

While the current DCP building line provisions could be considered sufficient to achieve the building setback to the sites, it should be noted that section 74BA of the *Environmental Planning and Assessment Act 1979* (EP&A Act) provides that "the principal purpose of a DCP is to provide guidance" to development in relation to the following:

- (a) *giving effect to the aims of any environmental planning instrument that applies to the development,*
- (b) *facilitating development that is permissible under any such instrument,*
- (c) *achieving the objectives of land zones under any such instrument.*

Therefore, the building line is open to variation resulting in residential development east of the existing building line given the expansion of the R2 zone.

Given the above legislative provisions in conjunction with possible shoreward extension of the R2 zone, consideration must be given to the strength of the DCP's foreshore building line restrictions. It could be argued that the DCP's foreshore building line is inconsistent with the R2 zone objectives and section 74BA of the EP&A Act in that it does not provide guidance to the development outcomes anticipated in the R2 zone.

It is possible to incorporate foreshore building setback provisions into the local environmental plan, which gives them a greater level of regulatory strength. It is therefore open to the Council to consider the option of transferring the current foreshore setback provisions in the DCP into the LEP.

The consideration of the application of foreshore building setbacks for the entire Ballina urban estuary interface will be included in the preparation of the Ballina Major Regional Centre Strategy which is soon to commence. As such, it is recommended that the application of foreshore building lines not be considered on a site specific basis at this time and that the current DCP foreshore provisions remain for the subject sites for the time being.

9.1 LEP Amendment Request - North Creek Foreshore, Ballina

In summary this option, which is the recommended option, is to adjust the current zone boundary sufficiently shoreward to enable the landowners the ability to obtain consent for coastal protection works while retaining the protection of the waterway features in the W1 zone. This adjustment will allow the land use zoning to better reflect the physical attributes of the site while providing some level of protection to the immediate foreshore. This is on the basis that the accretion and history associated with the subject land appears to be quite particular and unusual.

4. Apply another technical solution under the LEP to enable coastal protection works.

Council could add a provision to the additional permitted uses schedule under the LEP to permit coastal protection works specifically within the W1 Natural Waterways zoned area applicable to the subject land or permit coastal protection works in all W1 Natural Waterways zoned areas. If the Council is inclined to support the potential for coastal protection works on the land, but not provide for additional residential zoning of the land, one of the options outlined above could be utilised to achieve the intended outcome.

Both of these approaches would provide for coastal protection works without the need for a zone change. However, this approach is not recommended as it would effectively enable the construction of a wall or other protective works within the current North Creek waterway in the subject case. A wider application of the permissibility of coastal protection works in the W1 zone may also have implications in other locations along the W1 zoned waterways in the shire.

If this approach is preferred by the Council, it is suggested that the Council resolve to prepare a planning proposal enabling coastal protection works on the land, but not by way of zoning. Staff would then carry out further research of the above mentioned pathways as the basis for a planning proposal that would be presented to the Council for further consideration.

RECOMMENDATIONS

1. That Council endorses the preparation of a planning proposal that will adjust the current R2 Low Density Residential and W1 Natural Waterway zone boundary on Lot 10 DP 1126929 (No. 2 Skinner Street), Lot 1 DP 1119099 (No. 5 Camden Lane), Lot 3 DP 1079380 (No. 3 Camden Lane) and Lot 33 DP 872966 (No. 1 Camden Street).
2. That the planning proposal be based on the realignment of the R2 boundary to the landward side of the North Creek shoreline, generally in accordance with the zone arrangement shown in Attachment 9.

Attachment(s)

1. Locality Map
2. Current Zoning Map
3. LEP Amendment Request
4. Extract - DP 26409
5. Comparison Map - Current & Former Lot Boundaries
6. Comparison Map - 2012 & 1987 LEP Zone Boundaries
7. DCP Foreshore Building Line Map - 25 May 2006
8. Proposed Rock Wall (DA 2013/75 - withdrawn)
9. Recommended zone boundary alignment

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

Delivery Program Strategic Planning

Objective To present the Council with a proposal to amend the Ballina Local Environmental Plan 2012 to rezone land located at Lot 12 DP 813210 known as No 16 Tara Downs, Lennox Head and to seek direction in relation to the further progress of the matter.

Background

Council received a request for the rezoning of Lot 12 DP 813210 (Lot 12), known as No 16 Tara Downs, Lennox Head, on 14 February 2013. The land is shown in the site plan contained in Attachment 1.

The land is currently zoned RU1 Primary Production under the provisions of the Ballina Local Environmental Plan 2012 (BLEP 2012). The proposed rezoning involves the application of a R2 Low Density Residential zone over the subject land to replace the RU1 zone. Prior to BLEP 2012 the subject land was zoned 1(b) Rural (Secondary Agricultural Land) zone.

The proponent is Mr D Foley and the landowner is the Uniting Church in Australia. The request, contained in Attachment 2, has been prepared by Newton Denny Chapelle.

Lot 12 has an area of 1.441 hectares. The lot is located on the eastern side of Tara Downs primarily behind nine existing residential lots. A Council public reserve forms the eastern most boundary of the site. Lot 12 has a frontage to Tara Downs in two locations. The northern most frontage has a width of 5 metres and the southern most frontage a width of 39 metres.

Rezoning requests in relation to this property were previously submitted to Council in 2001 and 2008 on behalf of the current landowner. The 2001 request was submitted at a time when the Lennox Head Structure Plan was in the course of being prepared. The structure plan endorsed by the Council at that time identified the land as *possibly suited to future development subject to detailed environmental assessment*.

In 2008 another rezoning request was submitted to Council in support of a residential zone and a proposed 9 lot subdivision. This application was formally discontinued by Council in May 2011 as a consequence of the applicant not submitting additional technical information, as had been requested, despite having ample opportunity to do so.

BLEP 2012 designates the land as a Strategic Urban Growth Area. This is in line with its designation under the Ballina Shire Growth Management Plan and the Lennox Head Structure Plan as being possibly suited to future urban development.

This report provides an overview of the LEP amendment request and seeks the Council's authorisation for the preparation of a planning proposal to pursue the rezoning, as sought.

Key Issues

- Suitability of land for residential zoning and development
- Minimum applicable lot size

Information

Site Assessment

The LEP amendment request provides a brief overview of the planning background of the subject land. Minimal information has been submitted regarding key site issues which include bushfire hazard, contamination, land slip, stormwater management, visual amenity impacts, vehicle access and potential lot layouts for future subdivision.

The site is located within a high risk mosquito management area and is also partly located within a bushfire buffer zone. Approximately half the site's western-most section is also within an area designated as being susceptible to land slip, as designated by NSW Department of Mineral Resources mapping.

In addition, the site is within 100 metres of the disused *Meaneys* cattle tick dip site. A class 5 acid sulfate soils designation also affects the south-eastern section of Lot 12.

The site has a slope from west to east of approximately 20 metres and is substantially cleared of vegetation. An examination of flora and fauna will be required to be undertaken as part of the environmental assessment process, particularly given the site's proximity to a SEPP 26 Littoral Rainforest and a SEPP 14 Coastal Wetland.

Although clearly there are a number of matters that require further consideration, based on a preliminary review of the information submitted and initial site assessment, there does not presently appear to be any significant constraints that would render the application of a residential zone to the land inappropriate. It should also be noted that the immediate neighbourhood will be consulted if a planning proposal proceeds. This process might also bring to light issues for the Council's consideration.

Should the Council agree to initiate the rezoning process then a planning proposal will be prepared for the Council's review prior to the proposal being forwarded to NSW Planning and Infrastructure (P&I) for Gateway determination. If P&I issue an affirmative Gateway determination, additional information would be requested from the applicant in regard to key site issues to enable a comprehensive assessment.

Due to the need to further examine issues such as bushfire, landslip susceptibility and buffer areas required for mosquito control and to adjoining flora and fauna communities, the minimum lot size appropriate for the subject land is yet to be determined.

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

The submission which accompanied the LEP amendment request indicated that an opportunity existed to provide lots below 1200m² (1200m² is identified as a preferred lot size standard in the Lennox Head Structure Plan) in a manner still compatible with the existing lots west of the site fronting Tara Downs. Following a request to the proponent's planning consultant, to clarify how many lots were proposed, advice was received that the proponents believe that the land would be suitable for 5 to 6 lots. Technical work to be undertaken as part of the planning proposal would have regard for the number of lots envisaged by the proponent.

The rezoning application submitted in 2008 made provision for 9 residential lots which ranged in size from 1200m² to 1302m².

There is currently no minimum lot size applicable to the land under BLEP 2012. The adjoining R2 Low Density Residential zoned land is subject to a 600m² minimum lot size restriction. Adjoining existing residential lot sizes range in area from 1007m² to 1314m².

Additional information, following a positive Gateway determination, would be sought to enable the Council to determine the suitability of the land for subdivision and the minimum sizes appropriate for future allotments.

With respect to the strategic planning framework, the application of a residential zone to the land is generally consistent with both Council and State Government urban land release planning policy. More specifically, the following provides an overview of the proposed amendment with respect to historical and currently applicable planning documents.

Site History

The parent lot of the subject land, Lot 4 DP 253429, (17.85ha) was created in 1977 in conjunction with a three lot subdivision.

In 1985 Lot 4 was further subdivided to create lot 17 in conjunction with a 30 lot residential subdivision in Tara Downs.

The current Lot 12 was created in 1991 following the excision of a further single residential lot (Lot 13 DP 813210 No. 26 Tara Downs) which has an area of 1007m².

Far North Coast Regional Strategy 2005 (FNCRS)

The subject land is identified as being located within the existing urban footprint of Lennox Head, despite the rural zoning. Accordingly, the application of a residential zone to the land is consistent with this strategy.

Ballina Shire Growth Management Strategy 2012 (GMS)

The subject land is recognised as being within a Strategic Urban Growth Area under this strategy. The site adjoins R2 Low Density residential zoned land to the west (Tara Downs, Elevation Drive, North Creek Road and Aspects Drive). Land to the immediate north, east and south is Council-owned open space land.

The proposal is consistent with the GMS.

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

Lennox Head Structure Plan (LHSP)

The LHSP provides a framework for the development of new urban land release areas within the Lennox Head locality and includes the subject land. The subject land is identified as *possibly suited to future development subject to detailed environmental assessment*. Low density residential development with lot sizes of 1200m² is nominated as the preferred use of the site under this strategy.

The LHSP nominated the following planning factors as requiring particular attention as part of the rezoning of this area:

- Buffering for environmental and mosquito management reasons;
- Stormwater management to mitigate impacts downstream and on surrounding environments;
- Establishment of dwelling envelopes to minimise impact on views of existing residents of Tara Downs; and
- Vehicular access is to occur via a single integrated access point to Tara Downs Drive.

The proposal, at this early stage of its development, is considered consistent with the LHSP subject to detailed environmental assessment of constraints to confirm its suitability for a low density residential zone. Detailed environmental assessments would be undertaken after Gateway determination and before the planning proposal is publically exhibited in this case.

Ballina Local Environmental Plan 2012 (BLEP 2012)

The subject land is zoned RU1 Primary Production under the provisions of the BLEP 2012. Previously under the Ballina LEP 1987, the subject land was zoned 1(b) Rural (Secondary Agricultural Land) zone.

The RU1 Primary Production zone generally has a minimum applicable allotment size of 40ha. This size is considered the minimum required to sustain viable agricultural uses. Whilst it is the case that no minimum lot size has been applied to Lot 12 the land is considered unsuitable for sustaining agricultural uses due to its relative small size and its setting. Land consolidation is not an option as the immediately adjoining land to the north, south and east is Council-owned land designated for open space purposes.

It is proposed to rezone Lot 12 to a R2 Low Density Residential zone. The surrounding R2 Low Density Residential zoned lots have a minimum applicable lot size of 600m². Such a lot size is, however, not supported in the absence of further justification due to known constraints. On the basis of information presently available, a minimum 1200m² lot size is considered to be a more likely outcome following more detailed assessment.

Having regard to the land constraints applicable to Lot 12 it is appropriate that additional information be required from the applicant if an affirmative Gateway determination is received from P&I. This information should address potential subdivision layout and building envelopes having regard to bush fire and land slip constraints, as well as buffering requirements to adjoining vegetation communities and for mosquito control. This information would be assessed prior to any public exhibition of the proposal.

Sustainability Considerations

- **Environment**

The subject land is substantially cleared of trees and contains predominately grass and weed species. The significance of this vegetation, as well as the impact of the proposed subdivision on adjoining flora and fauna communities, would be assessed further if the planning proposal proceeds.

- **Social**

Aside from potential visual amenity impacts arising from the development of the land on surrounding properties, the proposed zoning does not raise any significant social implications. Amenity implications will be considered further as part of the detailed assessment of the proposal post Gateway determination.

- **Economic**

There are no significant economic implications currently identified in relation to the proposed zoning.

Legal / Resource / Financial Implications

There are no significant resourcing or financial implications associated with the further processing of the LEP amendment. The next step in the process would be to prepare a planning proposal suitable for submission to P&I for Gateway determination, if that is the Council's wish.

Following Gateway determination the applicant would be requested to submit additional information which addresses bushfire and land slip risk, site contamination, stormwater management, vehicle access, subdivision layout and building envelopes, including visual amenity impacts, as well as buffering requirements to adjoining flora and fauna communities and for mosquito control.

Council's adopted fees and charges associated with LEP amendments would be applied to the further processing of the request.

Consultation

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

Should the matter proceed, an affirmative Gateway determination will advise of consultation requirements with government agencies and the community. Community engagement would then occur following assessment of the required additional information and in accordance with the Gateway determination.

Options

1. Proceed to prepare a planning proposal for the application of an R2 Low Density Residential zone to Lot 12.

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

This approach would authorise the preparation of a planning proposal for Gateway determination. The proposal would be reported to the Council for further consideration prior to its submission to the Gateway panel.

While it is considered that additional information is required to finally determine the appropriate minimum lot sizes, the land is generally considered to be suitable for a low density residential zoning. The planning proposal submitted to P&I would identify the uncertainty regarding minimum lot sizes at this stage of the process and identify that the minimum lot sizes would be determined following the assessment of additional information.

This is the recommended approach.

2. Defer or amend the planning proposal.

This approach is not recommended given:

- the initial review of the characteristics of the land has indicated that the site appears generally suitable for a low density residential zoning; and
- the proposed LEP amendment is consistent with Council's land use planning framework for the locality.

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

For the same reasons outlined in relation to Option Two, this approach is not recommended.

Importantly, the Council can elect to cease processing a planning proposal at other stages of the LEP amendment process if considered appropriate.

RECOMMENDATIONS

1. That Council prepare a planning proposal for the application of an R2 Low Density Residential zone relating to Lot 12 DP 813210, being No 16 Tara Downs, Lennox Head.
2. That the subdivision potential and associated minimum lot size for subdivision of Lot 12 DP 813210 be determined following assessment of additional technical information.
3. That a further report be submitted to the Council documenting the planning proposal.

Attachment(s)

1. Attachment 1 - Site Plan
2. Attachment 2 - LEP Amendment Request

9.3 LEP Amendment Request - Aspects Estate Dual Occupancy Lots

9.3 LEP Amendment Request - Aspects Estate Dual Occupancy Lots

Delivery Program Strategic Planning

Objective To invite the Council to initiate a planning proposal to recognise the intended residential development outcomes for the Aspects Estate at Lennox Head.

Background

The Aspects Estate at Lennox Head was approved by Council in Development Application 2006/815 (DA 2006/815). The development comprised a subdivision containing 33 residential allotments, several of which were designated as suitable for duplex (dual occupancy) development. A locality map illustrating the subdivision and the identified duplex lots is provided in Attachment One.

Upon registration of the plan of subdivision in 2007 the subject land was within the 2(a) Living Area zone under the *Ballina Local Environmental Plan 1987* (BLEP 1987). Duplexes (dual occupancies) are permissible with consent in the 2(a) zone.

The introduction of the BLEP 2012 involved the identification of existing residential allotments and the application of an appropriate equivalent zoning under the new LEP provisions. Standard residential allotments were allocated either an R2 Low Density Residential or R3 Medium Density Residential zone generally in accordance with current or expected land uses and as specified in the 2006 development control plan (2006 DCP).

At the time the BLEP 2012 was drafted, the 2006 DCP had not been amended to incorporate the outcomes of the 2006/815 subdivision approval and as such the “duplex” designation had not been applied to the subject lots. As a result, these lots were inadvertently omitted from the application of the R3 zone (which permits duplex (dual occupancy) developments) during the preparation, drafting and subsequent adoption of the BLEP 2012.

Council recently received an enquiry in relation to the development potential of one of the subject lots (Lot 29). This lot is currently vacant and the landowner is seeking to exercise the option to develop a dual occupancy on the site. Under the currently applied zoning provisions for Lot 29 (R2 Low Density Residential zone), dual occupancy developments are not permissible.

Based on the above, the purpose of this report is to seek the Council’s endorsement to initiate a planning proposal to rectify the identified zoning issues for those lots in the Aspects Estate approved as being suitable for duplex (dual occupancy) development and apply the R3 Medium Density Residential zone to those lots. A draft planning proposal for the rezoning has been prepared and is provided in Attachment Two.

9.3 LEP Amendment Request - Aspects Estate Dual Occupancy Lots

In association with the rezoning, the planning proposal also incorporates changes to the Lot Size Map to ensure the minimum lot size provisions are adjusted to match the land use zoning in consistency with Council's current adopted standards.

Subject to a favourable determination by the Council, the attached draft planning proposal will be submitted to NSW Planning and Infrastructure for Gateway determination to rezone the identified duplex (dual occupancy) lots.

Following the receipt of an affirmative Gateway determination, the relevant community consultation and public exhibition process will be undertaken with the matter reported to the Council for endorsement following the conclusion of the consultation process and prior to final determination of the proposal.

Key Issues

- Residential development potential
- Consistency with strategic planning intent and approved subdivision

Information

The purpose of this report is to seek Council's endorsement to initiate a planning proposal to amend the BLEP 2012, as it relates to the lots identified on the attached site plan.

These lots are formally identified as Lots 29 and 31 in DP 1121058. A third lot (Lot 6) was also designated for duplex development. That lot is not included in this proposal as it was approved and developed as a dual occupancy and subsequently subdivided prior to the commencement of the BLEP 2012. As such, the current dual occupancy development restrictions are irrelevant to this site and its rezoning is not considered necessary.

The two subject lots were identified in the development consent for the subdivision of the land (DA 2006/815) and are considered suitable for dual occupancy development. Under the current zoning provisions for the lots, dual occupancy development is not permissible. This is inconsistent with the development outcomes assessed and approved in DA 2006/815. In addition, the landowners have purchased the subject lots with the expectation they can be developed for dual occupancy purposes. As such it is the recommendation of this report that the proposal to rezone the lots from R2 Low Density Residential to R3 Medium Density Residential be supported.

This report recommends that the Council endorse the preparation of a planning proposal for referral to the NSW Government for Gateway determination. The planning proposal would seek to zone the subject land to reflect the development outcomes as detailed above.

Sustainability Considerations

- **Environment**

The rezoning of the land as recommended in this report is, under the circumstances, a minor matter and as such it is not likely to have any significant implications from an environmental, social or economic perspective. The rezoning is consistent with the existing subdivision approval for the land.

9.3 LEP Amendment Request - Aspects Estate Dual Occupancy Lots

- **Social**
As above.
- **Economic**
As above.

Legal / Resource / Financial Implications

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

Consultation

It is envisaged that following referral to NSW Planning and Infrastructure's Gateway panel, the planning proposal, if allowed to advance, will be placed on public exhibition in accordance with the Gateway determination. The period and method of community consultation will be stipulated in the Gateway determination.

Options

1. That Council endorse the attached draft planning proposal to advance the proposed rezoning and submit the draft planning proposal to NSW Planning and Infrastructure for Gateway determination; or
2. That Council not commence the rezoning process.

Option one is the preferred and appropriate course of action on the basis that it will address the issues outlined in this report and will progress the matter to the next step in the rezoning process. This step involves a review of the proposal by NSW Planning and Infrastructure and Gateway determination.

It is recommended that Council proceed to submit the draft planning proposal to NSW Planning and Infrastructure for Gateway determination primarily because the rezoning provides for consistency in the BLEP 2012 with previous decisions of Council in relation to the subdivision of the subject land. It should be noted that the Gateway determination may or may not allow the rezoning to proceed.

The primary disadvantage of the planning proposal not proceeding is the inconsistency that arises between the approved and anticipated use of the subject lots and the zoning under the LEP at present. This rezoning will rectify a planning anomaly that has not previously been detected, and should now be supported.

Where Council proceeds to submit a planning proposal for Gateway determination, Council has the option of requesting delegation of certain plan making functions from the Department. Under these delegations, Council would perform some of the plan making functions that are otherwise completed by the Department. In the subject case, it is recommended that this delegation be sought in order to expedite the rezoning process.

RECOMMENDATIONS

1. That the Council endorses the application of the R3 Medium Density Residential zone under the provisions of the Ballina Local Environmental Plan 2012 for Lots 29 and 31 in DP 1121058 as the basis for a planning proposal (as shown in the site plan contained in Attachment 2). Such action is to enable development of the land in a manner envisaged under the development consent which was previously granted for the subdivision which contains the allotments.
2. That the Council authorises the submission of the planning proposal relating to Lots 29 and 31 in DP 1121058 (as contained in Attachment Two) to NSW Planning and Infrastructure for review and Gateway determination.
3. That upon an affirmative Gateway determination being received from the Department of Planning & Infrastructure, the procedural steps associated with progression of the planning proposal, including public exhibition, be undertaken.
4. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.

Attachment(s)

1. Locality Map
2. Planning Proposal - Lots 29 and 31 DP 1121058 (Gateway)

9.4 LEP Amendment Request - Reservoir Hill Site, Lennox Head

9.4 LEP Amendment Request - Reservoir Hill Site, Lennox Head

Delivery Program Strategic Planning

Objective To seek the Council's direction with respect to the further processing of the proposed LEP amendment which involves the application of residential and open space zonings over Lot 1 DP 517111 at Lennox Head.

Background

Council has received a request to amend the Ballina Local Environmental Plan 2012 from the TGM Group Pty Ltd on behalf of Ballina Island Developments Pty Ltd in relation to Lot 1 DP 517111, North Creek Road, Lennox Head (Attachment 1). The land is commonly referred to as the Water Reservoir or Reservoir Hill site.

The proposed amendment involves the rezoning of the land from RU1 Primary Production to enable residential development on the site. A summary of the LEP amendment request prepared by the proponent (excluding attachments) is contained in Attachment 2. Copies of the various site assessments completed by the proponent can be provided to Councillors on request.

Council considered the initiation of an LEP amendment based on the proponent's submission at its Ordinary Meeting held on 22 August 2013. At that meeting, the Council resolved as follows [Minute No. 220813/12]:

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

In accordance with the Council's resolution, the matters identified above have been the subject of further investigation and discussion with the proponent and a planning proposal has now been prepared for Council's consideration (Attachment 3).

The zoning approach and minimum lot size standards are discussed in further detail below.

This report provides an overview of the planning proposal and seeks Council's direction with respect to the forwarding of the proposal to Planning and Infrastructure for Gateway determination and further processing of the matter.

Key Issues

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

Information

The LEP amendment request is currently in planning proposal preparation stage. As such, staff has prepared a planning proposal for the Council's consideration. If endorsed, the planning proposal will be forwarded to Planning and Infrastructure for Gateway determination.

In response to the Council's August 2013 resolution, the proponent has provided additional information with respect to proposed zonings and lot size arrangements. As shown in the mapping contained in the planning proposal (Attachment 3), the proponent has now proposed the application of a mixture of R2 Low Density Residential, R3 Medium Density Residential and RE1 Public Open Space zonings. The split between the R2 and R3 zones aligns with the location of the proposed extension to North Creek Road through the site.

The proponent has suggested minimum lot size standards in association with the foreshadowed zones, with a standard of 600m² proposed in association with the R2 zone and a 450m² minimum lot size standard relating to the proposed R3 zone. Consistent with Council's LEP, no minimum lot size standard is proposed in association with the RE1 zone.

The planning proposal contained in Attachment 3 has been prepared acknowledging the proponent's preferred outcomes but in such a way that the final configuration of zones and lot size standards is open to adjustment based on further technical assessment of the site. It is proposed that the technical assessment be supported by a third party review in the form of an environmental study for the land. Such a study would draw on the information provided by the proponent and Council staff to establish a recommended approach to the LEP amendment. The third party assessment will be undertaken at the proponent's cost in accordance with Council's endorsed fees and charges.

The planning proposal also highlights several key issues that require further consideration. These issues include the suitability of the proposed open space area for dedication to the public, the presence of Hairy Joint Grass and site ecology, the location and mechanisms for stormwater management, road design and function, access to adjoining land, geotechnical conditions, scenic values and amenity, and road noise implications for residential dwellings associated with the proposed redirection of North Creek Road.

It is envisaged that these issues will be further examined as part of the third party review, with the outcomes of the review of these matters informing the proposed zoning and minimum lot size arrangements. A key part of the additional assessment will be the Council's position with respect to road infrastructure in the locality as this will significantly influence the development outcomes and approach to infrastructure on the site.

The attached planning proposal contains further detail about the proposed development and the consistency of the proposal with local and State policy. Importantly, the proposal is consistent with the policy direction contained within the Ballina Shire Local Growth Management Strategy, the Lennox Head Structure Plan and the Far North Coast Regional Strategy.

Sustainability Considerations

- **Environment**

The subject land contains various attributes of environmental value. These matters would be assessed in detail prior to public exhibition if the planning proposal proceeds further.

- **Social**

There is a variety of social issues to consider in relation to the proposal, including implications for scenic and amenity values. These matters would be assessed in detail prior to public exhibition if the planning proposal proceeds further.

- **Economic**

The proposal has the potential to result in a number of positive economic impacts associated with construction and infrastructure. These matters will be further considered prior to public exhibition if the planning proposal proceeds beyond Gateway determination.

Legal / Resource / Financial Implications

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

As foreshadowed to Council in the August 2013 reporting on this matter and above, it is intended that the processing of this proposal will include Council's engagement of an independent third party to compile reporting following an affirmative Gateway determination.

Council's processing guidelines and adopted fees and charges for LEP amendment requests will be applied to the further processing of the request.

Consultation

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

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

Options

1. Proceed to submit the planning proposal to Planning and Infrastructure for Gateway determination.

9.4 LEP Amendment Request - Reservoir Hill Site, Lennox Head

Proceeding with the planning proposal that enables residential development on the subject land, as contained in Attachment 3, is recommended on the basis that residential land uses are generally consistent with strategic planning policy for the site and locality. However, as indicated in the planning proposal, the location of R2 and R3 residential zones would be subject to further assessment. The zoning of open space and environmentally sensitive areas will also be further examined as the planning proposal progresses. The further examination will be carried out by a third party through preparation of an environmental study for the land.

The proposed LEP amendment will not provide for an integrated consideration of the rezoning of all land in Area 1 as identified under the Lennox Head Structure Plan. However, it is considered that the circumstances are of a nature to warrant proceeding with the consideration of Lot 1 DP 517111 separate to the adjoining land to the east and north.

In considering this option, it is important to note that Council may amend the planning proposal as presented. Further, Council may cease action on the proposed amendment at any time prior to its finalisation.

If the Council proceeds to forward the planning proposal for Gateway determination and an affirmative response is received from Planning and Infrastructure, the third party review process will be undertaken. It is intended that the outcomes of the third party review will be reported to the Council for consideration prior to public exhibition.

Option one is the recommended course of action.

2. Defer consideration of the LEP amendment request.

The Council may defer consideration of the planning proposal in order to seek additional information in relation to the proposed rezoning.

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

3. Cease further consideration of the LEP amendment request.

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

This course of action is not recommended given the consistency of the proposal with the applicable strategic planning framework and that no absolute constraints to the proposed residential land use have been identified at this time. Further detail regarding the key site issues will emerge as part of the third party review process.

RECOMMENDATIONS

1. That, with respect to Lot 1 DP 517111, Council endorses the application of a mixed R2 Low Density Residential and R3 Medium Density Residential zone, and an open space and/or an environmental protection zone being applied to the land as the basis for a planning proposal (as contained in Attachment 3).
2. That Council authorises the submission of the planning proposal relating to Lot 1 DP 517111 to NSW Planning and Infrastructure for review and Gateway determination.
3. That upon an affirmative Gateway determination being received from Planning & Infrastructure, Council initiates a third party review and preparation of an environmental study for the land.
4. That Council receive a further report on the outcomes of the third party review process prior to public exhibition of the planning proposal.

Attachment(s)

1. Site Locality Plan Lot 1 DP517111
2. Initial LEP Amendment Request Summary - TGM Group Pty Ltd (June 2013)
3. Planning Proposal (Council) - Lot 1 DP 517111

9.5 LEP Amendment Request - Teven Road Transport and Logistics Precinct

9.5 LEP Amendment Request - Teven Road Transport and Logistics Precinct

Delivery Program Strategic Planning

Objective To obtain the Council's endorsement for the submission of a planning proposal for the proposed Teven Road transport and logistics precinct at West Ballina for Gateway determination.

Background

The Council, at its Ordinary Meeting held on 27 February 2014, considered a request to amend the Ballina Local Environmental Plan 2012 (Ballina LEP 2012) from Newton Denny Chapelle on behalf of several landowners with holdings located between Teven Road and the Ballina Bypass in West Ballina. The Council also considered a Site Selection Investigation (SSI) report which examined the current and projected need for, and preferred location of, freight and logistics land uses in Ballina Shire. The request sought an amendment to the Ballina LEP 2012 to enable transport and logistics land uses to be undertaken on the respective properties, subject to development consent being obtained.

In relation to this matter, Council resolved as follows [Minute No. 270214/10]:

- 1. That Council endorses the preparation of a planning proposal which proposes the insertion of freight transport facilities, warehouse or distribution centre land uses as additional permitted uses within Schedule 1 of Ballina LEP 2012, in relation to Lots 2 and 3 DP 749680, Lot 5 and 12 DP 1031875, Lots 227, 228 and 229 DP 1121079 and Lot 12 DP 1011575, Teven Road, West Ballina.*
- 2. That the proponent be requested to supply flood modelling information which details the impact of filling the subject lots to the 1:100 year flood level of RL 2.7 AHD, and a detailed traffic study which examines the issues specified by the RMS. Further, that additional technical studies be requested of the proponent in the event that Council staff form a view that additional environmental constraints may materially restrict the use of the land for the nominated purposes. This information is to be provided to advance the preparation of the planning proposal.*
- 3. That the Council give further consideration to the planning proposal upon the submission of information referred to in point two above.*

The planning proposal has been prepared and forms Attachment One to this report. The purpose of this report is to obtain the Council's endorsement to submit the planning proposal to NSW Planning and Infrastructure to obtain a Gateway determination. Council's established practice in relation to this type of LEP amendment is for the Council to receive the planning proposal documentation for consideration (following initial commencement of an LEP amendment process) with a view to determining whether the matter should progress to Gateway determination. That is, the February decision commenced the amendment process, with the endorsement of the planning proposal being the next step in progressing the matter.

9.5 LEP Amendment Request - Teven Road Transport and Logistics Precinct

The additional information required will be sought from the proponent after Gateway determination. The planning proposal would be reported to the Council for consideration again, with the benefit of this further information, before public exhibition.

Key Issues

- Processing of LEP amendment request and submission of planning proposal for Gateway determination
- Appropriateness of specifying particular land uses as permitted on certain parcels of land
- Need for additional areas for freight and logistics land uses
- Expansion of urban land uses west of the Ballina Bypass

Information

The planning proposal has been prepared on the basis of information already available to Council. At this stage the degree to which known land constraints such as flooding impacts, acid sulfate soil issues, drainage and geotechnical factors as well as bushfire hazard will impact on the planning proposal is not known. Additionally the traffic concerns raised by Roads and Maritime Services (RMS) during preparation of the SSI report have also not been further examined.

The attached planning proposal documents the degree to which the proposal complies with the applicable strategic planning framework. Consideration has been given to the planning proposal's consistency with the Far North Coast Regional Strategy, the Ballina Shire Growth Management Strategy, the Ballina LEP 2012, applicable State Environmental Planning Policies and the Minister's Section 117 Directions.

It has been concluded that the planning proposal is generally consistent with the applicable strategic planning framework.

Gateway determination requirements will specify the range of investigations and studies that P&I will require to advance the planning proposal. Such information will then be required to be submitted to Council for incorporation within the planning proposal prior to consultation with public authorities or the community.

It is intended that the planning proposal will be reported to the Council for further consideration, having regard for the assessment of additional information provided by the proponent, prior to public exhibition. This will be another opportunity for the Council to consider whether the matter should continue to progress following more detailed technical assessment of the subject land.

Sustainability Considerations

- **Environment**
Environmental impacts such as flooding and bushfire hazard require further assessment following Gateway determination.

9.5 LEP Amendment Request - Teven Road Transport and Logistics Precinct

- **Social**

Positive social impacts are anticipated from the employment opportunities that have the potential to be created from the proposed transport and logistics precinct.

- **Economic**

The proposed LEP amendment has the potential to provide a significant economic stimulus in the shire.

Legal / Resource / Financial Implications

There are no specific legal implications associated with this proposed LEP amendment at this time.

The matters arising from this report can be attended to within existing resources.

In the event that the Council wishes to advance this proposal, the proponent will be required to meet various processing costs in accordance with Council's adopted schedule of fees and charges, as well as providing the necessary additional technical information, following Gateway determination.

Importantly, Council's applicable fee for the preparation of a planning proposal had not been paid by the proponent at the time of writing this report. However, given the short timeframe between Council's February decision and this report, this is not considered to be problematic at present. In this circumstance, if the Council resolves to proceed to submit the planning proposal for Gateway determination, staff will not submit the planning proposal until the required fee is paid.

Progress of this matter can be accommodated within the Strategic and Community Facilities Group work program.

Consultation

Consultation requirements will be specified within the Gateway determination.

Council has already undertaken preliminary consultation with the RMS and the Australian Logistics Council during the preparation of the SSI report.

Options

1. Endorse the planning proposal for submission to Planning and Infrastructure for Gateway determination.

This is the preferred and recommended option. Requiring the submission of technical information after a favorable Gateway determination has been obtained provides the proponent with additional certainty to justify the expenditure of funds to meet the cost of specified technical reports and studies.

2. Require the proponent to submit additional information for incorporation into the planning proposal prior to submission to Planning and Infrastructure for Gateway determination.

9.5 LEP Amendment Request - Teven Road Transport and Logistics Precinct

The preparation of the planning proposal has highlighted a number of land and locality constraints that will require detailed examination to determine associated impacts. The submission of additional information prior to Gateway determination would provide a clearer indication as to whether known land constraints are resolvable.

It is open to the Council to pursue this option but it would represent a change of approach from the intent expressed in discussion associated with the February resolution. That is, the understanding of staff arising from the meeting is that the Council does not require the detailed assessment of the site until after Gateway determination.

3. Cease or defer processing of the LEP amendment request.

The Council may decline or defer the consideration of the requested LEP amendment.

This course of action is not recommended as the work already undertaken has established that there may well be increasing demand for sites within the shire suitable for use by the freight and logistics industry. In addition, the proposed site is suitably located near the junction of two major highways and therefore has certain strategic locational advantages over other sites that are more appropriately zoned at present.

Proceeding with the proposal at this time will enable the completion of further technical assessment following Gateway determination. Importantly, Council will have other opportunities during the processing of the amendment request to cease progress of the matter should it determine this to be the appropriate course of action in the future.

RECOMMENDATIONS

1. That Council authorises the submission of a planning proposal which provides for the insertion of freight transport facilities and warehouse or distribution centre land uses as additional permitted uses within Schedule 1 of Ballina LEP 2012 to NSW Planning and Infrastructure for review and Gateway determination.
2. That upon an affirmative Gateway determination being received from NSW Planning & Infrastructure, the proponent be required to submit the technical documentation necessary to enable a comprehensive assessment of the proposal and potential environmental, social and economic implications.
3. That a further report be presented to the Council in relation to this matter prior to proceeding to public exhibition.

Attachment(s)

1. Attachment One - Planning Proposal

9.6 Planning Proposal - Reclassification of Council Owned Waterways

9.6 Planning Proposal - Reclassification of Council Owned Waterways

Delivery Program Strategic Planning

Objective To inform the Council of the outcomes of the public exhibition process in relation to planning proposal BSCPP 13/008 for the reclassification of the Ballina Quays canals and Banyanda Lake from community land to operational land.

Background

At its Ordinary Meeting held on 22 August 2013, the Council considered a report in relation to managing private structures within Council-owned waterways. One of the issues raised in the August 2013 report relates to the classification of the land in accordance with the *Local Government Act 1993* (LG Act). In relation to land classification, it was resolved at the August meeting [Minute No. 220813/13]:

- 1. That Council endorses the commencement of the process for the reclassification of the Ballina Quays canals (Lot 63 DP 263861 & Lot 132 DP 775228) and Banyanda Lake (Lot 50 DP 259593) from community land to operational land based on the planning proposal contained in Attachment Two.*
- 2. That Council submit the planning proposal for the reclassification of the Ballina Quays canals (Lot 63 DP 263861 & Lot 132 DP 775228) and Banyanda Lake (Lot 50 DP 259593) to the Department of Planning and Infrastructure for review and Gateway determination.*
- 3. That upon an affirmative Gateway determination being received from the Department of Planning & Infrastructure, the procedural steps associated with progression of the planning proposal, including public exhibition and the holding of a public hearing, be undertaken.*
- 4. That a further report be presented to Council in relation to the reclassification of the Ballina Quays canals (Lot 63 DP 263861 & Lot 132 DP 775228) and Banyanda Lake (Lot 50 DP 259593) following mandatory community consultation.*

Following the above resolution, the planning proposal was submitted to the Department of Planning and Infrastructure (now referred to as Planning and Infrastructure) for Gateway determination. An affirmative Gateway determination was issued on 6 September 2013, a copy of which is included in Attachment One.

In accordance with the Gateway determination, the planning proposal was placed on public exhibition from 9 October to 11 November 2013. Following the public exhibition period a public hearing was held on 11 December 2013 in accordance with the requirements of the LG Act.

The purpose of this report is to inform the Council of the outcomes of the public exhibition process undertaken in relation to this proposal.

Direction is also sought in relation to whether or not the Council wishes to proceed with the proposal to reclassify the subject land from community land to operational land and to progress the planning proposal to finalisation.

Key Issues

- Managing private structures in Council-owned waterways
- Reclassification of land from community land to operational land
- Issues raised in the public consultation process

Information

In accordance with the requirements of the Gateway determination, the planning proposal was placed on public exhibition for a minimum of 28 days (9 October 2013 to 11 November 2013). The notification comprised an advertisement within Council's weekly notices in the Ballina Shire Advocate (9 October 2013) and a notification letter addressed to the owners of all land parcels directly adjoining the affected waterways.

In response to the exhibition, a total of 77 submissions were received. The issues raised in the submissions are outlined and addressed in the submissions summary in Attachment Two. Copies of each of the submissions received are included in Attachment Three (under separate cover).

Generally, there are three dominant issues raised in the submissions received. These issues relate to canal/waterway maintenance, charging of fees and the need for the reclassification. In relation to maintenance, the proposed reclassification will not result in any changes to the Council's adopted maintenance regime currently in place.

With respect to fees and charges, the reclassification does not change or provide additional ability for the Council to apply charges on residents for the placement of structures in the waterways. The Council could resolve to implement charges regardless of the classification of the land.

The need for the proposal has been identified based on legal interpretation of the provisions of the Local Government Act (LGA). This interpretation has been verified by a number of sources and is the rationale for the proposed reclassification.

These particular issues were addressed and discussed with Councillors in a briefing held on 10 March 2013.

The proposal was also referred to the NSW Department of Primary Industries (Fisheries) and NSW Transport (Roads and Maritime Services) for comment. Responses have been received (see Attachments Four and Five) with no objections to the proposal raised.

In addition to the above, and in accordance with the requirements of the LGA, a public hearing was held on 11 December 2013. The public hearing was facilitated by an independent presiding officer.

A copy of the report and recommendations submitted by the presiding officer of the public hearing is included in Attachment Six. The presiding officer's

9.6 Planning Proposal - Reclassification of Council Owned Waterways

report also contains information from the public hearing for the reclassification of Council land at Lot 5 Old Bagotville Road which was the subject of a report to the February 2014 Ordinary meeting.

In response to concerns raised in the public submissions relating to the legal requirements for the management of public land, advice was sought from the NSW Department of Premier and Cabinet, Division of Local Government (now Office of Local Government).

The advice received in response is in support of Council's approach to address the issue of managing private waterway structures on public land by reclassification of the land from community land to operational land.

Further, the Division of Local Government advises that this approach is considered to be a practical solution to the current situation. A copy of the Division of Local Government's response is included in Attachment Seven.

It is the recommendation of the independent officer presiding over the public hearing (see Attachment Six) that further legal advice be obtained prior to proceeding with the classification. While this recommendation is noted, it is suggested, on balance, that obtaining additional legal advice is not likely to be beneficial given the consensus for the proposal obtained from multiple sources including the Division of Local Government and recent practice in other local government jurisdictions.

Sustainability Considerations

- **Environment**

The waterways that are the subject of this report comprise artificial but environmentally integrated components of the greater Richmond River estuary system. The proposed reclassification of the land from community land to operational land is sought to address a legal land use and occupation issue and will not affect the physical attributes or physical management regimes currently in place for these waterways.

- **Social**

The subject waterways were designed and constructed with the intent that they be utilised for water recreation activities. The waterways and their associated structures represent a significant social asset for both adjoining residents and the wider community. The proposed reclassification of the land seeks to facilitate this and is considered to be a practical approach to addressing legal use and occupation issues relating to the placement of private waterway structures on and over Council-owned land.

- **Economic**

The proposed reclassification of the land containing the subject waterways seeks to address identified legal issues that have the potential to restrict the future and ongoing placement of private structures within the waterways. Failure to address these issues presents potential economic impacts in relation to the utility of the waterways for their intended purpose by adjoining residents.

Legal / Resource / Financial Implications

The proposed reclassification is a result of identified legal issues relating to the occupation of Council-owned land and the consistency of this occupation with the requirements of the LG Act.

Legal advice has been obtained which supports the proposal to reclassify the land as a means of addressing the legal issue. The reclassification can be facilitated through a regulated process and has been accommodated within Council's existing resourcing structure. There are no immediate or direct financial implications presented by the reclassification proposal.

Consultation

As detailed above, the proposal has been publicly exhibited in accordance with the specified regulatory requirements. This has included public notification and a public hearing.

Options

1. Proceed to reclassify the land as operational land.

The Council has the option to proceed with the proposed reclassification of the community land containing the Ballina Quays canals and Banyanda Lake having regard for the issues raised in the public consultation process. This option is considered to be a practical approach to addressing the identified legal issues relating to the private occupation of community land that has been identified as being inconsistent with the requirements of the LGA.

As outlined and in the submissions summary (Attachment Two), the change in classification does not directly impact on the key concerns raised by residents/landowners. This includes the issues of maintenance and the charging of fees for waterway structures.

If the Council resolves to proceed with this option, the planning proposal (BSCPP 13/008) as contained in Attachment Eight (or as modified by the Council) will be submitted to NSW Planning and Infrastructure for finalisation.

This is the recommended option.

2. Obtain further legal advice.

The Council has the option to proceed with the reclassification of the land as recommended in option one subject to the receipt of further legal opinion. This option could be exercised having regard for the recommendations in the report on the public hearing by the independent presiding officer.

Under this option, consideration should be given to the cost, specific purpose and potential benefits of obtaining such advice. The cost of initially obtaining further advice is estimated to be between \$6,500 and \$8,500.

While this option may address some of the concerns raised in the public submissions, given the information obtained from various sources during the assessment of the proposal that is consistent and concurrent with the reclassification proposal, this option is not recommended.

3. Cease further consideration of the reclassification.

The Council also has the option to not proceed with the reclassification. This option is not recommended as it fails to address the identified inconsistencies with the requirements of the LGA relating to the placement of private structures over Council-owned land.

This approach may also restrict the ability of adjoining landowners to install new or replacement waterway structures given the known inconsistency between the current situation and the LGA provisions.

It is pointed out that, irrespective of which option the Council selects in relation to this matter, further reporting of the issues associated with private structures in waterways will be required. In this regard it is noted that the Council's decision on 26 August 2013, referred to earlier, also included the following:

That Council prepare a draft policy in relation to the management of private structures within Council-owned waterways and that this matter be reported to Council for its consideration; and

That in conjunction with its consideration of a draft policy for the management of private structures within Council-owned waterways, Council also consider options regarding the levying of fees and charges for the leasing/licensing of private structures in Council-owned waterways.

Further reporting (and possibly a Councillor briefing) to respond to these two decisions of the Council will follow, as resources allow. In the meantime, a direction from the Council in relation to the pending planning proposal is considered to be the priority.

RECOMMENDATIONS

1. That Council endorses the reclassification of the land containing the Ballina Quays canals (Lot 63 DP 263861 & Lot 132 DP 775228) and Banyanda Lake (Lot 50 DP 259593) from community land to operational land for the purpose of the Local Government Act 1993.
2. That the necessary documentation be compiled and forwarded to NSW Planning and Infrastructure to enable the Minister to finalise the planning proposal (BSCPP 13/008).

Attachment(s)

1. Gateway determination
2. Public submissions - summary of issues
3. Public submissions - individual copies (Under separate cover)
4. Submission - DPI (Fisheries)
5. Submission - NSW Transport (RMS)
6. Public hearing - presiding officer's report
7. Submission - Division of Local Government
8. Planning proposal - BSCPP 13/008

9.7 Ballina Shire Development Control Plan 2012 - Amendment 3

Delivery Program Strategic Planning

Objective To advise the Council in relation to the review of the Ballina Shire Development Control Plan 2012 following 12 months of operation and seek direction in relation to the public exhibition of proposed amendments.

Background

At its Ordinary Meeting held on 20 December 2012, the Council resolved to adopt the Ballina Shire Development Control Plan 2012 (DCP) (Minute No. 201212/13). The DCP commenced operation in conjunction with the *Ballina Local Environmental Plan 2012* (LEP) on 4 February 2013.

A review of Chapter 2A – Vegetation Management of the DCP was considered by the Council at its Ordinary Meeting held on 24 April 2013 (Minute No. 240413/6). At that time it was resolved that Council receive a report on the operation of Chapter 2A after the chapter has operated for a period of approximately 12 months.

A review of the DCP – Amendment 1 was considered by the Council at its Ordinary Meeting held on 27 June 2013 (Minute no. 270613/18) and adopted changes became effective from 8 July 2013. These changes related to a series of items that were identified as being beneficial in terms of clarifying Council's intended planning and policy outcomes under the DCP.

The DCP is reviewed at least on an annual basis and identified issues are researched and addressed through this review process. This ensures that the DCP is able to remain a contemporary and evolving document and able to respond to development issues in an optimal manner.

Issues addressed within this report include a review of Chapter 2A - Vegetation Management and the adaptable housing provisions contained within Chapter 4 – Residential and Tourist Development.

Key Issues

- Review of vegetation management and adaptable housing provisions
- Reinforcement of intended planning outcomes
- Consistency in planning controls for development across the shire.
- Public exhibition of Draft Amendment No. 3 to the *Ballina Shire Development Control Plan 2012*

Information

Details of proposed amendments to be included in Draft Amendment No.3 are contained within Attachment 1 to this report.

9.7 Ballina Shire Development Control Plan 2012 - Amendment 3

In addition to these, a number of miscellaneous minor and typographical errors are also proposed to be corrected as they are identified and will be incorporated into the DCP documents prior to exhibition.

The following section details the more significant matters that have been reviewed, together with details of any amendments proposed.

Chapter 2a – Vegetation Management

The following table provides vegetation management statistics covering the approximate 12 month period before and after the adoption of the DCP.

Criteria	Time Period 1/2/2012 to 31/1/2013	Time Period 1/2/2013 to 21/2/2014
Total Tree DAs Approved	49	33
Total Tree DAs Refused	0 (0%)	1 (3%)
No. of trees approved for removal	107 plus 2 stands of Camphor Laurels (54 at Lennox Head)	123 (33 at Lennox Head)
No. of trees approved for pruning	10 (9 at Lennox Head)	16 (8 at Lennox Head)
No of Tree DAs Approved for removal in Lennox Head	25	9
Total DAs determined in period	731 (6.7% tree related)	691 (4.9% tree related)

Chapter 2a of Ballina DCP 2012 replaced the Lennox Head Vegetation Management Order in February 2012. The DCP extended the provisions previously applicable exclusively to the Lennox Head area to other urban areas of the shire subject to the following variations:

- Previously any native tree or shrub over a height of 3 metres required approval to remove or prune under the VMO. This has now increased to a height of 6 metres.
- Works involving Pandanus trees over a height of 3 metres at Lennox Head, Skennars Head and East Ballina require consent.
- Removal of any vegetation designated as Significant Urban Bushland on the Significant Urban Bushland Map requires consent.
- Works impacting on trees and shrubs having a height of 3 metres or more within heritage sites require consent.
- The DCP contains a list of 27 trees and shrubs which are exempt from the consent requirements.

From staff's perspective, the revised provisions appear to be working well. Their major benefit includes provision of increased clarity around the tree species that require consent for removal. Therefore no changes are proposed to be made to Chapter 2a provisions at the present time.

9.7 Ballina Shire Development Control Plan 2012 - Amendment 3

Food and Drink Premises - Car Parking Provision – Chapter 2 – General and Environmental Considerations - 3.19.3 - Element E - Car Parking Requirements

The car parking requirements for *food and drink premises* in areas outside of the Ballina Town Centre and Lennox Head commercial area are significantly higher than within these centres.

The table below specifies the car parking rates applicable.

Location	Car parking rate applicable to food and drink premises (Restaurant or café)
Ballina Town Centre	<ul style="list-style-type: none">- 1 space per 25 m² of gross floor area at ground floor level.- 1 space per 40m² gross floor area at the first floor level and above. On site car parking is required to be customer accessible parking.
Lennox Head Precinct A	<ul style="list-style-type: none">- 1 space per 30m² to be provided on site plus 1 space per 150m² to be paid as contributions for the improvement of public lands for car parking purposes.- A minimum of 75% of total required spaces to be available for customer accessible parking.- Where additional car parking is required in relation to applications to legitimise existing alfresco dining activities on public land, and where it is not possible to physically accommodate such parking on the subject site, Council may consider a monetary contribution for the provision of such parking in accordance with the adopted Parking Contributions Plan.
Lennox Head Precinct B	<ul style="list-style-type: none">- 1 space per 25m² GFA- A minimum of 75% of total required spaces to be available for customer accessible parking.
Ballina Shire (excluding above)	1 space per 3 seats or 15 per 100m ² GFA, whichever is the greater.

The car parking requirements for food and drink premises outside of the Ballina and Lennox Head commercial centres may act as a disincentive to restaurant and café type uses establishing within centres such as at Alstonville, Wollongbar and East Ballina. It is proposed to align the car parking requirements applicable within the Ballina Town Centre for café and restaurant uses to other commercial areas excluding Lennox Head.

Floor Space Ratio – Chapter 4 – Residential and Tourist Development – 3.1.3 Element B – Floor Space Ratio

The definition of *gross floor space*, used to determine *floor space ratio*, excludes from the calculation of floor area the area occupied by car parking to meet any requirements of the consent authority (including access to that car parking).

Guidance is required as to the maximum area that may be excluded from the *gross floor space* calculation for dwelling houses, dual occupancy or semi detached dwellings, which require a minimum of 2 car parking spaces.

It is proposed to exclude a maximum floor area of 44 square metres from the *floor space ratio* calculation. Such an area would also allow sufficient space for ancillary storage that is typically associated with garages.

Adaptable Housing Provisions - Chapter 4 – Residential and Tourist Development - 3.1.3 - Element M

The Council, at its Ordinary Meeting held on 19 December 2013 (Minute No. 191213/9) resolved that a report be prepared on the implications of Council's existing adaptable housing provisions.

The adaptable housing provisions are contained within Chapter 4 – Residential and Tourist Development, Element M of clause 3.1.3. The current provisions provide as follows:

M. Element - Adaptable Housing

Objectives

- a. *Ensure that residential development is designed such that increased opportunities exist for people with limited mobility to reside in the broader community.*

Controls

- i. *At least 10% of all dwellings in an attached dwelling, residential flat building or multi dwelling housing development (or at least 1 dwelling unit, whichever ever is the greater) must be designed in accordance with Australian Adaptable Housing Standard (AS 4299-1995); and*
- ii. *Car parking and garages allocated to dwellings built to the Australian Adaptable Housing Standard (AS 4299-1995) must comply with the dimensions specified in the Standard.*

On review the control which requires a minimum of one dwelling per development to be an adaptable dwelling is considered onerous for small scale development containing as few as three dwellings.

By way of comparison, Byron Shire Council requires one adaptable dwelling in developments of 10 or more dwellings, or part thereof, to be designed in accordance with AS 4299.

The BCA does not contain adaptable housing provisions. It does however call up *AS1428.1-2009 Design for access and mobility* for Class 2 to 9 buildings.

The option exists to rely only on BCA requirements related to access and mobility and delete the adaptable housing provision from the DCP.

The NSW State – Residential Flat Design Code, the principles of which are applicable to residential development having a height of 3 or more storeys, sets out an objective that the building design optimises the number of accessible and adaptable apartments.

In the context of Ballina Shire's demographic profile, that is, having a substantial proportion of older persons in the population (with this proportion projected to increase), the retention of an adaptable housing provision is considered to be desirable.

It is proposed that Control i. be amended as indicated in italics below:

- i. At least 10% of all dwellings in an attached dwelling, residential flat building or multi dwelling housing development *containing 10 or more dwellings* must be designed in accordance with Australian Adaptable Housing Standard (AS 4299-1995). *Where this results in a fraction then it shall be rounded to the nearest whole number with 0.5 being rounded down*; and

The proposed amended control would result in one adaptable dwelling within developments containing between 10 and 15 units, and two adaptable dwellings in developments of 16 to 25 dwellings.

Building Height Provisions - Chapter 4 – Residential and Tourist Development - 3.1.3 - Element A

The definition of building height provides for the height to be measured from existing ground level to the highest point of the building (top of the roof). The 8.5 metre building height applicable within the RU2 and RU3 zones would enable, in certain circumstances, the incorporation of a third storey.

A control is proposed which clarifies that a third storey is permitted if in the form of a loft contained within the roof space.

It is proposed to incorporate the following provisions after Control (iii) within Element A:

(iv) A third storey in the form of a loft only is permitted within residential development that is subject to a 8.5 metre maximum building height subject to compliance with the following:

- (a) No more than two rooms (for the purposes of a bedroom and/or study) and a bathroom plus an internal link to the storey below are to be contained within the loft space; and*
- (b) Design must ensure that the loft does not have the external appearance of a storey.*
- (c) The maximum roof pitch is not to exceed 35 degrees; and*
- (d) Compliance with building envelope controls.*

Cut and Fill Requirements for Residential Development - Chapter 4 – Residential and Tourist Development

Chapter 4 contains a number of different controls relating to cut and fill requirements. These various requirements are detailed in Attachment 1 at Item 30.

Amendments to the General Housing and Rural Housing Codes under the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 came into effect on 22 February 2014. These amendments permit cut and fill for complying development, in most cases, at levels significantly above those permitted by the DCP. The amendments proposed generally align the controls within the SEPP with those contained within the DCP.

The SEPP limits excavation within 1 metre of a boundary to a maximum of 1 metre. In this case Council's control of 1.2 metres maximum excavation within 900mm of the boundary is proposed to be retained. In other cases the SEPP restricts excavation located more than 1 metre but not more than 1.5 metres from the boundary to 2 metres. Excavation more than 1.5 metres from the boundary is restricted to a maximum of 3 metres.

The amended controls are proposed to be applied to most areas of Ballina Shire including the Aspects and Elevations Estates at Lennox Head and to the Wollongbar Urban Expansion Area.

In the case of the Coastal Grove Estate at Lennox Head no change is proposed as the cut and fill requirements here resulted as a consequence of specific geotechnical assessments.

Sustainability Considerations

- **Environment**

The DCP establishes local planning policy in relation to a variety of environmental, social and economic considerations. Specifically, it establishes direction for development outcomes within the shire. As such, the DCP provides an opportunity for Council to address a wide range of sustainability considerations in relation to development. The implementation of Draft Amendment No. 3 to the DCP will improve the application of these sustainability considerations.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

The preparation of Draft Amendment No. 3 to the Ballina Shire Development Control Plan 2012 will be undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and its associated Regulation. The amendment can be completed within existing available staff and financial resources.

Consultation

A number of the proposed amendments have resulted from direct feedback from both internal and external sources following the commencement and operation of the DCP.

If the public exhibition of the Draft Amendment No. 3 to the DCP is endorsed by the Council, a public exhibition over a period of at least 28 days duration will be undertaken in accordance with the requirements of the EP&A Act and associated Regulation.

Options

1. Endorse Draft Amendment 3 to the Ballina Shire Development Control Plan 2012 for public exhibition.

This approach would involve the public exhibition of Draft Amendment No. 3 to the DCP, either generally as presented in this report to the Council or with any amendment(s) as specified by the Council.

Following public exhibition of Draft Amendment No. 3 to the DCP, a report on submissions received would be presented to the Council to provide a further opportunity for the Council to consider the amendments prior to their finalisation and adoption.

This approach is recommended as it will enable further consideration of the proposed amendments that seek to improve the function, interpretation and operation of the DCP.

2. Cease preparation of Draft Amendment No. 3 to the Ballina Shire Development Control Plan 2012.

It is open to the Council to cease further progress on Draft Amendment No. 3 to the DCP. This option is not recommended as there are substantial advantages in proceeding with the amendments to ensure the optimal function and operation of the DCP in relation to development outcomes for the shire.

3. Defer the endorsement of Draft Amendment No. 3 to the Ballina Shire Development Control Plan 2012 and hold a briefing to enable Councillors to review the components of Draft Amendment No. 3 in greater detail.

This approach is not recommended prior to the endorsement and public exhibition of Draft Amendment No. 3 as there is an imperative to address the identified issues promptly to ensure the optimal function and operation of the DCP.

However, if a workshop is desirable, it is suggested that a Councillor workshop be scheduled during, or at the conclusion of the public exhibition of Draft Amendment No. 3.

RECOMMENDATION

That Council proceed to undertake the public exhibition of Draft Amendment No. 3 to the Ballina Shire Development Control Plan 2012, to achieve the particular planning outcomes identified in the attachment to this report, in accordance with the terms of the *Environmental Planning and Assessment Act* and the associated Regulation.

Attachment(s)

1. BDCP 2012 - Amendment 3 - Schedule of proposed Amendments

9.8 Alstonville Skate Park - Preferred Location

9.8 Alstonville Skate Park - Preferred Location

Delivery Program Community Facilities and Services

Objective To provide the Council with further site assessment information regarding possible skate park locations in Alstonville.

Background

At the August 2012 Ordinary Meeting, the Council adopted a Notice of Motion and resolved to “receive a report identifying possible site locations for a skate park in both Alstonville and Wollongbar” [Minute No. 230812/12]. A report presented to the December 2012 Ordinary Meeting provided an assessment of potential sites for skate park facilities in the Alstonville and Wollongbar areas. In response to that report, Council resolved as follows [Minute No. 201212/15]:

1. *That Council provides in-principle support for the Wollongbar Urban Expansion Area Regional Park and Lumley Park (eastern side of Pearces Creek Road) in Alstonville as preferred sites to be further investigated for permanent skate park facilities to service the Wollongbar and Alstonville villages.*
2. *That Council receive a further report outlining the key issues and resource implications associated with the provision of a skate park facility as part of the Wollongbar Urban Expansion Area regional park.*
3. *That Council receive a further report on the key issues and resource implications associated with the provision of a temporary skate park facility at the Russellton Industrial Estate (Kays Lane).*
4. *That Council receive a further report outlining the key issues and resource implications associated with the provision of a skate park facility in Lumley Park (eastern side of Pearces Creek Road) Alstonville.*

Further information in relation to this resolution was provided to the Council at its April 2013 Ordinary Meeting, where it was resolved (Minute No. 240413/8):

1. *That Council continue to progress the investigations into the provision of a skate park facility in the Wollongbar Urban Expansion Area park through the master planning process for this location.*
2. *That Council take no further action on the Lumley Park site, pending further search for a better site.*
3. *That Council not commit to the provision of upgraded skate park infrastructure within the Kays Lane site for the time being, on the basis of this land being assessed as unsuitable for a skate park facility. Further, that a skate park facility can be planned for in an alternative location to service the needs of the Wollongbar community.*

Following this resolution, a request was made by C Ward Councillors to provide more information on the Crawford Park site on the south side of Ballina Road (see Attachment One). This report provides additional information regarding the suitability of this location for a skate park facility.

9.8 Alstonville Skate Park - Preferred Location

The report does not address the provision of skate park facilities in Wollongbar as such facilities are subject to a separate process associated with the master planning for the Wollongbar Expansion Area, presently being undertaken by Council's Commercial Services Section.

Key Issues

- Provision of community infrastructure and youth facilities
- Balanced land use
- Potential impacts on residents living adjacent to skate park facilities

Information

The following table below provides the summary assessment of the potential sites that have been investigated previously for skate park facilities in the Alstonville and Wollongbar areas. A number of factors were considered in the preliminary assessment to determine the appropriateness of these sites (including the Crawford Park site) for a skate park facility. These factors included:

- Safety and site accessibility
- Residential proximity and availability of support facilities, such as toilets, shade and water
- Planning controls
- Other site considerations

Information relating to sites in Wollongbar is provided for background purposes only.

Table One: Potential Skate Park Sites

Site	Accessibility & Safety	Facilities and Residential Proximity	Planning Controls*	Other Site Considerations
1. Russellton Industrial Estate	<input checked="" type="checkbox"/> Access by bike paths from Alstonville and Wollongbar. <input checked="" type="checkbox"/> Good visibility from the exit ramp (Bruxner Highway and Kays Lane). <input checked="" type="checkbox"/> Vehicle access to site difficult due to limited parking, the adjacent busy road and frequency of heavy vehicles.	<input checked="" type="checkbox"/> No existing toilets or water available, however, services can be extended to the site. <input checked="" type="checkbox"/> No neighbouring residential properties.	Council owned Community Land - General Community Use Currently zoned RE1Public Recreation (BLEP 2012)	<input checked="" type="checkbox"/> This land is currently being used by youth for skating activities and basketball. <input checked="" type="checkbox"/> Previous requests for a skate facility have centred round this site. <input checked="" type="checkbox"/> Can provide an immediate option through the provision of portable (fully installed but removable) equipment for current users of the site. <input checked="" type="checkbox"/> Maintenance vehicles are required to access the site (sometimes frequently) to maintain pump station. <input checked="" type="checkbox"/> Council resolved in April 2013 not to provide skate park infrastructure on land off Kays Lane in the estate

9.8 Alstonville Skate Park - Preferred Location

Site	Accessibility & Safety	Facilities and Residential Proximity	Planning Controls*	Other Site Considerations
2. Wollongbar Urban Expansion Area Park	<input checked="" type="checkbox"/> Good access from Wollongbar via pathway network. <input checked="" type="checkbox"/> Good passive surveillance. <input checked="" type="checkbox"/> Centrally located.	<input checked="" type="checkbox"/> Skate park can be integrated with planned open space, play equipment and amenities as part of the initial development. <input checked="" type="checkbox"/> The construction of a skate park prior to the construction of houses may reduce opposition from nearby residents.	Council owned Operational Land Currently zoned 6(a) Open Space Proposed zone in Draft BLEP 2012 - RE1 Public Recreation and R3 Medium Density Residential (BLEP 2012)	<input checked="" type="checkbox"/> New development area master planning for site in progress. Skate park to be considered in the process in accordance with Council's April 2013 resolution.
3. Wollongbar Sports Field Development	<input checked="" type="checkbox"/> Will have pathway access to site. <input checked="" type="checkbox"/> Isolated site, limited surveillance when sports fields are not in use.	<input checked="" type="checkbox"/> Amenities planned as part of redevelopment. <input checked="" type="checkbox"/> No nearby residential properties.	Council owned Operational Land Currently zoned 7(i) Environmental Protection (Urban Buffer) (BLEP 1987)	<input checked="" type="checkbox"/> Soon to commence construction. <input checked="" type="checkbox"/> Limited space for a skate park due to land slope and facilities already planned for site.
4. Geoff Watt Oval Ballina Road	<input checked="" type="checkbox"/> Central location in Alstonville. <input checked="" type="checkbox"/> Accessible by pathways.	<input checked="" type="checkbox"/> Existing amenities in close proximity. <input checked="" type="checkbox"/> Residential properties nearby.	Council owned Community Land - Sportsground Currently zoned RE1 Public Recreation (BLEP 2012)	<input checked="" type="checkbox"/> Confined space could only accommodate a small skate park. <input checked="" type="checkbox"/> Reduction to current car parking spaces.
5. Gap Road Sports Fields	<input checked="" type="checkbox"/> Isolated site. <input checked="" type="checkbox"/> Poor surveillance from Gap Road. <input checked="" type="checkbox"/> No pathway access.	<input checked="" type="checkbox"/> Existing amenities in close proximity. <input checked="" type="checkbox"/> No nearby residential properties.	Council owned – Operational Land Currently zoned 1(e) Rural Extractive and Mineral Resources (BLEP 1987)	<input checked="" type="checkbox"/> Currently site targeted for vandalism.
6. Cawley Park	<input checked="" type="checkbox"/> High visibility from surrounding streets and neighbouring properties. <input checked="" type="checkbox"/> Accessible by pathways.	<input checked="" type="checkbox"/> No existing toilets or water available. However, services can be extended to the site. <input checked="" type="checkbox"/> Residential properties in close proximity.	Council owned Community Land - Sportsground Currently zoned RE1 Public Recreation (BLEP 2012)	
7. Lumley Park (east side)	<input checked="" type="checkbox"/> Good visibility from surrounding streets and tennis club. <input checked="" type="checkbox"/> Accessible by pathways.	<input checked="" type="checkbox"/> No immediately adjoining residential properties. <input checked="" type="checkbox"/> Existing amenities in close proximity, including toilets and shade.	Crown Reserve with Council as Trust Manager. Currently zoned RE1 Public Recreation (BLEP 2012)	<input checked="" type="checkbox"/> Stormwater management issues will need to be resolved. <input checked="" type="checkbox"/> Council resolved in April 2013 to take no further action with respect to skate park facilities on this site.
8. Crawford Park Ballina Road	<input checked="" type="checkbox"/> Central location in Alstonville. <input checked="" type="checkbox"/> High visibility from Ballina Road, sports club and surrounding properties. <input checked="" type="checkbox"/> Accessible by pathways and close to bus stop.	<input checked="" type="checkbox"/> Existing amenities including water and shade in close proximity. <input checked="" type="checkbox"/> Residential properties in close proximity.	Council owned Community Land - Sportsground, Park Currently zoned RE1 Public Recreation (BLEP 2012)	<input checked="" type="checkbox"/> Stormwater management issues will need to be resolved.

9.8 Alstonville Skate Park - Preferred Location

Additional Information - Crawford Park Site

The following provides additional information regarding the suitability and resource implications of providing a skate park facility at the Crawford Park site.

Accessibility, Safety and Facilities

As indicated, the Crawford Park site is centrally located in Alstonville, with good visibility from Ballina Road, the sports club and neighbouring properties. The site is accessible by pathways and the road network, and is located near a bus stop. Car parking is available along Ballina Road. Although shade and water is available at the site, the nearest amenities are located in the soccer sports club and these may not be accessible outside the club's usual operating hours. Additional public toilet facilities are available 300 metres away in the pavillion at Geoff Watt Oval.

Preliminary Community Consultation

A number of residential properties are in close proximity to the Crawford Park site. As part of the further investigation into the suitability of this site local residents were contacted to obtain preliminary community feedback on the skate park proposal.

Some property owners and residents have provided written submissions to Council opposing a skate park at Crawford Park (see Attachment Two). A small number of local residents also met on site with staff on 20 November 2013 to express their strong opposition to a skate park in this location, citing concerns including residential proximity, loss of neighbourhood amenity, noise, littering, parking, safety, stormwater flooding, reductions to property values and the potential for the facility to attract antisocial behaviour.

As part of this feedback, a number of alternative sites were suggested by residents for a skate park facility. However, many of these have been previously investigated and the findings listed in the earlier table.

The old skate ramp location near the cricket nets in Geoff Watt Oval was also raised as a site for a skate park facility, however this ramp no longer exists and initial investigations indicate that residential homes are also in very close proximity to this site.

Need and Demographics

The request for information on potential skate park sites for Alstonville and Wollongbar originated from a Notice of Motion put forward at the April 2012 Council Meeting (referred to above). This Notice of Motion provided no supportive information relating to the demand or rationale for this infrastructure.

A number of letters and petitions have been received by Council over the years, predominately from young people, requesting Council build a skate park in Alstonville. Most of this correspondence was received between 2008 and 2011. At the time, the authors of these letters were advised that the Council's operating budgets made no allowance for skate park facilities within the respective villages.

9.8 Alstonville Skate Park - Preferred Location

The 2011 ABS Census data indicates that around 17.1% of the Alstonville population are between the ages of 5 and 19. This age group is provided as it represents the greatest number of potential users of a skate park and as such, provides an indication of the potential demand for this facility in the Alstonville community. This is comparable to the rest of the shire, where the percentage of the population for this age group is 20.1%.

Aside from the above and the outcomes of the current investigations, there is little other information held by Council in support of, or that underpins demand for the provision of a skate park in Alstonville.

Other Site Considerations

Site investigations of the Crawford Park option by Council's Civil Services Group have indicated that minimal site improvement works would be required before a skate park could be installed. These preliminary site works may involve the removal of two large camphor laurel trees and the relocation of several Bangalow palms. Although this would incur additional costs it would increase the available space for the construction of a skate park.

Should Council wish to continue with investigations at this site, the greater opportunities for the facility associated with the above mentioned works should be considered in its design phase as the style of skate park will influence the broader use, costs and visual amenity of the facility.

Skate park designs can incorporate elements for beginners, through to advanced skaters, with features that suit skate boarders, BMX riders or scooter riders. Skate parks can also be designed to be integrated inclusive public spaces that allow the skate park to be used for complementary active and passive recreation. Additional elements that promote social connection and interaction create diversity, add value, and enable a far greater number of people to utilize the space. Landscaping elements such as gardens or coloured concrete can increase the visual amenity of the facility whilst additional features such as access paths, seating, drinking fountains, bins, signage, sheltered spaces and, possibly, lighting are also options that influence the frequency of the park's use.

Due to the variation in design elements and options it is difficult to indicate installation costs. However, based on skate park facilities of this approximate size elsewhere, it is estimated costs could range between \$150,000 and \$350,000. Some companies work on a cost of around \$500 per m² to estimate the budget for the design and construction of a skate park.

More detailed costs for a skate park at the Crawford Park site would be based on concept designs provided by experienced skate park construction companies who would determine options that best suit the site, its users, and Council's available budget.

Preliminary concept plans from experienced skate park companies may incur a fee ranging from \$5,000 to \$20,000 subject to the complexity and scope of the concept plans.

There is currently no funding source identified for either the concept planning or construction phases.

Sustainability Considerations

- **Environment**

In relation to skate parks in the Alstonville area, it is suggested new facilities can be provided without impacting unreasonably on the environment, subject to appropriate site selection and detailed design considerations.

- **Social**

Skate parks provide active recreational opportunities for the community, especially young people in the shire. Skate parks can also attract community opposition especially from surrounding residents due to the perceived anti-social behaviour that they may attract and the potential for new skate park infrastructure to impact on the amenity of adjoining properties.

- **Economic**

Whilst providing important and popular recreational community infrastructure, the provision of skate parks add considerable expense to the Council's capital works program. Further detail regarding costings will be provided if Council resolves to proceed with more detailed facility planning.

Legal / Resource / Financial Implications

As indicated in the earlier report presented to the Council, the provision of skate park facilities in the Alstonville area will require the commitment of reasonably substantial financial resources.

An approximate range for costs associated with installation of a skate park facility at the Crawford Park site is provided in this report. However, more detailed costings would to be provided if Council decides to continue investigations at this site.

Council has no specific funds set aside for these projects. Once concept designs and costs have been determined, projects will be subject to the budgetary process. Staff will also pursue external funding sources, where available, once a Council commitment to the Alstonville facility is in place.

All options for the provision of a new skate park facility will result in additional ongoing maintenance costs.

Consultation

Council staff discussed the skate park sites with a number of young people in relation to preferred site options for skate facilities in Alstonville and Wollongbar at the 2012 Ballina Shire Youth Forum. While this group did not directly represent the local skating community, participants did provide views from a youth perspective.

A general view was expressed that, not surprisingly, skate parks are highly desirable as recreational assets within communities. No comment was sought however about a preferred location for a facility within Alstonville.

9.8 Alstonville Skate Park - Preferred Location

Letters were sent to surrounding property owners and residents close to the Crawford Park site in November 2013 to gather initial views about this option. Staff also met on site with several residents and property owners on 20 November 2013 to discuss the concerns raised by residents. These concerns have also been communicated to Council by way of written submissions and phone calls. As a generalisation, the views expressed are highly uncomplimentary and reject the Crawford Park option.

Further engagement with the community would be undertaken during the detailed design phase, should Council choose to proceed, and commit funds for this purpose.

Options

1. Continue to progress investigations for the development of a skate park in Alstonville at Crawford Park.

As indicated above, Crawford Park appears technically suitable for a skate park facility. However, it is in close proximity to residents, a number of whom have indicated opposition to its construction.

It is open to Council to determine that it wishes to progress to the concept planning phase of a skate park facility at this site. A concept plan for skate park facilities at this site will provide more specific detail on construction costs and the designs that suit the site and its users. It should be noted that progressing to the next planning phase will involve the development of concept designs undertaken by experienced skate park design and construction companies. Approximate costs for this service are provided above. No funds are available for this engagement.

Currently, Council has only received submissions opposing a skate park facility in Crawford Park. It is difficult to determine the wider community sentiment for a skate park in Alstonville without more comprehensive consultation being undertaken. This community engagement could be undertaken as part of the further investigations for a skate park at this site, however additional costs would be involved.

Having regard for the potential conflict with adjoining residences, the costs involved in conducting a comprehensive community engagement process and the additional costs associated with the concept planning for a skate park at Crawford Park, this approach is not recommended.

If Council chooses to continue and investigate designs suitable for a skate park on the Crawford Park site, a further report detailing the design options and budget allocation would be provided by Council's Civil Services Group. Under this approach, it is also recommended that the Council undertake a comprehensive community engagement exercise to establish the view of the Alstonville community in relation to the construction of a skate park to assist in decisions regarding capital expenditure on such infrastructure.

Should Council elect to undertake further community engagement, it is suggested that Council engage a suitably qualified independent consultant to deliver an engagement program.

9.8 Alstonville Skate Park - Preferred Location

It is estimated that such an engagement may cost in the order of \$10,000, for which there is currently no budget allocation.

2. Progress investigations for the development of a skate park in Alstonville at an alternative site.

It is open to the Council to reconsider Lumley Park as a potential site for a skate facility in Alstonville or nominate other site/s for further investigation.

Given that a clearly preferred site has not emerged in Alstonville, and for the reasons highlighted in relation to option one, this option is not recommended. In this regard, it is noted that the Council has previously concluded that the Lumley Park option is not acceptable. It is also noted that the residents of that area have not been contacted to ascertain their views.

3. Consolidate skate park facilities for the Plateau in the Wollongbar Urban Expansion Area Park.

Given the proximity of Wollongbar and Alstonville, and that the Council has expressed its in-principle support for a skate park within Wollongbar, it is open to the Council to cease further investigations into options in Alstonville and consolidate resources for skate park facilities on the Plateau at the Wollongbar Urban Expansion Area park site.

If this option was ultimately implemented it would ensure that youth facilities on the plateau are provided for whilst ensuring this provision is relatively cost effective. It also has the advantage of being planned in the early phases of a residential release area as opposed to fitting in with existing development.

In the circumstances, this option is recommended.

With respect to the above options, it is also open to the Council to engage in a briefing to obtain further details before determining a course of action.

RECOMMENDATIONS

1. That based on the feedback received to date Council cease investigations into a site for a skate park at Alstonville for the time being and endorses the investigation of a consolidated skate park facility servicing the Alstonville Plateau within the Wollongbar Urban Expansion Area.
2. That Council undertakes this additional investigation as part of the current master planning process being undertaken for Council-owned land in the Wollongbar Urban Expansion Area.

Attachment(s)

1. Crawford Park Alstonville
2. Crawford Park Alstonville - Submissions opposing proposal (Under separate cover)

9.9 Sustain Northern Rivers

9.9 Sustain Northern Rivers

Delivery Program Strategic Planning

Objective To provide an update on Council's current involvement in Sustain Northern Rivers and seek direction on its continued commitment.

Background

Sustain Northern Rivers (SNR) was formed in 2008 and is a collaborative platform of regional organisations that aims to empower local communities to become more self-sustaining with a focus on food, transport, energy and biodiversity. SNR seeks to build the adaptive capacity of Northern Rivers communities and accelerate change by sharing innovation through the pooling of resources and sharing knowledge.

SNR includes representation from ACE Community Colleges, Ballina Shire, Lismore City, Byron Shire, Clarence Valley and Richmond Valley Councils, Southern Cross University, Regional Development Australia - Northern Rivers, Local Land Services (formally Catchment Management Authority), North Coast TAFE, Northern NSW Local Health District, NSW Department of Trade and Investment, NSW Department of Education and Communities and Northern Rivers Social Development Council.

Ballina Shire Council has been a signatory to the SNR collaboration since July 2011. Council's involvement in SNR has been through the Collaboration Group (CG) and the Working Group meetings. At its May 2012 Ordinary Meeting, the Council resolved as follows (Minute No. 240512/12):

1. *That Council continue to participate in Sustain Northern Rivers through Councillor representation at the Collaboration Group level and staff representation at the Working Group level.*
2. *That Council representatives (Cr Jeff Johnson and Cr Sharon Cadwallader as alternate) continue to represent Council at the Sustain Northern Rivers Collaboration Group.*
3. *That Council endorse staff participation in the Sustain Northern Rivers Working Groups to support opportunities for regional collaboration on climate change related issues and other environmental matters where consistent with delivery of Council's operational plan and other endorsed programs.*

It is now considered timely for Council to review and determine its level of commitment to SNR.

Key Issues

- Regional collaboration
- Knowledge/information sharing
- Resource efficiency

Information

Since the May 2012 Council resolution, staff members have represented Ballina Shire Council on the transport, energy and biodiversity working groups.

Staff have been advised by the SNR Secretariat that, during 2013, the Collaboration Group determined that it would no longer meet. SNR collaboration is now facilitated solely through the working groups (currently Sustain Energy, Sustain Food, Sustain Transport and Sustain Biodiversity) and an annual SNR strategic planning forum.

The first annual strategic forum is planned for 15 April 2014 and aims to:

- Reaffirm the priorities for collective action
- Further an understanding of the shared purpose in collaboration and
- Celebrate the successes of the regional partnerships to date.

The SNR strategic planning forum is open to General Managers, CEOs and representative staff members of SNR. With this event proposed, it is an opportunity to review Council's involvement and commitment to SNR. Any staff attendance at the forum will be at the discretion of the General Manager.

Involvement in the working groups has provided an opportunity for staff to keep up to date with, and contribute to, regional projects based around transport, energy and biodiversity initiated through SNR. This involvement has also provided opportunities to identify how the Shire's sustainability goals align with these regional projects.

Sustainability Considerations

- **Environment**
A collaborative approach to addressing issues that contribute to the long-term sustainability of the region can have significant environmental benefits.
- **Social**
A collaborative approach to addressing issues that contribute to the long-term sustainability of the region can have significant social benefits, especially in regard to building community resilience to the impacts of climate change.
- **Economic**
A collaborative approach to addressing issues that contribute to the long-term sustainability of the region can be more economically efficient than addressing these issues individually.

Legal / Resource / Financial Implications

At this stage there are no direct substantial financial or legal implications in continuing Council involvement in SNR.

The resource implication is the time commitment of staff representatives attending SNR meetings associated with Council's level of participation in the SNR collaboration.

Consultation

Information provided by members of the SNR collaboration has been used in the drafting of this report. Involvement in SNR has not included public engagement processes to date.

Options

The Council has the opportunity to determine the extent of its continued participation in SNR. In this regard, the following options are provided for consideration.

1. Withdraw from SNR

The Council can choose to no longer be involved in SNR. This is not recommended as this limits Council's opportunities for regional networking and collaboration on a range of environmental issues addressed through the SNR platform.

2. Continued participation in SNR

The Council can continue to participate in SNR through staff maintaining attendance at the energy, transport and biodiversity working groups. Ensuring that Council continues to be represented will help secure opportunities for regional collaboration on sustainability issues, if and when appropriate.

Staff involvement at the working group level would be based on the capacity for progressing opportunities identified in Council's Climate Action Strategy and in relation to other environmental initiatives.

With respect to the working groups, it is recommended that staff participate where resources allow and projects relate to the delivery outcomes identified in Council's Community Strategic Plan and Operational Plan. The General Manager would nominate the appropriate staff member(s) in this regard.

With respect to the SNR strategic planning forum, and with the presumption that the Council wishes to remain involved in regional co-operation of this kind, the General Manager will have the discretion to nominate and authorise staff attendance.

In considering the above, it is relevant to note that, in light of the decision to change the structure of SNR, the collaboration meetings in which Councillors were previously involved is no longer operating.

RECOMMENDATION

That Council endorses the continued staff participation in the Sustain Northern Rivers working groups to support opportunities for regional co-operation relating to environmental matters where consistent with the delivery of Council's operational plan and other endorsed programs.

Attachment(s)

Nil

9.10 Policy (Review) - Filming on Public Land

9.10 Policy (Review) - Filming on Public Land

Delivery Program Tourism

Objective To review the Council's Filming on Public Land Policy.

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 Council's Filming on Public Land Policy.

The Council first adopted this policy in September 2010.

Key Issues

- Whether the policy continues to meet the requirements of the Council and relevant current legislation.

Information

A review of this policy has concluded that only minor changes are warranted. The most significant suggested change is to modify the policy name from Filming Policy to Filming on Public Land Policy.

The content of the existing policy is consistent with information contained in the Local Government Filming Protocol produced by the Division of Local Government (copy available on their website www.dlg.nsw.gov.au). The filming protocol was developed in consultation with local councils, government agencies and the film industry to ensure that New South Wales remains "film friendly" whilst endeavouring to maintain an appropriate balance between community and economic concerns.

Under the protocol, councils are required to ensure that requests for film productions proposed within respective local government areas are facilitated, unless there are exceptional circumstances or legislation requires the local council to refuse to grant the approval. Local councils must comply with the Local Government Filming Protocol when determining applications and setting fees.

The Council's policy now refers directly to the Local Government Filming Protocol, thereby avoiding unnecessary duplication of information and providing a clear process for lodging an application and obtaining approval. This referral process ensures a more accurate and efficient mechanism with respect to Filming Protocol updates.

Legislative checks were undertaken in the policy review undertaken by staff.

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**
Depending on the nature and location of the proposed filming, additional environmental assessments and approvals may be required.
- **Social**
Film and television related businesses generate employment opportunities.
- **Economic**
The multiplier effects of the film industry provide significant economic benefits to the Ballina Shire.

Legal / Resource / Financial Implications

Administration and implementation of the policy is undertaken within the resources allocated by the Council.

Consultation

Consultation concerning this review of policy has occurred internally with Council's Civil Services Group. Consultation beyond this does not appear necessary as the Local Government Filming Protocol is prepared and produced by the Division of Local Government, which has been through a community and stakeholder consultation phase.

Options

As the changes are only minor it is recommended that Council adopt the policy as presented, however the revised 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.

RECOMMENDATIONS

1. That Council adopts the amended Filming on Public Land Policy, as attached to this report.
2. That Council place the amended 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. Revised Filming Policy

10.1 Investment Summary - February 2014

10. General Manager's Group Reports

10.1 Investment Summary - February 2014

Delivery Program Governance and Finance

Objective To provide details of how Council's surplus funds are invested.

Background

In accordance with the Local Government Financial Regulations, the responsible accounting officer of a council must provide a monthly report (setting out all money Council has invested), to be presented at the ordinary meeting of Council, immediately following the end of the respective month. This report has been prepared for the month of February 2014.

Key Issues

- Investment return and compliance with Investment Policy

Information

Council's investments are all in accordance with the Act and the Regulations. The investments breached Council's investment policy on 17 February 2014, when Standard & Poor's lowered ING Bank Australia's long term rating from 'A' to 'A-'. Council's policy allows up to 20% of the total portfolio to be invested in an organisation with a rating of 'A' or higher, but only 10% of the portfolio with a rating of 'BBB' to 'A-'.

At the time of the ratings downgrade Council had (and still has) \$13 million invested with ING, representing 18.5% of the total portfolio. In accordance with Clause 16 of Council's investment policy no further investments have or will be made in ING until such time as they fall below 10% of the total portfolio. Also in accordance with Clause 16 maturing ING deposits will not be renewed, but placed with other organisations.

The next ING deposit renewals are:

- \$1 million on 17/3/14
- \$3 million on 14/4/14
- \$1 million on 26/5/14.

It can be seen from the above that, depending on how the total balance of the portfolio fluctuates over the next few months, it is likely that the full three months allowed in Clause 16 will be needed to bring the portfolio back into compliance.

The balance of investments as at 28 February 2014 was \$70,303,000. This represents an increase from January of \$2,502,000. Council's investments as at 28 February are at an average (weighted) rate of 3.82%, which is 1.19% above the 90 Day Bank Bill Index of 2.63%.

10.1 Investment Summary - February 2014

The balance of the cheque account at the Commonwealth Bank, Ballina as at 28 February 2014, was \$2,629,061.

In respect to the current state of the investment market the monthly commentary from the NSW Treasury (T-Corp) is included as an attachment to this report.

As per that commentary there are concerns regarding an increase in the unemployment rate and weak household income growth.

As to Council's investment portfolio the majority of the approximately \$70 million of investments are restricted by legislation (external) and Council (internal) uses for the following purposes:

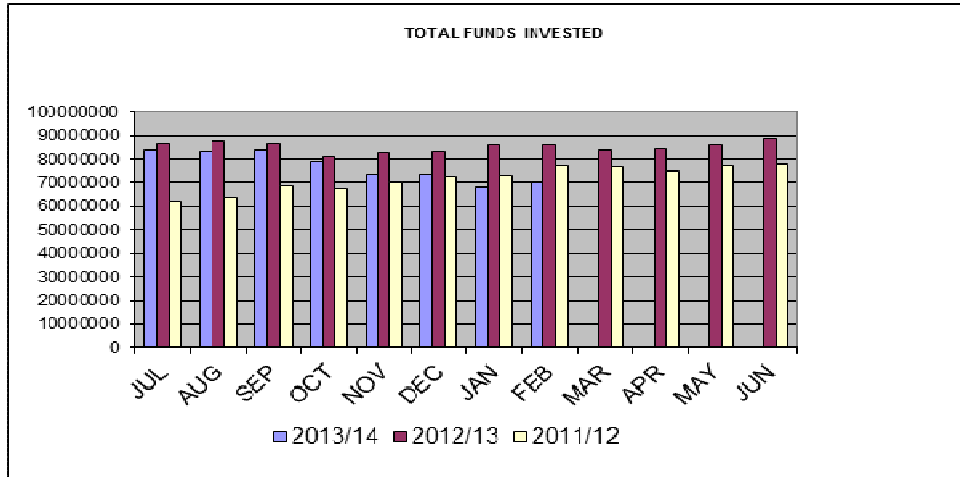
Reserve Name	Internal/External Restriction	% of Portfolio*
Water Fund (incl developer contributions)	External	12
Wastewater Fund (incl developer contributions)	External	34
Section 94 Developer Contributions	External	6
Bonds and Deposits	External	1
Other External Restrictions	External	16
Land Development	Internal	8
Employee Leave Entitlements	Internal	2
Carry Forward Works	Internal	12
Miscellaneous Internal Reserves	Internal	8
Unrestricted		1
Total		100%

* Based on reserves held as at 30 June 2013

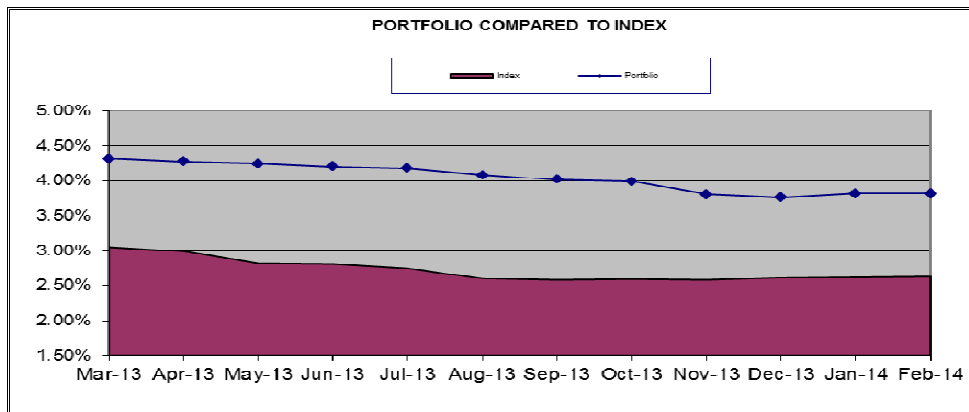
A. Summary of investments by institution

Funds Invested With	ADI Rating	Previous Month (\$'000)	Current Month (\$'000)	Quota %	% of Total	Total
Grandfathered Investments						
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	2.8	7%
Rated Institutions						
AMP Bank	A+	6,000	6,000	20	8.5	
Bank of Queensland	BBB+	5,000	5,000	10	7.1	
Commonwealth Bank of Aust	AA-	2,013	3,515	20	5.0	
Defence Bank Ltd	BBB+	1,000	1,000	10	1.4	
Greater Building Society	BBB	2,000	2,000	10	2.8	
Heritage Bank	BBB+	7,000	5,000	10	7.1	
Illawarra Mutual Bld Soc	BBB	2,000	2,000	10	2.9	
ING Bank Ltd	A-	13,000	13,000	10	18.5	
Members Equity Bank	BBB	6,000	6,000	10	8.5	
National Australia Bank	AA-	9,000	10,000	20	14.2	
Newcastle Perm Bld Society	BBB+	2,000	2,000	10	2.8	
Suncorp Metway Bank	A+	7,000	7,000	20	10.0	
Westpac Banking Corporation	AA-	1,000	3,000	20	4.3	93%
Unrated ADI's				\$1m	0.0	
Total		67,801	70,303			100%

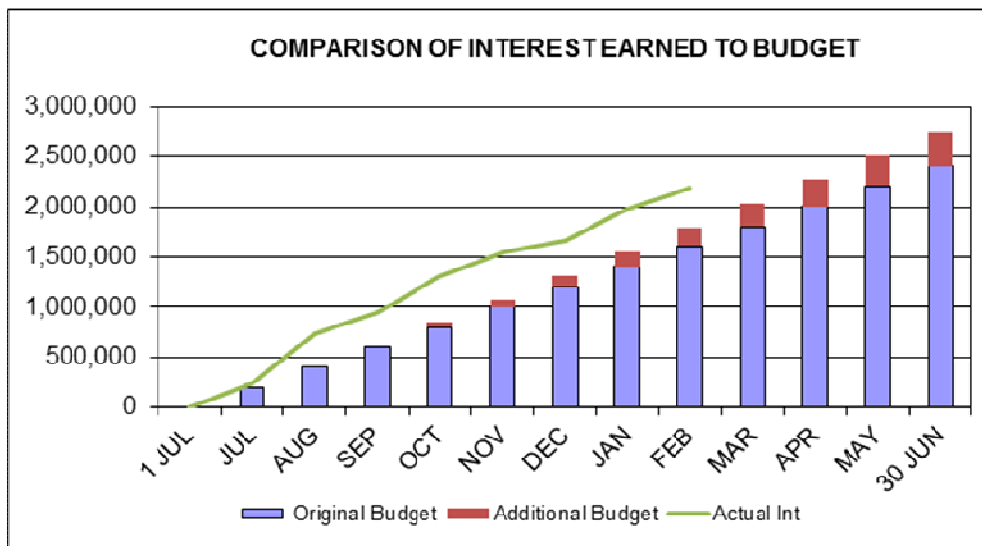
B. Monthly Comparison of Total Funds Invested



C. Comparison of Portfolio Investment Rate to 90 Day BBSW



D. Progressive Total of Interest Earned to Budget



10.1 Investment Summary - February 2014

E. Investments held as at 28 February 2014

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
20/09/04	National Aust Bank (ASX Listed)	FRN	3.88%	Perpetual	1,788	1,321
12/04/06	Goldman Sachs	FRN	3.14%	12/04/16	1,000	993
16/06/06	National Wealth M'ment Holdings	FRN	3.22%	16/06/26	2,000	1,920
	at call Commonwealth Bank Of Australia	FND	2.45%	at call	1,522	1,522
24/01/12	ING Bank Ltd	FRTD	4.57%	24/01/17	1,000	1,000
06/02/12	Westpac Bank	FRN	4.27%	06/02/17	1,000	1,037
25/01/13	Commonwealth Bank Of Australia	TD	4.36%	25/01/18	1,993	2,021
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	3.88%	05/06/15	2,000	2,000
07/06/13	Greater Bld Society	FRN	4.04%	07/06/16	2,000	2,000
30/07/13	ING Bank Ltd	FRTD	4.08%	30/07/14	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
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
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
13/01/14	National Australia Bank	TD	3.65%	14/04/14	2,000	2,000
14/01/14	Members Equity Bank	TD	3.70%	14/05/14	1,000	1,000
20/01/14	ING Bank Ltd	TD	3.61%	21/07/14	2,000	2,000
24/01/14	AMP Bank	TD	3.80%	23/07/14	2,000	2,000
24/01/14	AMP Bank	TD	3.80%	23/01/15	2,000	2,000
30/01/14	ING Bank Ltd	TD	3.60%	29/07/14	1,000	1,000
04/02/14	Newcastle Permanent Bld Society	TD	3.50%	05/05/14	2,000	2,000
10/02/14	Heritage Bank	TD	3.75%	11/08/14	1,000	1,000
10/02/14	ING Bank Ltd	TD	3.70%	11/08/14	2,000	2,000
17/02/14	Members Equity Bank	TD	3.65%	19/05/14	2,000	2,000
25/02/14	Westpac Bank	FRN	3.57%	25/02/19	2,000	2,000
26/02/14	National Australia Bank	TD	3.70%	27/05/14	2,000	2,000
	Totals				70,303	69,814
	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 February 2014.

Attachment(s)

1. TCorp Economic Commentary February 2014

10.2 Community Donations

10.2 Community Donations

Delivery Program Governance

Objective To invite Council to consider additional donation requests.

Background

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

The application referred to in this report is deemed to represent an exceptional circumstance and a copy of the request is attached.

Key Issues

- Nature of request
- Community benefit
- Funding available

Information

Australian Representation – Mr Scott Hamilton

Scott Hamilton, a Ballina resident has been selected to represent Australia as a member of the Australian Masters team to attend The Hockey World Cup in Rotterdam in June 2014. The players are responsible for the payment of flights, accommodation, coaching/physio staff, turf fees and uniforms. The estimated cost is \$5,000.

Council has a separate policy for Australian representation (titled - Donations - Australian Representation) which states that Council may provide a \$400 (indexed by CPI each year – approximately \$420 in current dollars) contribution for applicants representing Australia overseas.

This application meets the criteria of that policy.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Donations can support community benefits to the Ballina Shire.

10.2 Community Donations

- **Economic**
Not Applicable

Legal / Resource / Financial Implications

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

Items	Budget	Allocated	Balance
Donations (General)	65,000	62,567	1,953
Donations (Halls)	40,000	40,854	(854)
Donations (DA Fees)	4,000	600	3,400
Net Amount Available			4,499

Consultation

The annual donation program is subject to formal public exhibition and generally Council attempts to ensure that all donations are considered at the same time to ensure there is equity in the allocation process. There has been no specific consultation in respect of this application.

Options

The options are to approve or decline the request. Typically the recommendation is for Councillors to determine approval or refusal, however as the application meets the criteria of the Australia Representation policy, the recommendation is to approve the application.

RECOMMENDATION

That Council approves the Australian representation donation (approximately \$420) to Scott Hamilton to assist with costs associated with his selection in the Masters Hockey World Cup.

Attachment(s)

1. Letter of request - Scott Hamilton

10.3 Policy (Review) - Councillor Expenses and Facilities

10.3 Policy (Review) - Councillor Expenses and Facilities

Delivery Program Governance and Finance

Objective To seek clarification on Council's February 2014 resolution regarding the review of the Councillor Expenses and Facilities Policy.

Background

At the February 2014 Ordinary meeting Council reviewed the Councillor Expenses and Facilities Policy and resolved as follows:

- 1. That the Council Expenses Policy be amended to provide for a maximum allowance of \$5,000 (Ex GST) per Councillor for conferences and associated travel per financial year.*
- 2. That Council advertise this change for public comment.*

Prior to exhibition of the Policy, clarification is required as to whether the intent of the resolution was for travel outside the NOROC region to still be approved by the elected Council, if a Councillor is within the \$5,000 maximum annual allowance.

Key Issues

- Clarification of resolution

Information

The current policy requires that all travel outside the NOROC region must be approved by the elected Council. If the \$5,000 limit is applied one option would be for any travel expenses to be approved by the Mayor and / or General Manager, as now occurs for travel within the region.

This would reduce the need for reports to be submitted to Council for approval to travel outside the region, with the Mayor and / or General Manager able to approve travel, so long as the expense remains with the \$5,000 limit.

The other alternative is to leave the policy as is, with travel outside the region still subject to reporting to Council, with those reports then clarifying whether the request is within the \$5,000 limit.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The Expenses and Facilities Policy assists Councillors in undertaking their role as an elected member of the community.

10.3 Policy (Review) - Councillor Expenses and Facilities

- **Economic**

Budgets are provided for Councillor expenses and facilities.

Legal / Resource / Financial Implications

Council is legally required to review this policy within five months of the end of the financial year. changes must also be exhibited for public comment, excluding minor amendments.

The Division of Local Government has also advised that you cannot pay a Councillor an allowance each year under this policy. Rather, expenses must be reimbursed as incurred, with councils able to set limits on those reimbursements.

Consultation

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

Options

Clarification is needed in respect to the February resolution and the two options are:

1. Amend the policy so that the Mayor and / or General Manager determine whether approval for travel outside the region is authorised, so long as the Councillor is within the \$5,000 annual allowance. A similar approval process currently applies for travel within the region.
2. Retain the existing practice where all travel outside the NOROC region is required to be approved by the elected Council, albeit that a \$5,000 limit will now apply.

The preferred option is option one. This streamlines the existing process whereby reports must be submitted to Council for any travel outside the region.

The Mayor and / General Manager already follow a similar process for travel inside the region, with Council also having a Councillor Training and Development Policy that provides parameters to assist the Mayor and / or General Manager to determine whether any travel (including training and conferences) should be approved. The \$5,000 then provides another parameter to work within.

RECOMMENDATION

That Council confirms that the exhibition of the amendment to the Councillor Expenses and Facilities Policy, as resolved at the February 2014 Ordinary meeting, which sets a maximum allowance of \$5,000 (Ex GST) per Councillor for conferences and associated travel per financial year, will also include an amendment that approval for conferences and travel, both inside and outside the NOROC region, will be approved by the Mayor and / or General Manager, in accordance with Council policies.

10.4 NSW Public Library Funding

10.4 NSW Public Library Funding

Delivery Program Community Facilities and Services

Objective To determine whether Council wishes to lobby the NSW State Government for additional funding for library services.

Background

The Richmond Tweed Regional Library (RTRL), through Lismore City Council, has asked Council to join a campaign to pursue additional funding for library services from the State Government.

This report provides background information along with details of the support requested.

Key Issues

- Current level of State Government funding
- Proposed actions

Information

The information that follows has been provided by the RTRL to support the pursuit of additional State funding for libraries.

The NSW public library funding situation is an historic issue that has been ignored by successive NSW Governments. The funding level has now reached a crisis point. The key issues are:

- NSW receives the lowest per-capita funding for public libraries from the State Government of all Australian States
- State Government expenditure on public libraries has decreased as a proportion of total public library expenditure from 23% in 1980 to 7% in 2013
- NSW councils are currently paying 93% of the costs to operate public libraries in NSW (which are governed by State legislation)
- The current NSW Public Library Funding Strategy includes three components:
 - Per capita subsidy (legislated at \$1.85 per NSW resident) - \$13,503,243 in 2012-13,
 - Disability & Geographic Adjustment (DGA) - includes a component of population-based payments and a proportion of payments based on five disability factors developed by the NSW Local Government Grants Commission (pre-school children; people over 65; people from a NESB; population distribution; isolation) - \$6,551,966;
 - Library Development Grants - \$549,996 (this amount has reduced from \$3.3m in 2005-06)

10.4 NSW Public Library Funding

- The NSW Public Library Funding Strategy is not indexed to population growth or the consumer price index (CPI). This means that:
 - Funds have been taken from the Library Development Grant pool over a number of years to meet the increased per capita subsidy costs (and the per-capita component of the Disability and Geographic Adjustment fund) as the NSW population increases each year. If the Government had not provided an “additional” \$2m to maintain the Country Public Libraries fund contribution in 2013-14, there would be no funding left for Library Development Grants; and
 - If the current funding situation is not addressed urgently, NSW councils will suffer a reduction in their Disability and Geographic Adjustment payments to meet the increase in legislated per-capita subsidy costs for additional NSW population.

Action to date

During the 2011 election campaign, the current NSW State Government made a pre-election commitment to undertake a comprehensive review of the quantum and allocation of funding for NSW public libraries. To date there has been no significant action by the Government to meet this commitment.

In the absence of any Government action the Library Council of NSW used the Government’s pre-election commitment as a trigger to convene a committee of representatives from the Public Libraries NSW Association (representing regional and rural councils and libraries), the NSW Metropolitan Public Libraries Association (representing metropolitan councils and libraries), and the State Library of NSW, to develop an evidence-based submission about public library funding.

The Library Council of NSW then provided a submission to the State Government called *Reforming Public Library Funding* in October 2012. The evidence-based submission recommended a fairer, simplified and more transparent method for the distribution of funds.

The following principles for a new approach were recommended:

- Establish a base level of funding for councils with populations below 20,000 people (a safety net for small councils)
- Grant a modest increase in per capita allocations for all councils to recognise cost movements since 1994
- Address disadvantage transparently through the application of appropriate disability factors
- Phase out anomalies in current allocations due to former council amalgamations
- Ensure sustainability by providing that no council receives less recurrent funding than 2012/13 and
- Build and maintain infrastructure via a substantial capital fund, entitled the *Building Library Infrastructure Program*.

The Library Council recommended that recurrent public library funding to councils be adjusted from the current \$26.5M to \$30M per annum from 2013/14 and indexed from the following year.

10.4 NSW Public Library Funding

This would be allocated as follows:

- 68% (\$20.4M in 2013/14) to councils by population with a base level of funding for councils with fewer than 20,000 residents
- 17% (\$5.1M) to councils by NSW Local Government Grants Commission (LGGC) disability factors to explicitly address disadvantage and
- 15% (\$4.5M) applied to Statewide Programs.

In addition, a *Building Library Infrastructure Program* of \$30M per annum for building and maintaining infrastructure was recommended to replace the now defunct provision of grants from operating funds. This program would enable councils to renew library buildings, systems, collections and equipment in regional, urban and growth areas. It was proposed that this be phased in, rising to \$30M over the four years from 2013/14 and indexed thereafter.

Many NSW councils wrote to Hon. George Souris, Minister for the Arts during 2012, urging the State Government to adopt *the Reforming Public Library Funding* strategy.

Despite a high level of expectation that the State Government would fulfill its pre-election undertaking to review and increase its funding allocation to NSW public libraries, this did not eventuate in the 2013 State budget.

Campaign

The NSW Public Library Associations (NSWPLA), representing country and metropolitan libraries, is now coordinating a targeted campaign to bring the situation to the attention of politicians and funding decision makers to address the problem.

Local Government NSW (LGNSW) and the Australian Library and Information Association (ALIA) are assisting NSWPLA in this campaign and information will be provided to councils and public libraries on an ongoing basis from these bodies throughout the campaign.

In addition, local supporters of public libraries including Friends of the Library groups and library users will be engaged in the campaign to lobby State Members.

Given that 44% of the State's population are library users, it is anticipated that there will be strong support for this campaign in the community. Research also highlights the high value placed on public libraries by users and non-users alike. There will be high level media engagement and local and national champions of public libraries will be advocating for funding reform.

Conclusion

There is currently a high degree of uncertainty as to the level of ongoing funding for public libraries in NSW from the State Government. The intent of the NSW Library Act in 1939 was for equal funding from State and Local Governments to provide library services. Since that time Local Government has increasingly carried the funding burden and the situation has deteriorated significantly over the past few decades.

10.4 NSW Public Library Funding

Without urgent action from Local Government and the NSW Public Library Associations, this situation will continue and councils will once again be forced to pick up the funding shortfall.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Libraries provide an important community service and resident surveys indicate that libraries are highly valued by our community.
- **Economic**
The RTRL is a significant component of Council's budget with an annual net cost to the community of approximately \$1.3m.

Legal / Resource / Financial Implications

If State library funding continues to reduce it will place increased pressure on Council's finances.

Consultation

The report is focused on a campaign of consultation with the NSW State Government.

Options

The options are to support or not support the campaign. The preferred option is to support as libraries are a highly valued component of the social fabric of any community and any on-going reduction in funding from the State Government is in effect a cost shifting exercise, with local councils then required to carry a greater burden of the cost of providing this essential service.

The recommendation that follows has been provided to Council by the RTRL. Points a) to c) are relatively straight forward and for point d) Council communication material such as community connect and the monthly advertorial can assist with promoting the campaign.

RECOMMENDATION

That Council confirms its support for the campaign mounted by the NSW Public Library Associations for increased State funding to Local Government for public libraries by:

- a) making representations to the local State Member in relation to the need for additional funding from the NSW State Government for the provision of public library services
- b) writing to the Hon. George Souris, Minister for the Arts, calling upon the Government to implement the Reforming Public Library Funding submission of the Library Council of NSW in 2012 for the reform of the funding system for NSW public libraries
- c) approving the distribution of NSW Public Library Associations' campaign information in the Council libraries and
- d) taking a lead role in activating the campaign locally.

Attachment(s)

Nil

10.5 Land Acquisition - Shared Path

10.5 Land Acquisition - Shared Path

Delivery Program Engineering Works

Objective To obtain Council approval to acquire a parcel of land to assist with the construction of the shared pathway located on the western side of The Coast Road between North Angels Beach and Headlands Drive.

Background

The preferred route for the section of shared pathway to be constructed between North Angels Beach and Headlands Drive requires the acquisition of a small section land, for road dedication purposes, from the property owned by Dr and Mrs Stewart. Agreement has been reached on that acquisition and the purpose of this report is to obtain Council approval to proceed with finalising the acquisition process.

Key Issues

- Area to be acquired and cost

Information

The two attachments to this report provide a summary of the land to be dedicated to Council for this section of the shared pathway.

As per attachment one, the line markings help to highlight that a small section of the preferred route for the shared path at the intersection of The Coast Road and Headlands Drive crosses private land, being the Stewart Farm. This is not obvious from a visual inspection of the property as the existing fence is not located exactly on the property boundary.

Access along this route is required to ensure that there is adequate space for the shared pathway to turn up, adjacent to Headlands Drive, and to then cross Headlands Drive safely, subsequently joining the existing shared pathway that accesses both Sharpes Beach and the balance of the Skennars Head Estate.

Attachment two provides the site area, which is 48.6 square metres. The land will be dedicated as public road.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Shared pathways provide significant social benefits to the community.
- **Economic**
Council has funding allocated for the shared path projects planned between Ballina and Lennox Head.

Legal / Resource / Financial Implications

The price that has been agreed with Dr and Mrs Stewart is \$2,200. This is based on the rate, plus CPI, which Council agreed in 2013 to pay for the land owned by the Stewart family, located close to North Angels Beach. This was a situation where The Coast Road was actually still located on private property owned by the Stewarts.

At that time Council also negotiated a 99 year lease for that section of the Sharpes Beach Car Park which is also owned by the Stewart family.

Consultation

Agreement has been reached with Dr and Mrs Stewart on the area and price.

Options

The options are to agree or not agree to this acquisition. Essentially this is a road dedication process with the land acquired to form part of the road reserve. This then assists with the construction of the shared path in this location.

RECOMMENDATIONS

1. That Council approves the acquisition of land described as Part Lot 2 DP 1184436, being an area of approximately 48.6 square metres, as per the second attachment to this report, for the purchase price of \$2,200.
2. That Council authorises the Council seal to be attached to the purchase contract and any other associated documentation.
3. This land is to be dedicated as public road once acquired.

Attachment(s)

1. Detailed design plan
2. Plan of proposed land acquisition

11.1 Roadside Vegetation Management Plan

11. Civil Services Group Reports

11.1 Roadside Vegetation Management Plan

Delivery Program Open Spaces and Reserves

Objective To adopt the Roadside Vegetation Management Plan.

Background

Council previously prepared a Roadside Vegetation Management Plan following a comprehensive roadside vegetation survey of 1,028km of rural roadsides above 60km/h in 2005/2006.

The plan aims to improve the environmental protection and sustainability of roadside native vegetation and balance that with the need to continue providing road safety. The plan now requires some operational changes within Council's existing roadside vegetation maintenance.

Since 2006 various legislative changes have affected how roadside vegetation is to be managed along with changed vegetation conditions from ongoing growth and maturity. Changes that involved the SEPP Infrastructure and additional endangered ecological community listings under both State and Federal Government legislation have affected how the plan is to be implemented.

In 2012 the plan was updated to include the legislative changes so that implementation of the plan may occur. As the original vegetation survey was conducted in 2005/06 and significant vegetation changes have occurred, a current vegetation survey to update the older survey will be required in the future when additional resources are available.

Council staff successfully applied for a \$47,780 Local Government Association (LGA) of NSW and Shires Association of NSW Grant to implement several high priority actions from the plan. This includes conservation areas for bush regeneration and prioritised weed control activities such as large roadside weed tree removal.

A requirement of the grant is for Council to have a more contemporary Roadside Vegetation Plan.

Key Issues

- Adopt the Roadside Vegetation Management Plan
- Adoption will allow for the release of grant funds

11.1 Roadside Vegetation Management Plan

Information

The adoption of the Roadside Vegetation Management Plan will enable more sustainable vegetation management practices to be implemented. The adoption will also allow for immediate LGA NSW grant funds to become available to Council. It will also improve further grant funding opportunities including future updates of vegetation surveys or legislative requirements.

The immediate works identified in the LGA NSW grant include:

- Bush regeneration at Tintenbar and Angels Beach
- Weed tree removal at Coolgardie and Tintenbar
- Weed control at West Ballina and
- Modification of vegetation treatments at Meerschaum Vale.

As resources become available through other funding opportunities a new vegetation survey aligned with the current legislation could allow updating the plan and guide Councils roadside vegetation operations.

Council as a road authority must legally maintain its roadside vegetation for road safety and with appropriate environmental management processes in place. A suitable plan will assist this process and facilitate Council's management of the roadside environment.

A copy of the plan is attached under separate cover. Supporting information for the plan is available on request. As the plan is primarily a technical document mapping vegetation and our planned management response, the details of the plan have not been set out in this report. If Councillors are interested in reviewing these details, then it is suggested a briefing with the Council's technical officers is the preferred way to provide the information.

Sustainability Considerations

- **Environment**
The implementation of high priority vegetation management actions will benefit and protect the endangered ecological communities and biodiversity of the rural roadsides of Ballina Shire.
- **Social**
The actions will improve the amenity value to residents and drivers along Ballina Shires rural roads and assist Councils ongoing roadside vegetation management operations.
- **Economic**
The actions will remove various weed threats to ongoing roadside maintenance costs and the management of the shires roadside biodiversity.

Legal / Resource / Financial Implications

No budget has been allocated for the implementation of the plan. Key actions identified in the plan can be funded from the LGA NSW grant. Additional actions will be implemented based on Council's available resources.

11.1 Roadside Vegetation Management Plan

The grant monies provide valuable funding to implement immediate high priority actions that would otherwise fall upon Council to resource itself.

The plan will assist the Council meet its statutory obligations.

Consultation

The development of the original plan was undertaken with extensive consultation from a number of relevant stakeholders. This included the Jali Aboriginal Land Council, Office of Environment and Heritage, Essential Energy, the Livestock Pest and Health Authority now known as Local Land Services, Telstra, Roads and Maritime Authority, EnviTE, Council staff, Far North Coast Weeds, the Ballina Shire Roadside Landcare Group and various adjacent rural roadside landowners in the Shire.

Options

Options available to Council include:

1. Adopt the Roadside Vegetation Management Plan and implement actions from LGA NSW grant
2. Decline to adopt the Roadside Vegetation Management Plan and return the \$47,780 grant to LGA NSW.
3. Adopt the Roadside Vegetation Management Plan, implement actions based on Council's current resource availability and pursue additional grant funding to update vegetation surveys.

The plan is considered important for Council to assist it to meet statutory obligations, to provide guidance and direction in respect of appropriate management strategies and service levels, and support grant applications. For these reasons it is recommended the plan is adopted by Council.

Typically Council would place the plan on exhibition prior to adoption. On this occasion staff are concerned that the delay associated with an exhibition period will not allow sufficient time to meet the requirements to accept the grant that is currently available. It is therefore preferred to adopt the plan, and publish information about the plan in Council's corporate communications. If there is feedback from the community at any stage that indicates amendments to the plan should be considered then this feedback can be reported to Council.

11.1 Roadside Vegetation Management Plan

RECOMMENDATIONS

1. That Council adopts the Roadside Vegetation Management Plan, as attached to this report.
2. That Council endorses the acceptance of a grant of \$47,780 from LGA NSW and, as per the grant application, approves the implementation of the higher priority actions within the Roadside Vegetation Management Plan, subject to resource availability and required approvals.
3. That Council continue to pursue additional grant funding to resurvey, update and implement the plan.

Attachment(s)

1. Ballina Roadside Vegetation Management Plan (Under separate cover)

11.2 Water Service - 2 Ascot Place, Ballina

11.2 Water Service - 2 Ascot Place, Ballina

Delivery Program Water and Wastewater

Objective To seek Council's review of a request for a water service.

Background

Council has been requested to provide a new fire service main to Lot 71, DP 749501, 2 Ascot Place, located in the Canal Industrial Estate, Ballina. The request has come from Ardill Payne & Partners (APP) on behalf of their client.

The Estate was developed by Ballina Shire Council in 1979 (DA 79/384). An industrial building of approximately 1,500m² was developed on the site in 1987 under BA 239/1987. Subsequent approvals have been for a minor office extension (BA 1029/1988 - which did not change the site's fire loading), and a major renovation (BA 121/1995 – which was never constructed).

There are 79 lots in the Estate, including the Racecourse Precinct. A reticulated water service is provided throughout the Estate. Properties on Ascot Place are serviced via individual connections to the main on Racecourse Road. The water service to Lot 71 is from Racecourse Road via a drainage reserve to the rear of the lot. The existing connection is suitable to service fire hose reels, but is not suitable to service fire hydrants.

A site map of the area which also shows the location of water services is provided as an attachment to this report.

Fire hydrants are located at regular intervals along Racecourse Road, however the closest hydrant to Lot 71 being approximately 140m distant, does not meet current requirements according to *AS2419.1*.

APP now asserts that Council has a responsibility to provide a hydrant in Ascot Place to service Lot 71, and that Council is exposed to litigation in the event of a fire.

This request was initially declined by staff however APP has asked for a further review and the purpose of this report is to obtain the elected Council's position on the issue.

Key Issues

- Merits of APP assertion based on current Building Code of Australia (BCA) Standards and the Local Government Regulation (General)
- Does Council have an obligation, as either developer or approver, based on the pertinent requirements of the day (ie the now superseded requirements of the *Local Government - Ordinance 70 Building* under the *Local Government Act 1919 (LGA 1919)*, and possibly applicable Public Works guidance manuals)?

11.2 Water Service - 2 Ascot Place, Ballina

- Does the principal of 'buyer beware' apply that the owners should investigate the due diligence processes they went through during the purchasing of the building?

Information

Ordinance 70 specified building requirements, and hence its requirements were chiefly the responsibility of the property owner. This is similar to the situation today where building owners meet the requirements of the BCA, which effectively replaced Ordinance 70 in the early 1990s.

In 1979, at the time of DA 79/384, the Local Government Act (LGA) 1919 required Council to supply water for “*domestic purposes, street watering, sewer flushing, and the maintenance of a suitable pressure for fire extinguishing*”. However, there were no statutory requirements regarding distances to hydrants. It is understood that this was generally carried out by Council in accordance with Public Works guidance manuals at the time – however these have not been located.

At that time, *Part 27.4 (4)* of Ordinance 70 required building owners to ensure their development complied such that:

“no point on any floor of the building shall be more than 90 m from a hydrant situated –

(a) in the road to which the site has frontage; or

(b) in the building; or

(c) within the site but external to the building.”

These building requirements would have been at the cost of the applicant.

There is the possibility that Council originally intended to extend the drinking water main along Ascot Place once the industrial estate extended to land to the north. This land has never been developed, Ascot Place remains a short dead-end road, and the water main has never been extended.

From 1986, the Public Works *Water Supply Investigation Manual* provided guidance to water supply authorities on *Provision for Fire-fighting in Water Supply Reticulation Networks*. It promoted a number of the technical requirements of *Part 27.4* of Ordinance 70, including *Part 27.4 (4)*, which should be followed.

This was the applicable requirement in 1987, but this requirement was not imposed by Council in the consent conditions of BA 239/1987. However, had the requirement been enforced, it is likely that the cost of compliance would have been at the cost of the applicant.

It is worth noting that similar fire and hydraulic conditions were imposed by Council in 1995 for the subsequent BA 121/1995. The cost of compliance would have been met by the applicant; however the development did not proceed.

Today, Council requires hydrants on its water supply network pursuant to s142 of the Local Government Regulation 2005 (General). These hydrants are required to be placed on the water mains as necessary and at suitable locations to extinguish fires and be maintained in effective working order.

11.2 Water Service - 2 Ascot Place, Ballina

According to *AS2419.1* the “as necessary” hydrant requirements for each lot depend on the lot’s configuration.

Council therefore aims to meet requirements by providing for hydrant spacing of approximate 60m intervals along its water mains. Council also has a target to inspect 50% of the hydrants in the network annually to ensure they are “maintained in effective working order”.

The current situation at Ascot Place does not meet Council’s current approach.

The cost to provide a drinking water main and hydrants to Ascot Place (including Lot 71) is estimated at approximately \$35,000.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Provision of a new hydrant may be seen as favouring one business over others, and may not be socially equitable. On the other hand this reduces a potential fire risk for this location.
- **Economic**
Provision of a new hydrant supports one business at a moderate cost to Council.

Legal / Resource / Financial Implications

There is no budget for this work. If approved the funds would be sourced from the reserves held within Council’s water operations, or by transferring funds from other areas such as the water mains maintenance program.

Given the time and the number of owners since the original subdivision, it is considered unlikely that Council would be liable in the event of a fire.

There is a risk that other similar and as yet unknown situations exist elsewhere within the Shire. If Council proceeds with these works, there is a risk of setting a precedent whereby Council would be expected to solve all historical instances where insufficient hydrants have been provided. The potential financial cost of this is unknown, but could be substantial.

Consultation

Council staff have held discussions and corresponded with APP on behalf of their client. These discussions have been lengthy and more recently they have been delayed due to change in the management position for the water and wastewater section.

The correspondence and discussions held to date have not been able to resolved. The document exchange is attached to this report.

Options

Council could:

1. Refuse to accept any responsibility for the requested works. The owner could then make an application for an extension of the water main either as developer supplied infrastructure or via a private works contract with Council.
2. Consider some responsibility as the original developer and approval authority, but recognise the responsibilities of the owner under "buyer beware" principals, and carry out the works to the drinking water system through a shared cost arrangement with the owner.
3. Acknowledge as the original developer and approval authority that Council may have intended to extend the water main into Ascot Place and carry out the works to the drinking water system at Council's cost.

If the Council is inclined to support either options two or three, those deliberations should take into account the possibility of other requests to Council to address potential issues arising from old approvals issued by Council or work undertaken by Council as a developer.

It was also noted that if Council was not the developer it would be unlikely that a claim would be made to, or considered by, a private developer (even assuming the enterprise still existed). Therefore, it is suggested that Council should deal with this issue as a water utility, not as a former developer of the site.

The information in this report indicates that typically the cost of these works would be met by the developer as a condition of development consent. After that, responsibilities for improvements and compliance would normally reside with the title of the land. While there is some uncertainty about the history and the standards applicable at the time, the research by Council staff has not identified any conclusive reason why Council should accept any or all of the liability to undertake these works.

Therefore, the recommendation to this report is option one, that is, deny liability for the reasons set out in this report.

In recommending this option, it is also noted that Council staff have thoroughly considered the submission and it remains open to the applicant to conduct their own further research to provide sufficient evidence that justifies the allocation of public money to their request.

Council's decision in this matter will be forwarded to our insurer for their information.

RECOMMENDATION

That Council advise Ardill Payne and Partners that it does not accept liability for the provision of a fire service at Lot 71, DP 749501, 2 Ascot Place for the reasons as outlined within this report.

Attachment(s)

1. Site locality map showing water services
2. Letter from Ardill Payne & Partners 20 May 2013
3. Response from BSC 8 October 2013
4. Letter from Ardill Payne & Partners 6 December 2013

11.3 Tender - Transport of Kerbside Garden and Organic Waste

11.3 Tender - Transport of Kerbside Garden and Organic Waste

Delivery Program Waste Management

Objective To determine a response to the tender assessment for a contract for the transport of kerbside garden and organic waste materials to Lismore.

Background

Council currently has in place two contracts for the collection and transport of kerbside garden and organic waste materials. Solo Resources Recovery Group is currently engaged to undertake the kerbside collection of the materials and transport to the Ballina Waste Facility, where the materials are stockpiled.

Council loads the materials from the stockpile sites into 18 metre bins which are transported to the Lismore Waste Management Facility for processing. The transport of these bins is currently undertaken by another contractor.

Tenders were advertised in January 2014 for the transport of kerbside garden and organic waste materials to Lismore for a period of two years, with a one year option period.

At the close of the tender period on 6 February 2014, only one submission was received.

This report provides the outcomes from the tender evaluation process.

Key Issues

- Does the receipt of one tender constitute acceptable market testing?
- Award the tender in accordance with the Local Government (General) Regulations 2005
- Engage a suitably qualified and experienced contractor that having regard to all the circumstances provides the most advantageous tenders.

Information

The single tender submission was received from Solo Resources Recovery Group. As noted this company provides the services associated with our kerbside collection of organic waste. The submission from Solo was in two parts, the first being a conforming proposal to our specification and the second being an alternative offer.

The alternative offer was for the kerbside collection vehicles to drive direct to Lismore for the disposal.

Therefore the role of the tender evaluation panel in these circumstances is to assess whether the single tender represents value for money and whether the alternative tender presents the best advantage to Council.

11.3 Tender - Transport of Kerbside Garden and Organic Waste

The tender evaluation panel comprised three Council staff.

For the conforming tender, the panel examined the historical cost information for the expenses incurred to transport the waste to the Lismore facility by the current contractor.

Based on this review it is the panel's opinion that the rates submitted by Solo were comparable to the rate currently paid by Council.

For the non conforming tender (direct transport to Lismore by the collection vehicles) the price tendered is \$0.84 per tonne less than the rate tendered to transport the 18 metre bins.

Based on the current quantities being transported, this equates to a savings of \$4,500 per annum.

However there is a further saving as currently the waste material is stockpiled and loaded into 18 tonne bins by Council resources.

The expected savings to Council for avoiding this work is estimated to be around \$20,000 per annum.

A further advantage to this method is that by avoiding the stockpiling of the materials at the Ballina Waste Facility, there will be a reduction in feed stock available for birds, thereby assisting the bird strike risk management program for the airport.

In considering an alternative tender, the Council should review whether a different market result would be achieved if the Council had advertised the alternative option as part of or in replacement of its original specification.

In this circumstance, the answer to that question is considered to be no, as Solo is the only company known to be capable of offering the direct disposal option as they hold the Council kerbside collection contract.

The term for this tender is limited to the period expected for the delivery of biochar project.

This contract will also expire prior to the expiry of the contract to Solo for kerbside collection, which runs unto June 2018. This is important as the Council will need to be unconstrained when it seeks tenders for the next kerbside collection service period.

Sustainability Considerations

- **Environment**

The continued processing of the organics at the Lismore Waste Management Facility will maintain the reduction of waste to landfill.

- **Social**

Not Applicable

11.3 Tender - Transport of Kerbside Garden and Organic Waste

- **Economic**

The direct transport of organic waste materials will provide for cost savings to Council and assist in the efficient delivery of services for the community.

Legal / Resource / Financial Implications

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

Consultation

A public tender process has been undertaken

Options

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

1. Council may determine not to accept the tender received and invite fresh tenders.
2. Council may award the contract to Solo Resources Recovery Group to undertake the transport of kerbside garden & organic waste.

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

Option two is recommended as the preferred option as the tender assessment indicates that the tenderer is capable of undertaking the work and has the relevant experience in the industry. Furthermore, for the reasons set out in the about report, the assessment of the tender review panel is that the alternative tender provided by Solo represents savings to Council when compared to the current arrangements.

RECOMMENDATIONS

1. That Council accepts the tender for the transport of kerbside garden & organic waste from Solo Resources Recovery Group based on the alternative tender one of the tender submission, as detailed within this report.
2. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

11.4 Tender - Provision for Labour Hire Services

11.4 Tender - Provision for Labour Hire Services

Delivery Program Human Resources and Risk Management

Objective To obtain Council approval to award the contract for the Provision of Labour Hire Services for a five year period

Background

Tenders were advertised in November 2013 for experienced Organisations/Contractors to undertake the provision of labour hire services for a five year period. It is Council's intention to appoint a panel of two service providers who may provide casual staff to Council during the stated period. The appointment of two providers allows a degree of competition to continue during the contract term.

At the close of the tender period on 17 December 2013, 11 submissions were received.

This report provides the outcomes from the tender evaluation process.

Key Issues

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

Information

Tender submissions were received from:

Chandler Macleod Group	Charterhouse Resources
Complete Staff Solutions P/L	DOB Enterprises P/L
Hays Specialist Recruitment (Australia) Pty Limited	Integral People
JHA Recruitment & Staff @ Work Pty Ltd	NORTEC Staffing Solutions
North Coast Recruitment	Regional Recruitment Agency
Skilled Group Limited	

All tenders were initially assessed by the Project & Contract Co-Ordinator for conformity with the tender specification. Skilled Group Limited stated that their tender did not conform to the tender document and proposed changes to the terms and conditions in the proposed contract. Skilled Group Limited was the only tenderer to propose changes to the contract terms and conditions.

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

11.4 Tender - Provision for Labour Hire Services

- Experience and Past Performance - 20%
- Pricing Structure - 20%
- Capability - 20%
- Staffing – 15%
- Social & Community – 15%
- Knowledge of the Industry – 10%

The tender evaluation panel, consisting of the Manager Risk and Human Resources, the Project & Contract Co-Ordinator and the Human Resources Officer then assessed each of the tenders against the above criteria.

Skilled Group Limited was asked to review the non-conformances listed in the tender submission and although the majority of issues were clarified, the Skilled Group Limited still required amendments to the stated terms and conditions. Ultimately Skilled Group Limited was assessed as being a non-confirming tender.

The following is the final rankings of the tender submissions.

Tenderer	Ranking
JHA Recruitment & Staff @ Work Pty Ltd	1
North Coast Recruitment	2
Skilled Group Limited	3*
Regional Recruitment Agency	4
Hays Specialist Recruitment (Australia) P/L	5
Chandler Macleod Group	6
Complete Staff Solutions P/L	7
Integral People	8
NORTEC Staffing Solutions	9
DOB Enterprises P/L	10
Charterhouse Resources	11

* Non-conforming tender

The ability to engage casual day labour through labour hire companies is a critical part of Council's Risk and Human Resources section recruitment strategy. This strategy is preferred as it provides a wider pool of potential applicants for casual positions and reduces the demands for resources in the Human Resources section to manage this task.

Labour hire companies are beneficial service providers as they are able to attract and retain skilled casual workforce due to their ability to provide ongoing employment to these individuals and provide specialist skills in managing these employees.

This arrangement has proved to be the best advantage to Council in the past.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The two top ranked tenderers are locally based.

11.4 Tender - Provision for Labour Hire Services

- **Economic**
Not Applicable

Legal / Resource / Financial Implications

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

Labour hire costs under these contracts are met at the time by the budgets for the program areas needing the service.

Consultation

A public tender process has been undertaken.

Options

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

1. Council may determine not to accept any of the tenders received and invite fresh tenders.
2. Council may award the contract to the two highest ranked tenders, JHA Recruitment & Staff @ Work Pty Ltd and North Coast Recruitment.

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

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

RECOMMENDATIONS

1. That Council accepts the tenders for the provision of labour hire services for a five year period from JHA Recruitment & Staff @ Work Pty Ltd and North Coast Recruitment.
2. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

11.5 Tender - Provision for Design and Publishing Services

11.5 Tender - Provision for Design and Publishing Services

Delivery Program Governance and Finance

Objective To obtain Council approval to award the contract for the Provision of Design and Publishing Services for a two year period.

Background

Tenders were advertised in January 2014 for suitably qualified and experienced organisation to undertake the provision of design and publishing services for a two year period.

At the close of the tender period on 26 February 2014, nine submissions were received.

This report provides the outcomes from the tender evaluation process.

Key Issues

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

Information

Tender submissions were received from:

The Ad Agency	Armsign Pty Ltd
Butler Creative	Combustion Advertising
Dogwhistle Creative	DraftFCB Australia
Fathom Creative Pty Ltd	Gyrate
The Village Scribe	

All tenders were initially assessed by the Project & Contract Co-Ordinator for conformity with the tender specification - all tenders were deemed to be conforming.

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

- Pricing Structure - 40%
- Capability - 20%
- Experience & Past Performance - 15%
- Staffing – 10%
- Social & Community – 15%

11.5 Tender - Provision for Design and Publishing Services

The tender evaluation panel, consisting of the Manager – Information Services the Project & Contract Co-ordinator, the Manager Community Facilities & Customer Service and the Communication Liaison Officer then assessed each of the tenders against the above criteria.

The following is the final rankings of the tender submissions.

Tenderer	Ranking
The Ad Agency	1
Dogwhistle Creative	2
Combustion Advertising	3
Armsign Pty Ltd	4
Butler Creative	5
DraftFCB Australia	6
Fathom Creative Pty Ltd	7
Gyrate	8
The Village Scribe	9

Council undertakes a variety of design, publishing, promotional and marketing activities and produces a significant number of corporate documents. The content of these activities and documents are diverse and range from tourism based publications to corporate reporting documents and it is important that Council is able to deliver the right message to both the residents of the shire and tourists.

The proposed contract will be a schedule of rates contract based on the tendered hourly rates for all works undertaken. The Ad Agency is the current provider of services to Council and the tender submitted from the Ad Agency proposes to maintain the hourly rates as per the current agreement therefore containing costs at the current level, dependent on works undertaken by Council.

In comparison to the top four ranked tenderers, the hourly rates tendered by the Ad Agency are equal lowest, providing good value for money to Council.

The Ad Agency is located in the Northern Rivers region, however it should be noted no tenders were received from companies physically located in the Ballina Shire.

Sustainability Considerations

- **Environment**

Council's communications include environmental education and awareness messages which are considered essential to improve environmental outcomes.

- **Social**

As a local authority, Council's communications are important to assist in the awareness of social opportunities for the community.

11.5 Tender - Provision for Design and Publishing Services

- **Economic**

Effective corporate communications by Council can assist in local economic development by informing businesses, and attracting new businesses and visitors. These communications also make community members aware of grants and other opportunities that can assist economic development.

Legal / Resource / Financial Implications

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

Consultation

A public tender process has been undertaken.

Options

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

1. Council may determine not to accept any of the tenders received and invite fresh tenders.
2. Council may award the contract to the highest ranked tenderer, The Ad Agency.

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

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

RECOMMENDATIONS

1. That Council accepts the tender for the provision of design and publishing services for a two year period from the The Ad Agency.
2. That Council authorises the Council seal to be attached to the contract documents.

Attachment(s)

Nil

11.6 Policy (Review) - B Double and 4.6m High Vehicle Route Assessment

11.6 Policy (Review) - B Double and 4.6m High Vehicle Route Assessment

Delivery Program Asset Management

Objective To review the B Double and 4.6m High Vehicle Route Assessment for Regional and Local Roads Policy.

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 B Double & 4.6m High Vehicle Route Assessment for Regional and Local Roads Policy.

Council first adopted this policy in February 2003.

The objective of this policy is set out in the introduction to the policy. As well as confirming how the assessment procedure operates, the policy records the Council's position in respect of which roads in the Shire can be considered as appropriate for potential High Vehicle or B Double routes.

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**
The use of B-Doubles on appropriate routes reduces emissions and other environmental impacts associated with the freight task.
- **Social**
The use of B-Doubles on appropriate routes reduces the risk of road trauma given B-Double vehicles meet contemporary design standards and reduce the number of vehicles required for the freight task.

11.6 Policy (Review) - B Double and 4.6m High Vehicle Route Assessment

- **Economic**

The use of B-Doubles on appropriate routes contribute to efficiencies to the freight task. The request by the cane industry to use 4.6 metre high vehicles was aimed to assist the efficiency of that industry sector.

Legal / Resource / Financial Implications

There are no resource and financial implications associated with the recommendation to this report.

Legislation and RTA guidelines provide the assessment process to deal with B-Double routes. The Council policy is required to be compliant with these statutory arrangements.

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 adopts the amended B Double & 4.6m High Vehicle Route Assessment for Regional and Local Roads Policy, as attached to this report.
2. That Council place the amended 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. Policy - (Draft Review) - B-Double and 4.6m High Vehicle Route Assessment for Regional and Local Roads

11.7 Policy (Review) - Waste Disposal Fees for Not-for-Profit Groups

11.7 Policy (Review) - Waste Disposal Fees for Not-for-Profit Groups

Delivery Program Waste Management

Objective Present the review of the donations policy for waste disposal fees for not-for-profit groups

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 – Waste Disposal Fees for Not-for-Profit Groups' policy.

Council first adopted this policy in May 2009.

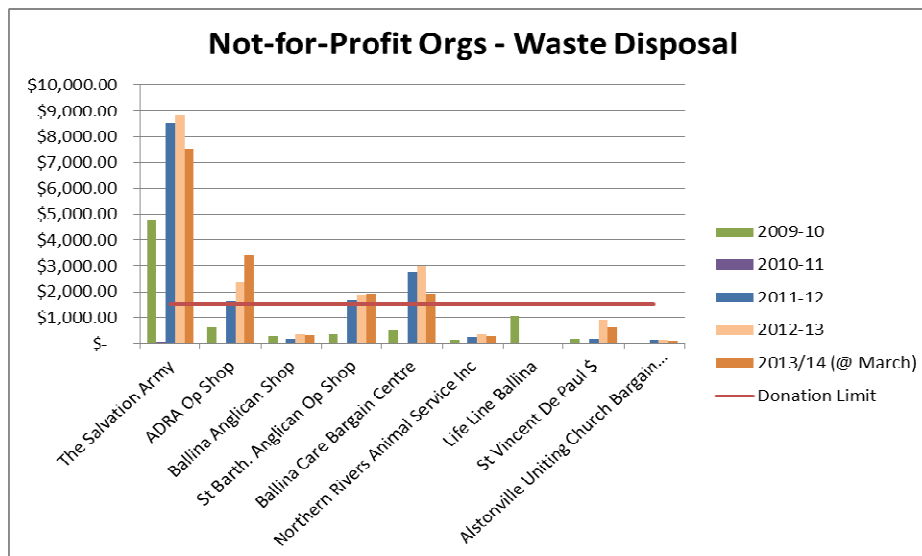
In developing the original policy, Council was attempting to strike a balance between its desire to assist local charities while recognising a continued Council subsidy did not encourage actions to reduce the issue of illegal or inappropriate drop offs to charity centres.

Key Issues

- Whether the policy meets the requirements of Council and current legislation
- Level of waste management fee relief to provide not-for-profit groups.

Information

The review of this policy involved assessing costs and liaising with the not-for-profit groups that qualify for this donation policy. It was identified that four of the nine groups have consistently exceeded the individual donation limit of \$1,500 in the last three years. Waste disposal fees above this limit are a cost for the not-for-profit group.

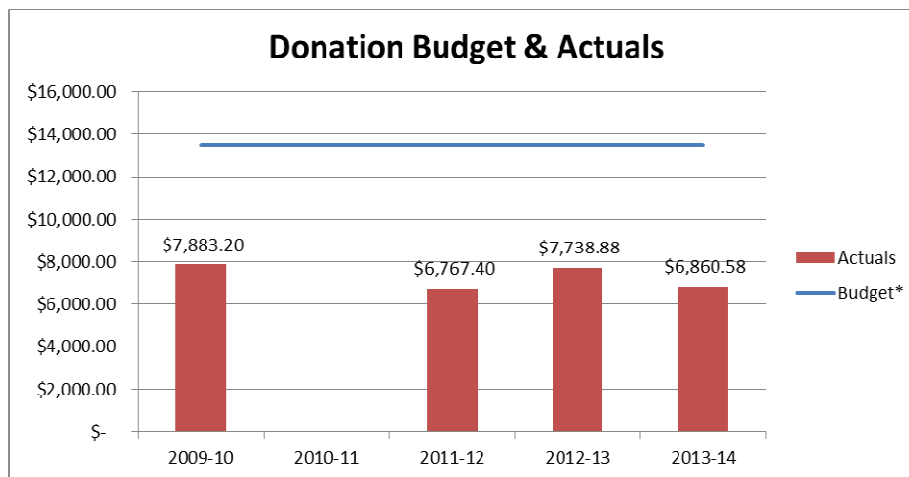


11.7 Policy (Review) - Waste Disposal Fees for Not-for-Profit Groups

Staff have consulted the groups that exceeded the donation limit, and this consultation confirmed the high volume of material transferred to the waste management centre was substantially due to illegal dumping occurring at their sites. One of the community groups has recently installed a security camera at the store drop off zone, while another is investigating the installation of similar equipment.

In consultation with Council's Development and Environmental Health Group, illegal dumping is an issue within Ballina Shire, as it is with many other regions. It results in costs and wasted staff resources collecting evidence, pursuing offenders, reporting and finally transporting and disposing to landfill. Council is currently in discussions with the regional waste group, North East Waste (NEWaste) regarding the trial of surveillance cameras at frequent dumping zones. This will include setting up appropriate systems, resources and procedures in order for undertaking these trials and following through with pursuing offenders.

For the nine not-for-profit groups, Council allows an annual budget of \$13,500 (\$1,500 per group) for waste disposal donations. Since the Policy was implemented up to 58% of this allocation has been utilised. This is due to the reduced illegal dumping occurring at the smaller sized not-for-profit groups.



Council's Finance Manager advises that it would be reasonable to index the current donation limit by 3% per year in accordance with waste management fees. This would bring the value for 2014 to 2018 (the next policy review) between \$1,650 and \$1,900.

The inappropriate drop offs at these facilities remains a major concern for Council along with the costs and resources incurred when illegal dumping takes place at various locations throughout the Shire. For this reason it is recommended that the current donation limit be increased to \$2,000 to assist the Not-for-Profit Groups manage illegal dumping that does occur on their sites.

Increasing this donation limit will increase the annual budget to \$18,000, albeit that based on current trends, only four of the not-for-profit groups approach annual the waste disposal fees of \$2,000. Hence actual costs would not be expected to exceed the existing budget of \$13,500.

11.7 Policy (Review) - Waste Disposal Fees for Not-for-Profit Groups

Rather than the budget allocation being used to waive fees, another option that has previously been discussed was for Council to invest with the not for profits in fencing, cameras or other infrastructure that would improve the management options for their sites. It is therefore pleasing to see some action being taken by some of the local charities.

With Council's Development and Environmental Health Group and NEWaste planning to implement illegal dumping surveillance systems, it is recommended that the current policy continue (subject to the suggested changes) and prior to the next review of this Policy (due in 2018) that an evaluation be conducted on the effectiveness of this surveillance system. At that time, the benefits of Council investing into the management of surveillance infrastructure at the not-for-profit groups can be properly assessed.

In summary, the changes to the policy include:

- Increasing the waste disposal donation limit for not-for-profit groups from \$1,500 to \$2,000 per year
- 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**
The provision of relief of disposal charges will ensure waste is disposed of appropriately.
- **Social**
The not-for-profit groups provide considerable social benefit to the community.
- **Economic**
Illegal dumping has financial implications for Council.

Legal / Resource / Financial Implications

The cost of providing this service will be charged to the Waste Management Program. By placing a limit extent of the relief to be provided Council will ensure that not-for-profit groups consider reuse options prior to disposal.

11.7 Policy (Review) - Waste Disposal Fees for Not-for-Profit Groups

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.

Staff have consulted with some of the charities that seek support under this policy.

Options

Council may accept or amend the proposed changes to the policy. The changes included are largely house keeping along with indexing the annual donation limit in accordance with waste management fees. Therefore it is recommended that the policy is suitable for adoption subject to public exhibition.

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 adopts the amended 'Donations – Waste Disposal Fees for Not-for-Profit Groups' Policy, as attached to this report.
2. That Council place the amended 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 - Waste Disposal Fees for Not-for-Profit Groups

11.8 Road Closing Application - Dalwood

11.8 Road Closing Application - Dalwood

Delivery Program Asset Management

Objective To determine Council's response to a proposal to close a road at Dalwood.

Background

Council has received a road closing application for an unformed road between Cooks Lane and Victoria Park Road at Dalwood.

The road closing process is administered by NSW Trade & Investment - Crown Lands in consultation with Council. Recently Crown Lands has been proactive in rationalising the Crown road system by encouraging landholders to make application to close and purchase unnecessary roads within and adjoining their property. From this process and historically, Council receives many applications to close public roads and is also asked to provide comments in regards to applications to close Crown public roads.

In general, the roads proposed to be closed are unformed and are usually disposed to the adjoining land owners. In some instances these unformed roads do provide a public road link between other constructed roads and may have potential merit to be retained in public ownership.

When assessing these applications consideration about the present and future use of the land must be considered. While the Council is invited to form an opinion in response to a road closure application, Crown Lands will be required to make the final determination. If a decision transfers the care and control of a road to Council, then this can create future liabilities for Council.

Council has a policy entitled 'Road Closing Applications for Public Roads' ("the policy") which provides guidelines for assessing an application. The purpose of the policy is to guide the assessment of the public benefit from the proposal and the associated costs for retaining the sections of unformed road. These benefits and costs may not be easily quantified.

Key Issues

- Merits of proposal
- Potential Council liability

Information

A recent application has been sent to Council from Crown Lands for comment. The unformed road forms an unbroken road connection between Cooks Lane and Victoria Park Road at Dalwood. There are six landholders adjoining this road and Council has received one submission which is against closing the road.

A location plan and aerial map is attached to this report. Also attached is a copy of the submission.

11.8 Road Closing Application - Dalwood

The submission makes numerous points objecting to the closing, however, the items which require Council's direction primarily deal with the loss of public access if the road is closed and the option to take control of the land for environmental purposes of bush regeneration and/or a wildlife corridor.

This land is used, or occupied, by the adjoining properties for general rural purposes for one-third of its length and contains mature vegetation for some two-thirds of its length. The road is 20m wide and approximately 1km long. An aerial image is attached to this report to show the existing land use.

Roads identified for closing are unformed with no Council built or maintained carriageway on the road. However, many road reserves will contain private access tracks or driveways which service the adjoining land. In these situations, the closing of the road will not affect the existing access arrangements or the rural operations of the adjoining land. Generally a closure will enhance the adjoining land use, however, the loss of public access will result.

Where public infrastructure exists within the road and belongs to Council or other service providers, then appropriate easements are granted in conjunction with any road closing. There are no Council services or infrastructure located in this section of road.

Most applications received from landholders are made whereby agreement has been reached between the adjoining landholders who support the road closure and how the road is to be ultimately disposed of. In some cases there is an adjoining landholder or third party who objects to the road being closed and sold.

In either case, Council has the ability to assess the proposal and consider whether or not it supports the application.

The Council policy (available on our website) assists in assessing an application and the benefit of having a road for the public must be assessed against issues such as property access, community access, future road network requirements and the retention or creation of environmental areas. The following extracts the points of consideration from the policy and the information in italics are a brief assessment comment for this application in response.

1. Is the road reserve used or likely to be used by the public for access? (this may include future vehicle, walking, cycling or horse tracks)

The road is unlikely to be used by the public due to its rural location unless some formed track is constructed.

2. Are there any infrastructure assets or services, Council or other authorities, located within the road reserve?

No

3. Does the land provide access to public land or a waterway?

No

11.8 Road Closing Application - Dalwood

4. Is there an environmental value in retaining the road reserve as public land to provide a vegetation or wildlife corridor?

The majority of the road is currently vegetated. An ecological assessment has not been undertaken to determine the value of the land as a significant vegetation stand or wildlife corridor.

5. Does the road reserve form part of a continuous road link between existing constructed public roads or public lands?

The road does provide an unformed continuous link between Cooks Lane and Victoria Park Road.

6. Is the road reserve within a designated future development area?

No

7. Will the community be burdened with the liability and long term maintenance of the road reserve if there are minimal opportunities for the land to be utilised by the public?

Any retention of land has inherent liabilities and long term maintenance expenses. If a rehabilitation program is proposed then a funding source would be required.

In considering these points, the road is not identified to be a critical section of road required by Council, however, there are some opportunities for public access or use should appropriate resources be provided.

If Council identifies a public benefit exists and it is preferred not to support the road closure, Crown Lands will be advised. In that case Crown Lands may request the road be transferred from the control of the Crown to Council. This will mean Council will be responsible for the ongoing land management issues and costs associated with the road reserve.

The submission makes a number of points in support of the retention of the road from the perspective of the property owner.

In response to the comments it is noted that the road may provide access benefits, albeit it is not essential.

It is also noted that while bushland regeneration may be beneficial, there is no immediate plan for such works and it is unlikely that the land would represent a high priority for Council's resources when compared to other bushland regeneration projects that require funding.

As discussed later in the options section, the road does provide a connected corridor between existing roads and this may be beneficial in the long term.

Sustainability Considerations

- **Environment**

Where land is kept in public ownership, there is the opportunity to undertake restoration works or if the site contains significant vegetation, to allow the land to be suitably protected from agricultural activity and therefore provide an environmental value.

- **Social**

The community has access to the land where it is kept in public ownership.

- **Economic**

Where land is retained, there are ongoing costs and liabilities with managing the site. The public ownership of the land also provides the opportunity to provide service or access corridors.

Legal / Resource / Financial Implications

The retention of the land will have financial implications. While these are difficult to estimate a figure, it is possible that these costs can be limited to periodic weed management. Additional funds would be required for any rehabilitation or other works. There may be some opportunities to offer the land for agistment to adjoining land holders. This would require some additional administration and would keep the land being utilised for agricultural purposes.

Consultation

Council has received a submission from an adjacent property owner.

Options

1. That the Council supports the road closing application at Dalwood.

The advantage of this option is that it ensures Council does not have any future liability attached to the land. It also allows for adjoining landholders to use the land and this may in fact be the most efficient and best economic use of the land and therefore be a preferred outcome for those landowners and the community.

2. That the Council oppose the road closing application at Dalwood.

The advantage of this option is that it maintains the status quo, which is reasonable in the circumstances and guards against uncertainty in case the corridor does represent an important public benefit in the future. In favour of this option on this occasion is that, compared to many other road closing applications, this road does connect between two existing roads and can be made accessible. The benefits of bushland regeneration have not been quantified or assessed.

It is noted that under this option, it is possible the Crown will determine that the care and control of the road reserve will be transferred to Council and that this will carry certain obligations and future liabilities.

11.8 Road Closing Application - Dalwood

The assessment of these options is largely subjective and a matter of personal opinion. For this reason it is difficult for staff to make a firm recommendation. Having regard to the assessment in the above report, and the preference of the community member interested in the proposal, option two is recommended on the basis that it is the more conservative position as it retains the land in public ownership until a point in time where there is more certainty regarding the best use of the land.

RECOMMENDATION

That Council advise Crown Lands that it does not support the road closing application for the land at Dalwood as per this report.

Attachment(s)

1. Plan showing Location and Property Information
2. Submission
3. Aerial View of Road Closing Application - Dalwood

11.9 Rescuing Our Waterways - Grant Program

11.9 Rescuing Our Waterways - Grant Program

Delivery Program Engineering Works

Objective To seek Council's approval to make a grant application to assist with the feasibility of dredging North Creek.

Background

Recently the NSW Government announced a funding program titled "Rescuing our Waterways". The \$1.5 million program is to support coastal dredging and a copy of the media release for the program is attached.

As per the attachment this is the second phase of a State Government dredging program with money previously allocated to dredging projects at Wallis Lake, Lake Cathie and Myall River.

The program provides up to 50% of the funding for a project. The funds are available for preconstruction activities and implementation. The closing date for applications is 14 April 2014.

Council has previously expressed its interest in pursuing dredging of the Ballina Bar for safety reasons. Council has also confirmed a commitment to pursue the dredging of North Creek as a resource extraction opportunity and to provide potential benefits to the hydrology and environment of the creek.

In respect to dredging the Ballina Bar a feasibility assessment completed by the NSW State Government has indicative costs for this work ranging from approximately \$1m to \$3m per annum, dependent on the amount of sand shift. Based on that magnitude of cost Council has adopted an advocacy role in seeking the delivery of this work, with the Council's Port Ballina Taskforce assisting with these efforts.

For North Creek, the Council has made the following resolution after consideration of a recommendation from the Commercial Services Committee meeting held 24 June 2013 (endorsed at the June 2013 Ordinary meeting):

1. *That Council approves an allocation of \$50,000 from the Quarry Reserve in the 2013/14 Operational Plan and budget to commence a more detailed feasibility assessment, along with any associated approvals, for dredging in North Creek, Ballina.*
2. *That Council approves an allocation of \$300,000 from the Quarry Reserve in the 2013/14 Operational Plan and budget as a nominal amount to recognise that Council may seek approvals for the expansion of the Council owned Tuckombil and Stokers quarries in 2013/14. The expenditure of these funds is subject to Council endorsing the commencement of this work following its consideration of the independent assessment completed on the operation of both these quarries, with that report scheduled to be submitted to Council at the July or August 2013 Ordinary meetings.*

11.9 Rescuing Our Waterways - Grant Program

Point two of this resolution is being advanced following Council endorsement of the quarry expansion plans at the August 2013 Ordinary meeting.

In respect to point one, at the July 2013 Ordinary meeting, in considering a report on the terms of reference for the Port Ballina Taskforce, Council also resolved as follows:

That Council write to the Department of Lands requesting them to commence the expression of interest process for dredging of North Creek.

This correspondence was forwarded to the Department on 13 August 2013, and a copy of that document is included as the second attachment to this report.

Since that date, on-going feedback from Crown Lands is that they are preparing the expression of interest (EOI) process to dredge North Creek, however as yet that EOI has not been exhibited.

This new round of State Government funding could assist Council in pursuing the dredging of North Creek and the report that follows seeks Council's approval to submit a grant application.

Key Issues

- Uncertainties in respect to dredging of North Creek
- Difficulties and cost in obtaining approvals

Information

In recent years Council has received a number of updates in respect to the possibility of dredging North Creek, with Council expressing an interest in this process due to the large build up of sand in this location. This build up is impacting on recreational activities and also could be having detrimental impacts on the local environment.

Consultation has occurred with a number of parties and some of the key points of interest identified to date include:

- In 2012 there were approximately 19 dredging licences of this type on the North Coast
- Any application to dredge will need to consider matters such as impact on overall estuary, impact on the Ballina bar, flow on impacts up-stream, environmental impacts etc
- Council or a private operator, or a joint venture, are all possible applicants for a dredging licence
- Any applicant will need to consider whether it is an extraction process (i.e. sand used for fill elsewhere) or a replenishment process, where sand is returned to the estuary or beach
- Initially a licence to investigate is provided by Crown Lands
- If approval is then obtained a licence to operate is provided - The term of this licence can be on-going (i.e. in perpetuity while it is operating)

11.9 Rescuing Our Waterways - Grant Program

- Ballina Shire Council has a significant amount of information already available through the Richmond River Estuary Management Plan, Ballina Floodplain Management Plan and the Coastal Hazard Plan to assist with the approval process
- Companies such as WBM BMT Australia have significant expertise in this area
- Department of Primary Industries will require a royalty on the resource extracted (maybe \$4 to \$5)
- The State Government appears to now be supportive of these proposals
- Any applicant may need to expend between \$50,000 to \$200,000 plus to conduct all the necessary feasibility, environmental studies to obtain the licence to operate - subject to all this work supporting the proposal

Other points of interest that were reported to Council's Commercial Services Committee in June 2013 included:

- Council's Income Diversification briefings identified that dredging of North Creek might provide revenue opportunities for Council
- The use of the sand from North Creek could assist Council with the filling required for our landholdings at the Southern Cross Industrial Estate. It may also improve access for recreational boats in North Creek and any surplus sand could possibly be on-sold by Council
- Feedback from Mr Gerard Tuckerman, from Great Lakes Council, who are undertaking dredging, indicates that Council may be able to obtain approvals by expending less than \$50,000, albeit that this does depend on the level of information available and the areas in question
- In respect to the actual operation of the dredging facility likely costs that Council would face include:
 - Site establishment - \$20,000
 - Material removal from site - \$20,000
 - Pumping – Approximately \$7.80 per cubic metre
 - Excavate deposition area – Approximately \$2.70 per cubic metre
 - Bund walls for deposition area - \$7,500
 - Transport sand - \$10 per cubic metre - or extended pumping of sand for short distance - \$2 to \$7 per cubic metre
 - Royalty – as negotiated with the NSW State Government
 - Along with various other impacts to be considered as part of approval process.
- Discussions were also held with Mr Rod King, from National Dredging Pty. Ltd, as they undertake the dredging works for Great Lakes Council. Mr King, who is based in Maclean, met Council staff in Ballina and examined the possibility of directly dredging sand from North Creek to the Southern Cross Industrial Estate, which would avoid the need for any transportation costs
- Mr King confirmed that this was feasible and with Council having a ready made site for the deposition area, being the Southern Cross Estate, this again helps to improve the viability of the entire proposal
- National Dredging Services has now been sold to Dredging Solutions Pty. Ltd., which is a larger Sydney based firm, but Mr King and representatives from Dredging Solutions remain available to discuss options with Council

11.9 Rescuing Our Waterways - Grant Program

- With Council having to pay at least \$25 per cubic metre for the transport of fill to the Southern Cross Estate for its most recent development, it appears there are financial benefits in obtaining a licence to dredge for North Creek, with the Southern Cross Estate being a ready made repository for the sand.

From the discussions with Great Lakes Council (which were undertaken in 2013) it is apparent that the phase one funding of this grant program assisted that Council in obtaining the approvals to dredge in Wallis Lake and the Myall River.

This means if Council is committed to pursuing the dredging of North Creek we should pursue funding through phase two.

The benefit of securing a grant is that this will help to defray the costs of obtaining the necessary approvals to dredge. At this stage we have estimates ranging from \$50,000 to upwards of \$200,000 plus (\$300,000 was mentioned at one stage) to obtain any approvals and ultimately the cost will depend on the level of technical assessment and research required to meet all the planning and State Agency requirements.

Currently there is \$50,000 in the 2013/14 budget to pursue the dredging of North Creek with no funds expended to date. The \$50,000 is sourced from the Quarry Reserve.

The latest forecast operating results and reserve movements for the quarry operations are as follows:

Description	2013/14 (\$'000)	2014/15 (\$'000)	2015/16 (\$'000)	2016/17 (\$'000)	2017/18 (\$'000)
Operating Revenues and Expenses					
Royalties and Rents	343	360	371	382	394
Less					
Operating Expenses	29	29	30	31	32
Quarry Expansion	300	0	0	0	0
North Creek Dredging	50	0	0	0	0
Council Overheads	23	24	25	25	26
Sub Total	402	53	55	56	58
Net Operating Result	(59)	307	316	326	334
Reserve Movements					
Opening Balance	1,751	1,332	1,168	1,274	1,390
Operating Result (as above)	(59)	307	316	326	334
Less Dividend to General Fund	80	80	80	80	80
Less LIRS Loan Repayments for Roads	130	130	130	130	130
Less Cont to Missingham Car Park	150	0	0	0	0
Less Cont to Coastal Recreational Path	0	261	0	0	0
Closing Balance	1,332	1,168	1,274	1,390	1,514

As per this table Council is extracting a significant amount of revenue from the quarry to assist with General Fund activities.

11.9 Rescuing Our Waterways - Grant Program

Pleasingly the quarry strategic options report submitted to Council in 2013 identified that there was limited remediation exposure to Council in operating the quarries and the major expenditure now planned is to obtain the approvals to allow the future expansion of the quarries. As per this table \$300,000 is already set aside for this work with less than \$5,000 expended to date.

In considering the funding to be applied for in respect to the grant program ideally Council needs to seek at least half (the grant is based on matching funding) the likely approval expenditure as a starting point. As mentioned earlier this could range from \$50,000 to upwards of \$300,000.

Assuming approvals could cost, at worst case, \$300,000 the proposal would be to apply for \$150,000 in funding. If successful this would require another \$100,000 to be sourced from the quarry reserve with \$50,000 already allocated.

Ideally the approvals would cost less than \$300,000 and any monies saved could then be applied to operating the licence. A grant of \$150,000 represents 10% of the total monies available (\$1.5 million) and on balance this is considered to be a reasonable approach to Council's application.

Sustainability Considerations

- **Environment**
Dredging activities can support improved environmental outcomes, however this will need to be comprehensively investigated and assessed.
- **Social**
Dredging activities can support improved recreational access to waterways.
- **Economic**
This proposal is intended to be a commercial venture that will seek to provide the community with access to a new material resource.

Legal / Resource / Financial Implications

The purpose of this report is to seek Council's support to pursue a grant opportunity. Any additional matching funds would be sourced from the quarry reserve.

Consultation

Council has been consulting key stakeholders through its Port Ballina Taskforce and through a combination of public and private organisations and operators.

Options

1. Support making an application for the grant.
2. Decline to take further application in response to the grant opportunity.

11.9 Rescuing Our Waterways - Grant Program

As this grant opportunity is aligned to an existing Council resolution and as Council has allocated funds (\$50,000) that could be used to meet some of the requirements to match a grant, option one is the recommendation to this report.

If the full amount requested of \$150,000 is successful the additional funds beyond that already allocated (i.e. the extra \$100,000) would be sourced from the quarry reserve.

RECOMMENDATIONS

1. That Council authorises the General Manager to make an application to the Rescuing our Waterways Program for the dredging of North Creek, Ballina.
2. Council's application may be inclusive of a Council commitment, if required, of an amount up to \$150,000, with this funding sourced from the Council's quarry reserve, as detailed within this report.

Attachment(s)

1. NSW Government Media Release - Dredging - Grant Funds
2. Request to Crown Lands to commence EOI process for dredging of North Creek

11.10 ARC Blackwater Linkage Grant - Review of Funding Arrangements

11.10 ARC Blackwater Linkage Grant - Review of Funding Arrangements

Delivery Program Engineering Works

Objective To review the response from Richmond River County Council in respect of Council's funding submission for this project.

Background

Southern Cross University is undertaking a research program with support from the Australian Research Council (ARC) to examine the effects and blackwater on the Richmond River and strategies to mitigate against these effects. Richmond River County Council (RRCC) has been overseeing the project on behalf of the region's local government authorities.

As previously reported to Council, RRCC is seeking for Council to meet all of the financial contributions required from local government under the ARC arrangements. The project is considered by this Council to be beneficial for the whole region. On this basis Council has made submissions that RRCC, or Lismore and Richmond Valley Councils, assist to meet a proportion of the financial commitment. The purpose of this report is for Council to consider the response from RRCC to Council's submissions regarding this funding issue.

Key Issues

- Funding responsibility

Information

It is Ballina Shire Council's position that the blackwater management project was initiated by SCU through the support of RRCC and that RRCC has subsequently been overseeing the project with SCU. While Ballina Shire Council has made certain commitments to the project, this was provided on the understanding that contributions from other councils benefiting from the project would be sought and ideally made.

RRCC now contend that as this support has not been forthcoming, Ballina Shire Council needs to fund the balance or the project will need to be terminated resulting in severe impacts to SCU.

As background to this, this matter was first reported to Ballina Shire Council at the September 2012 Ordinary Meeting where the resolution arising was as follows:

- 1. That in respect to the Australian Research Council grant for the Richmond River Council confirms its support for the project and that representations be made to Richmond River County Council requesting that the financial contribution be managed by the County Council in consultation with the constituent councils.*

11.10 ARC Blackwater Linkage Grant - Review of Funding Arrangements

2. *That Council invite representatives from Southern Cross University to provide an update to Councillors regarding this project.*
3. *That Richmond River County Council be contacted to place this item on their first meeting agenda for consideration.*

As per point one of this resolution, Council never resolved to fully finance this project. It was always Council's understanding that RRCC would manage the financial contributions.

As a result of point two of this resolution Professor Leigh Sullivan from SCU and Mr Michael Wood from RRCC provided a presentation to Ballina Shire Councillors on Tuesday 4 December 2012. Following that presentation Council considered another report on this matter at our December 2012 Ordinary meeting. The resolution arising from that report was as follows:

1. *That in respect to the Australian Research Council grant for the Richmond River, Council confirms its will provide the \$120,000 contribution for the 2012/13 financial year.*
2. *The preferred options for the sourcing of this funding are to be included in the December 2012 Quarterly Budget Review, which will be presented to Council at the February 2013 Council meeting.*
3. *That in respect to the contributions required for 2013/14 and 2014/15 Council confirms its preference is for these contributions to be shared equally amongst the constituent councils of the Richmond River County Council (RRCC), with the General Manager and RRCC delegates to make strong representations to RRCC in support of this equal sharing of the cost.*
4. *That Council write to the State and Federal Governments and seek NOROC and NRCMA support to assist with rehabilitation of the Richmond River.*

In summary, this resolution resulted in Ballina Shire Council committing to fully fund the 2012/13 financial year contribution however we also indicated our preference for RRCC to share the 2013/14 and 2014/15 contributions amongst the member councils.

Council's position as per these resolutions has been confirmed to RRCC through correspondence. Our correspondence dated 4 January 2013 (copy attached) included the following advice to RRCC.

In respect to the contributions for years two and three, Council will provide support as a last resort however our preference remains for the three constituent councils to make an equal contribution for those years.

It is unreasonable for Ballina Council to fully fund this project without some support from the other councils and it would be appreciated if all efforts could be made to ensure that contributions are obtained from the other members. The request for funding should be made as early in the budget cycle as possible so that all three constituent councils can allocate the necessary funds.

11.10 ARC Blackwater Linkage Grant - Review of Funding Arrangements

Council has consequently allocated \$40,000 in our 2013/14 and 2014/15 budgets for our contribution to this project on the assumption that the shortfall will be financed by RRCC.

In response to our submissions, RRCC have written to Council. A copy of their latest letter is attached. The attachment includes a copy of a report presented to RRCC. The letter advises of the following resolution by RRCC.

That Council:

- 1. Advise Ballina Shire Council that RRCC is unable to assist with additional funding for the project and of the responses received from other member Councils in relation to the shared funding request.*
- 2. Request advice from Ballina Shire Council regarding its position with respect to funding the year 2 contribution of \$120,000 consistent with the 'last resort' position outlined in its letter dated 4 January 2013.*
- 3. Make further representations to Lismore City and Richmond Valley Councils regarding shared contributions for the 2014/15 financial year.*

The report to Ballina Council's Finance Committee meeting held 18 March 2014 makes the following reference to this project.

The Blackwater research program is included in this section. There is an allocation of \$40,000 for 2014/15 and 2015/16. The project cost will be \$120,000 in each of these years however the LTFP assumes that other councils will contribute to the project.

Without the local government contribution, SCU will not be able to meet their commitments to the ARC. While the costs to Council are significant if it meets the full cost of the commitment, termination of the agreement would see no return on the amount already expended and create potential issues in relation to the funds expended to date by SCU.

Therefore Council can continue to seek a contribution from RRCC or the other councils or alternatively Council can accept the liability for the costs.

Sustainability Considerations

- **Environment**
This research project was supported because it targeted mitigation outcomes for a major environmental problem.
- **Social**
Fish kills in the Richmond River have major social impacts to residents adjoining the river, river users, and the population generally.
- **Economic**
Fish kills in the Richmond River have contributed to loss of business to professional fisherman and tourism based businesses. The cost to respond to a fish kill uses significant public funds.

Legal / Resource / Financial Implications

The purpose of this report is to review the significant potential financial implications to Council arising from this project.

Consultation

Council has been consulting RRCC in regards to this matter.

Options

1. Agree to fund the program.

The Council has made its case to the other councils and the submission has not been accepted. The Council has indicated as a "last resort" it would meet the commitment.

If the Council is inclined to accept this option, then a suggested resolution would be as follows.

That Council notes the advice from RRCC rejecting Council's request for RRCC or the other constituent councils to contribute to the ARC Blackwater Project and that Council receive a further report in regards to the options to finance the additional funds required for this project.

Council's original \$120,000 was financed from the Civil Services Stormwater drainage reserve, with the \$40,000 in Council's Long Term Financial Plan for 2014/15 and 2015/16 also financed from that reserve. The forecast balance for that reserve as at 30 June 2016 is \$5,500 which means that no other funds are available in this reserve for the increased contribution.

2. Determine no contributions, beyond the existing budgeted allocation, be made in respect of this project.

Under this option there would be no return on Council's previous investment.

3. Seek a further review by RRCC

The RRCC report dealing with this matter, copy attached, includes the following information.

Council currently holds \$1.836 million in its infrastructure replacement reserve. Forecast renewal liabilities are expected to exceed this amount in the short term. This source of funding is also accessed to provide matching funds for small natural resource management grants when available.

11.10 ARC Blackwater Linkage Grant - Review of Funding Arrangements

In response to this information, it is reasonable for Council to make inquiries in regards to the asset renewal program. Often it is the case that renewal of assets can be deferred to assist cash flow management and the planned timing of renewal projections can be conservative allowing deferral options.

Furthermore, variation in costs will occur that need to be managed.

The report refers to the short term, however the ARC issue is immediate, which provides some opportunities for RRCC to replenish its reserve and this can be modelled in a financial plan. That is unless the works planned are essential for delivery in the next two financial years, a reserve of this size could reasonably been managed to accommodate the required ARC funds.

In respect of the small natural resource management grants, it is reasonable for Council to indicate that in the circumstances the ARC grant is a higher priority than these, as yet unknown, grant projects, or if they are realised then as they are small, adjustments to the RRCC budget could be made, including an increase to the constituent council contributions, if required.

The RRCC report also refers to a budget amount of \$55,000 for "*the appointment of a suitably qualified assets engineer to progress contemporary asset management in the organization*". If the asset management practices are relatively immature, then this would further support the option for a close review of the infrastructure renewal program to see what opportunities there are to address this issue.

Also, in response to this reported information, the Group Manager Civil Services has written to the RRCC General Manager advising that it may be an option for Ballina Council to provide asset management services to RRCC.

This would provide a number of economies of scale advantages to reduce the cost for RRCC and provide resources with known direct expertise and experience for this type of work.

Finally RRCC could increase the annual contribution to the member councils for 2014/15 and 2015/16 to finance this cost. The advice from the RRCC is that as the member councils do not support this program they are not prepared to increase the contributions and it also appears that the delegates on RRCC also do not support this approach.

Overall further inquiries of RRCC are considered to be the preferred option at this point in time as RRCC has reserves available and the charging options to at least allow some of the cost of this project to be allayed for Ballina Shire Council.

RECOMMENDATION

That Council write to Richmond River County Council and request that, in collaboration, we conduct a review of the County Council's infrastructure renewal program with the view to identifying a strategy that can meet the infrastructure needs of the Council and address the funding issue associated with the ARC Blackwater project.

Attachment(s)

1. Advice to Richmond River County Council of Council's resolution re Australian Research Council project - Blackwater Project - ARC Grant
2. Funding arrangements for post-doctoral research into blackwater management - Richmond River County Council

12. Public Question Time

12. Public Question Time

13.1 Notice of Motion - Fishing - Shaws Bay

13. Notices of Motion

13.1 Notice of Motion - Fishing - Shaws Bay

Councillor Cr Meehan

I move

1. That Council authorises the General Manager to write to NSW Department of Primary Industries (Fisheries) requesting that the Department evaluate the fishing situation at Shaws Bay and invite an appropriate officer to inspect the area and discuss issues regarding the waterbody. Then to consider the making of a declaration under the Fisheries Management Act 1994 which would have the effect of prohibiting the *taking* of fish from Shaws Bay, Ballina.
2. Further, that Council report on the existing Shaws Bay Management Plan, outlining activities completed and activities planned for the area, ensuring the plan reflects actions which may be taken by NSW Department of Primary Industries (Fisheries) to protect marine life.

Councillor Comment

Shaws Bay is an enclosed waterway where fish cannot escape. As Ballina's population and popularity as a tourist destination grows there is increasing pressure on marine life in this special waterway.

Community members have approached me regarding the danger of fishing, particularly with multiple lines, near swimming areas of the Bay. Also it is reported that a number of large protected species continue to be taken from the Bay and from time to time crab pots are set in the Bay. Recently a petition calling for protection of sea life in Shaws Bay has been circulating and will be tabled today.

Upon enquiry I believe staff from the DPI (Fisheries) would be willing to come to the area to evaluate the situation and make appropriate recommendations regarding protection of marine life. I believe there could be a number of options available to the DPI (Fisheries) regarding this issue.

Staff Comment

The 2013/14 Operational Plan has one of its key actions being to review the existing Shaws Bay Management Plan. Funding of \$45,000 is allocated for this work with Hydrosphere Consulting, a Ballina based firm, having been engaged to undertake this review. It is anticipated that their preliminary feedback on this review will be available to Council around May this year.

COUNCILLOR RECOMMENDATIONS

1. That Council authorises the General Manager to write to NSW Department of Primary Industries (Fisheries) requesting that the Department evaluate the fishing situation at Shaws Bay and invite an appropriate officer to inspect the area and discuss issues regarding the waterbody. Then to consider the making of a declaration under the Fisheries Management Act 1994 which would have the effect of prohibiting the *taking* of fish from Shaws Bay, Ballina.
2. Further, that Council report on the existing Shaws Bay Management Plan, outlining activities completed and activities planned for the area, ensuring the plan reflects actions which may be taken by NSW Department of Primary Industries (Fisheries) to protect marine life.

Attachment(s)

Nil

13.2 Notice of Motion - Protection of Aquifers from Coal Seam Gas Mining

13.2 Notice of Motion - Protection of Aquifers from Coal Seam Gas Mining

Councillor

Cr Williams

I move

1. As Rous Water has determined that utilising groundwater resources could be critical to its 'Future Water Strategy' for providing potable water to its growing customer base of 100,000 people in the Northern Rivers.
2. Ballina Shire Council and Rous Water ask the Premier and Minister for the North Coast, Don Page MP to commit themselves to protecting the water resources of the region and that the Office of Water (NSW) and the Minister for Resources and Energy immediately ban unconventional gas mining in areas that may contaminate underground water sources that could be required for the future water needs of Rous' consumers.

Councillor Comment

Rous Water has spent many years and considerable resources in developing its Future Water Strategy which includes:

Key action 2 – Groundwater - Undertake detailed investigation to assess the suitability of increased use of groundwater as a new water source.

There are two Petroleum Exploration Licences (PELs) 16 (Metgasco) and 445 (Arrow) which could adversely affect Rous' groundwater plans.

Recent events in the Pilliga area have seen Santos mining fined for polluting an aquifer with uranium at 20 times acceptable drinking water levels as well as lead, aluminium, arsenic, barium, boron, nickel at levels "elevated when compared to livestock, irrigation and health guidelines". This pollution was caused by coal seam gas activities. There are also numerous reports of significant groundwater drawdown and contamination of groundwater by methane gas.

It is critical that the community's groundwater resources are protected for their future use. It is absolutely unacceptable that this vital community resource could be compromised or destroyed for private profit.

COUNCILLOR RECOMMENDATIONS

1. As Rous Water has determined that utilising groundwater resources could be critical to its 'Future Water Strategy' for providing potable water to its growing customer base of 100,000 people in the Northern Rivers.
2. Ballina Shire Council and Rous Water ask the Premier and Minister for the North Coast, Don Page MP to commit themselves to protecting the water resources of the region and that the Office of Water (NSW) and the Minister for Resources and Energy immediately ban unconventional gas mining in areas that may contaminate underground water sources that could be required for the future water needs of Rous' consumers.

14.1 Finance Committee Minutes - 4 March 2014

14. Advisory Committee Minutes

14.1 Finance Committee Minutes - 4 March 2014

Attendance

Cr David Wright (Mayor - in the chair), Jeff Johnson, Keith Williams, Keith Johnson, Susan Meehan (arrived at 4.01 pm), Ken Johnston, Paul Worth, Ben Smith and Robyn Hordern.

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

There were five people in the gallery at this time.

1. Apologies

An apology was received from Cr Sharon Cadwallader.

RECOMMENDATION

(Cr Ben Smith/Cr Keith Johnson)

That such apology be accepted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader and Cr Susan Meehan

2. Declarations of Interest

Nil

3. Deputations

- **Malcolm Milner** – spoke in opposition to Item 4.3 – Community Infrastructure – Non-recurrent Capital Projects and in particular to the item on the coastal shared/path/walk.

Cr Susan Meehan arrived at the meeting at 04:01 pm.

- **Shaun Eastment, Vice President, Lennox Head Residents Association** – spoke in relation to Item 4.3 – Community Infrastructure – Non-recurrent Capital Projects and in particular to the item on the coastal shared/path/walk.

4. Committee Reports

4.1 Financial Performance Indicators and Benchmarks

RECOMMENDATION

(Cr Ben Smith/Cr Susan Meehan)

That Council notes the contents of this report in respect to the Financial Performance Indicators and Benchmarks.

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

4.3 Community Infrastructure - Non-recurrent Capital Projects

A **Motion** was moved by Cr Jeff Johnson and seconded by Cr Keith Williams

That the priority for Council funding is the commuter cycleway on the western side of the Coast Road as per Section A1 to A5, as identified in the report.

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

FOR VOTE - Cr Jeff Johnson and Cr Keith Williams
AGAINST VOTE - Cr David Wright, Cr Keith Johnson, Cr Susan Meehan, Cr Ken Johnston, Cr Paul Worth, Cr Robyn Hordern and Cr Ben Smith
ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

Adjournment

The Mayor declared the meeting adjourned at 5.13 pm

The meeting resumed at 5.26 pm

RECOMMENDATION

(Cr Ben Smith/Cr Paul Worth)

That Council confirms its No. 1 priority for the funding proposal outlined in this report is for the Coastal Shared Path segments from Angels Beach to Sharpes Beach (referred to as Section B), with this information to be included in the drafting of Council's long term financial plan for 2014/15 onwards.

FOR VOTE - Cr David Wright, Cr Keith Johnson, Cr Susan Meehan, Cr Ken Johnston, Cr Paul Worth, Cr Robyn Hordern and Cr Ben Smith
AGAINST VOTE - Cr Jeff Johnson and Cr Keith Williams
ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

RECOMMENDATION

(Cr Keith Johnson/Cr Ben Smith)

That Council's remaining priority order, in respect to the long term financial plan, for the Coastal Shared Path / Walk and cycleway projects is Sections D, A and C, as referenced within this report.

14.1 Finance Committee Minutes - 4 March 2014

FOR VOTE - Cr Keith Johnson, Cr Susan Meehan, Cr Ken Johnston, Cr Robyn Hordern and Cr Ben Smith

AGAINST VOTE - Cr David Wright, Cr Jeff Johnson, Cr Keith Williams and Cr Paul Worth

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

4.2 Rating Structure - Ordinary Land Rates

A **Motion** was moved by Cr Keith Johnson and seconded by Cr Keith Williams

1. That Council, for the purposes of the 2014/15 Draft Operational Plan, endorses a base rating structure modelled on the following principles:
 - a) Marginally less than 50% of the rate income for the residential category of properties being generated from the base amount
 - b) Business, farmland and mining categories to have the same base amount as the residential base amount
 - c) A total of 20% income from the rate yield to be sourced from the business category properties
 - d) The mining category rate in the dollar to be set as the same rate as the business category (currently no mining category properties exist within the shire).
2. Preliminary figures for this rating structure for 2014/15, as per tables two and three within this report, are outlined below:

Table Two: Proposed 2013/14 Rating Structure

Rating Category	2.3% Increase	
	Base Amount	Rate in Dollar
Residential	429	0.165769
Business	429	0.589130
Farmland	429	0.133990
Mining	429	0.589130

Table Three: Proposed 2014/15 Income per Category 2.3%

Rate Category	2013/14				2014/15		
	5.9% increase	Cat % from base amt	Cat % of total yield	Ave Rate	2.3% increase	Cat % from base amt	Cat % of total yield
Residential	12,722,924	49.84	72.19	841	13,124,373	49.83	72.34
Business	3,525,028	14.76	20.00	2,793	3,628,551	14.67	20.00
Farmland	1,377,220	32.63	7.81	1,287	1,389,886	32.53	7.66
Mining	0	0	0.00	0.00	0.00	0.00	0.00
Total	17,625,172	N/A	100.0	1,010	18,142,810	N/A	100.00

3. That Council receive a report on how the business rate has changed over time since the introduction of the 20% cap.

14.1 Finance Committee Minutes - 4 March 2014

4. That Council receive a report on options in respect to farmland rating.

An **Amendment** was moved by Cr Jeff Johnson and seconded by Cr Susan Meehan

1. That Council receive a report on how the business rate has changed over time since the introduction of the 20% cap.
2. That Council receive a report on options in respect to farmland rating.

The **Amendment** was **LOST**.

FOR VOTE - Cr Keith Williams, Cr Susan Meehan and Cr Ken Johnston
AGAINST VOTE - Cr David Wright, Cr Jeff Johnson, Cr Keith Johnson, Cr Paul Worth, Cr Robyn Hordern and Cr Ben Smith
ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

The **Motion** was **CARRIED**.

FOR VOTE - Cr David Wright, Cr Keith Williams, Cr Keith Johnson, Cr Susan Meehan, Cr Ken Johnston, Cr Paul Worth, Cr Robyn Hordern and Cr Ben Smith
AGAINST VOTE - Cr Jeff Johnson
ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

RECOMMENDATION

(Cr Keith Johnson/Cr Keith Williams)

1. That Council, for the purposes of the 2014/15 Draft Operational Plan, endorses a base rating structure modelled on the following principles:
 - a) Marginally less than 50% of the rate income for the residential category of properties being generated from the base amount
 - b) Business, farmland and mining categories to have the same base amount as the residential base amount
 - c) A total of 20% income from the rate yield to be sourced from the business category properties
 - d) The mining category rate in the dollar to be set as the same rate as the business category (currently no mining category properties exist within the shire).
2. Preliminary figures for this rating structure for 2014/15, as per tables two and three within this report, are outlined below:

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14.1 Finance Committee Minutes - 4 March 2014

Table Three: Proposed 2014/15 Income per Category 2.3%

Rate Category	2013/14				2014/15		
	5.9% increase	Cat % from base amt	Cat % of total yield	Ave Rate	2.3% increase	Cat % from base amt	Cat % of total yield
Residential	12,722,924	49.84	72.19	841	13,124,373	49.83	72.34
Business	3,525,028	14.76	20.00	2,793	3,628,551	14.67	20.00
Farmland	1,377,220	32.63	7.81	1,287	1,389,886	32.53	7.66
Mining	0	0	0.00	0.00	0.00	0.00	0.00
Total	17,625,172	N/A	100.0	1,010	18,142,810	N/A	100.00

3. That Council receive a report on how the business rate has changed over time since the introduction of the 20% cap.
4. That Council receive a report on options in respect to farmland rating.

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

AGAINST VOTE - Cr Jeff Johnson

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

MEETING CLOSURE

6.33 pm

RECOMMENDATION

That Council confirms the minutes of the Finance Committee meeting held 4 March 2014 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

14.2 Finance Committee Minutes - 18 March 2014

14.2 Finance Committee Minutes - 18 March 2014

Attendance

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

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

There were three people in the gallery at this time.

1. Apologies

Nil

2. Declarations of Interest

Cr Sharon Cadwallader – declared an interest in Item 4.4 – Community Services – Infrastructure Options. (Nature of Interest: non significant non pecuniary – she is a tourism provider in the Shire). She will be remaining in the meeting while the matter is discussed and voting on the matter.

3. Deputations

- **Peter Cucilovic – Ballina RSL Sub Branch** – spoke in relation to Item 4.9 – Community Infrastructure – Non-recurrent Capital Projects and in particular to the Ballina Cenotaph.

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

- **Denis Magnay** – spoke in favour of Item 4.7 – Coastal Recreation Path/Walk Projects – Funding Update.

4. **Committee Reports**

4.1 **Rating Structure**

RECOMMENDATION

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council notes the contents of this report on the existing rating structure, with particular reference to farmland and business properties.

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

AGAINST VOTE - Cr Susan Meehan

A **Motion** was moved by Cr Susan Meehan and seconded by Cr Keith Williams

That Council receive a report on options to review the farmland rating structure.

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

FOR VOTE - Cr Jeff Johnson, Cr Keith Williams and Cr Susan Meehan

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

4.2 **Recycled Water - Pricing Survey**

A **Motion** was moved by Cr Sharon Cadwallader and seconded by Cr Ben Smith

1. That Council's schedule of fees and charges for the draft 2014/15 Delivery Program and Operational Plan include a recycled water price of 80% of the price for drinking water.
2. That Council continue to implement its Recycled Water Education Program, including the monitoring of feedback from the community in relation to the quality and price of the recycled water supply.

An **Amendment** was moved by Cr Jeff Johnson and seconded by Cr Susan Meehan

1. That Council's schedule of fees and charges for the draft 2014/15 Delivery Program and Operational Plan include a recycled water price of 70% of the price for drinking water.
2. That Council continue to implement its Recycled Water Education Program, including the monitoring of feedback from the community in relation to the quality and price of the recycled water supply.

The **Amendment** was **LOST**.

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

The **Motion** was **CARRIED**.

FOR VOTE - All Councillors voted unanimously.

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council's schedule of fees and charges for the draft 2014/15 Delivery Program and Operational Plan include a recycled water price of 80% of the price for drinking water.
2. That Council continue to implement its Recycled Water Education Program, including the monitoring of feedback from the community in relation to the quality and price of the recycled water supply.

FOR VOTE - All Councillors voted unanimously.

4.3 On-site Sewage Management - Program Update

A **Motion** was moved by Cr Ben Smith and seconded by Cr Sharon Cadwallader

1. That Council notes the contents of this report in respect to the status of the On-site Sewage Management Program.
2. That Council acknowledges the existing resource limitations, as detailed within this report, and endorses the works program as detailed in option a) of this report.
3. That Council write to Rous Water detailing outcomes of its OSSM grants scheme and requesting consideration of its re-implementation.

An **Amendment** was moved by Cr Paul Worth and seconded by Cr Keith Johnson

1. That Council notes the contents of this report in respect to the status of the On-site Sewage Management Program.
2. That Council exhibit an increased fee of \$40 for OSSM inspections for 2014/15.
3. That Council write to Rous Water detailing outcomes of its OSSM grants scheme and requesting consideration of its re-implementation.
4. That Council receive a report on the changes the additional revenue from the increase in the OSSM inspection fee to \$40 will bring to the current works program, along with any other relevant fee changes.

The **Amendment** was **CARRIED**.

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

AGAINST VOTE - Cr Sharon Cadwallader and Cr Ken Johnston

The **Amendment** then became the **Motion** and was **CARRIED**.

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

AGAINST VOTE - Cr Sharon Cadwallader and Cr Ken Johnston

RECOMMENDATION

(Cr Paul Worth/Cr Keith Johnson)

1. That Council notes the contents of this report in respect to the status of the On-site Sewage Management Program.
2. That Council exhibit an increased fee of \$40 for OSSM inspections for 2014/15.
3. That Council write to Rous Water detailing outcomes of its OSSM grants scheme and requesting consideration of its re-implementation.
4. That Council receive a report on the changes the additional revenue from the increase in the OSSM inspection fee to \$40 will bring to the current works program, along with any other relevant fee changes

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

AGAINST VOTE - Cr Sharon Cadwallader and Cr Ken Johnston

4.4 Community Services - Infrastructure Options

RECOMMENDATION

(Cr Jeff Johnson/Cr Susan Meehan)

1. That Council notes the contents of this report in respect to Community Services – Infrastructure Options.
2. That the General Manager be authorised to investigate further the concept of transferring the function of Council's visitor services to the Kentwell Community Centre, and the existing Visitor Information Centre on River Street being adapted for use as a community meeting space.

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

AGAINST VOTE - Cr Sharon Cadwallader

4.5 Ballina Indoor Sports and / or Events Centre

RECOMMENDATION

(Cr Susan Meehan/Cr Paul Worth)

1. That the Council notes the contents of this report relating to the planning for a new indoor multi-purpose sports facility and draft master planning for the Kingsford Smith Reserve in Ballina.
2. That the Council commits to planning for a multi-purpose indoor sports facility on Council-owned land within the Southern Cross Industrial Estate in Ballina. That the General Manager prepare a further report which identifies options and a preferred site within the Estate.
3. That the information within the Kingsford Smith Reserve draft master plan prepared by PDT Architects be used, where appropriate, in future land use planning projects undertaken by Council.

FOR VOTE - All Councillors voted unanimously.

4.6 Property Reserves - Future Cash Flows

RECOMMENDATION

(Cr Ben Smith/Cr Paul Worth)

That Council notes the contents of this report with respect to the forward projections for the property reserves and in particular there is no discretionary funding available in the Community Infrastructure Reserve for additional non-recurrent projects in the 2014/15 financial year.

FOR VOTE - All Councillors voted unanimously.

4.7 **Coastal Recreation Path / Walk Projects - Funding Update**

A **Motion** was moved by Cr Ben Smith and seconded Cr Sharon Cadwallader

1. That Council confirms its acceptance of the additional \$840,000 in grant funds from the RMS for construction of the two segments of the western cycleway, as outlined in this report.
2. In accepting the grants Council agrees to withdraw its applications for RMS grant funding for the Coastal Shared Path project from Angels Beach to Sharpes Beach on the basis that Council will commit to 100% funding this section.
3. That for the purposes of our financial planning Council confirms that funding for Section A will be sourced in the 2014/15 budget, if any grant applications are successful, through the deferral of road capital works projects. The identification of these projects is to be confirmed following announcement of the grants for 2014/15.
4. That for the purposes of our financial planning Council confirms that funding for Section D will be included in the year 2015/16, in Council's long term financial plan, with the project to be funded 50% from RMS grants and the balance from Council's Community Infrastructure Reserve.
5. That the Mayor write to the local State Member, Mr Don Page, thanking him for any assistance he may have provided in securing Council the additional RMS grant funds.
6. That Council not construct the 140 metre section on the Coast Road at Southern Angels Beach, at this point in time.

An **Amendment** was moved by Cr Keith Williams and seconded by Cr Jeff Johnson

1. That Council confirms its acceptance of the additional \$840,000 in grant funds from the RMS for construction of the two segments of the western cycleway, as outlined in this report.
2. In accepting the grants Council agrees to withdraw its applications for RMS grant funding for the Coastal Shared Path project from Angels Beach to Sharpes Beach.
3. That due to the availability of the funding in point one, Council confirms its priorities for future grant funding for the Coastal Shared Path / Walk / Western Cycleway projects is, in order of priority, and as referenced in this report:

Section A – Western Side of The Coast Road - Shared Path (North Creek Road \$890,000)

Section D – Eastern and Western Side of The Coast Road – Shared Path (\$1.7m)

Section C - Eastern Side of The Coast Road – Coastal Walk (\$1.4m)

4. That for the purposes of our financial planning Council confirms that funding for Section A will be sourced in the 2014/15 budget, if any grant applications are successful, through the deferral of road capital works projects. The identification of these projects is to be confirmed following announcement of the grants for 2014/15.
5. That for the purposes of our financial planning Council confirms that funding for Section D will be included in the year 2015/16, in Council's long term financial plan, with the project to be funded 50% from RMS grants and the balance from Council's Community Infrastructure Reserve.
6. That the Mayor write to the local State Member, Mr Don Page, thanking him for any assistance he may have provided in securing Council the additional RMS grant funds.
7. That Council approves the construction of the Coastal Shared Path, just north of the Angels Beach underpass, to be consistent with the planning consent, if and when obtained, as per the attachment to this report.

The **Amendment** was **CARRIED**.

FOR VOTE - Cr David Wright, Cr Jeff Johnson, Cr Keith Williams, Cr Keith Johnson and Cr Susan Meehan and the casting vote of the Mayor

AGAINST VOTE - Cr Sharon Cadwallader, Cr Ken Johnston, Cr Paul Worth, Cr Robyn Hordern and Cr Ben Smith

The **Amendment** then became the **Motion** and was **CARRIED**.

FOR VOTE - Cr David Wright, Cr Jeff Johnson, Cr Keith Williams, Cr Keith Johnson and Cr Susan Meehan and the casting vote of the Mayor

AGAINST VOTE - Cr Sharon Cadwallader, Cr Ken Johnston, Cr Paul Worth, Cr Robyn Hordern and Cr Ben Smith

RECOMMENDATION

(Cr Keith Williams/Cr Jeff Johnson)

1. That Council confirms its acceptance of the additional \$840,000 in grant funds from the RMS for construction of the two segments of the western cycleway, as outlined in this report.
2. In accepting the grants Council agrees to withdraw its applications for RMS grant funding for the Coastal Shared Path project from Angels Beach to Sharpes Beach.
3. That due to the availability of the funding in point one, Council confirms its priorities for future grant funding for the Coastal Shared Path / Walk / Western Cycleway projects is, in order of priority, and as referenced in this report:
 - Section A – Western Side of The Coast Road - Shared Path (North Creek Road \$890,000)
 - Section D – Eastern and Western Side of The Coast Road – Shared Path (\$1.7m)
 - Section C - Eastern Side of The Coast Road – Coastal Walk (\$1.4m)

4. That for the purposes of our financial planning Council confirms that funding for Section A will be sourced in the 2014/15 budget, if any grant applications are successful, through the deferral of road capital works projects. The identification of these projects is to be confirmed following announcement of the grants for 2014/15.
5. That for the purposes of our financial planning Council confirms that funding for Section D will be included in the year 2015/16, in Council's long term financial plan, with the project to be funded 50% from RMS grants and the balance from Council's Community Infrastructure Reserve.
6. That the Mayor write to the local State Member, Mr Don Page, thanking him for any assistance he may have provided in securing Council the additional RMS grant funds.
7. That Council approves the construction of the Coastal Shared Path, just north of the Angels Beach underpass, to be consistent with the planning consent, if and when obtained, as per the attachment to this report.

FOR VOTE - Cr David Wright, Cr Jeff Johnson, Cr Keith Williams, Cr Keith Johnson and Cr Susan Meehan and the casting vote of the Mayor

AGAINST VOTE - Cr Sharon Cadwallader, Cr Ken Johnston, Cr Paul Worth, Cr Robyn Hordern and Cr Ben Smith

4.8 Community Infrastructure - Recurrent Capital Projects

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council endorses, for the preparation of the draft 2014/15 Delivery Program and Operational Plan, the program of recurrent funded capital projects, as detailed within this report, and subject to an additional \$50,000 being taken from the Roads budget and re-allocated to playground equipment.
2. That Council receive a report on the status of the air conditioning system at the Council Administration Centre.

Cr Jeff Johnson left the meeting at 06:34 pm.

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

AGAINST VOTE - Cr Paul Worth

ABSENT. DID NOT VOTE - Cr Jeff Johnson

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Keith Williams)

That Council receive a report on the infrastructure planned to improve the parking and traffic arrangements at Newrybar.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson

4.9 Community Infrastructure - Non-recurrent Capital Projects

RECOMMENDATION

(Cr Keith Johnson/Cr Paul Worth)

That Council receive a report outlining the likely cost of preparing the site to a suitable standard for the Alstonville Pre-school.

Cr Sharon Cadwallader left the meeting at 06:49 pm

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

RECOMMENDATION

(Cr Ben Smith/Cr Keith Williams)

That Council allocate a maximum of \$25,000 in 2014/15 to assist with the relocation of the Ballina Cenotaph.

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

RECOMMENDATION

(Cr Susan Meehan/Cr Robyn Hordern)

That Council confirms the following allocation of the discretionary property reserve funds available in 2015/16 and 2016/17 for the purposes of our draft 2014/15 Delivery Program and Operational Plan:

Year	15/16 '000	16/17 '000
Skennars Head Fields – Expansion (20% contingency)	1,200	0
Missingham Car Park	250	0
Ballina Town Entry Treatment Master Plan	0	300
Total	1,450	300

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

RECOMMENDATION

(Cr Susan Meehan/Cr Robyn Hordern)

That Council support a redevelopment of the Ballina and Alstonville pools as soon as practicable seeking Federal and State Government Grants, along with receiving a report on the use of special rate variations to assist in funding this work.

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

4.10 Long Term Financial Plan - General Fund

RECOMMENDATION

(Cr Ben Smith/Cr Keith Williams)

1. That Council notes the contents of the draft operating LTFFP, as per the separate attachment to this report, for inclusion in the draft 2014/15 Delivery Program and Operational Plan, including any adjustments resulting from this and other meetings prior to the formal exhibition process commencing.
2. That Council notes the proposal to defer the replacement of the positions identified within this report subject to improvements in the recurrent operating result.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Sharon Cadwallader

A **Motion** was moved by Cr Paul Worth and seconded by Cr Robyn Hordern

That Council receive a report on Ferry fees and charges to the next Finance Committee meeting.

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

FOR VOTE - Cr Keith Johnson, Cr Paul Worth and Cr Robyn Hordern

AGAINST VOTE - Cr David Wright, Cr Keith Williams, Cr Susan Meehan, Cr Ken Johnston and Cr Ben Smith

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Sharon Cadwallader

RECOMMENDATION

(Cr Keith Johnson/Cr Keith Williams)

That Council conduct a strategic project review to establish a clear overall priority for our projects.

FOR VOTE - Cr David Wright, Cr Keith Williams, Cr Keith Johnson, Cr Susan Meehan and Cr Paul Worth

AGAINST VOTE - Cr Ken Johnston, Cr Robyn Hordern and Cr Ben Smith

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Sharon Cadwallader

MEETING CLOSURE

7.20 PM

RECOMMENDATION

That Council confirms the minutes of the Finance Committee meeting held 18 March 2014 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

15.1 Mayoral Meetings

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

15.1 Mayoral Meetings

Councillor David Wright

Activities since the February 2014 Ordinary meeting:

<u>Date</u>	<u>Function</u>
1/3/14	Opening Ballina Aboriginal Child Family Centre
2/3/14	Pink Stumps Day – Alstonville Cricket Club
3/3/14	NSW Rugby League – Lennox Head
4/3/14	Finance Committee
4/3/14	Reserve Trust Meeting
5/3/14	Combined Services Club – RSL – Presentation of Scholarships
6/3/14	Meeting – Centenary of ANZAC Day
6/3/14	Visit to Don Page's Office – Thanks for Grant
8/3/14	Quota High Tea – House with No Steps
9/3/14	Lennox Head Markets
10/3/14	Councillor Briefing – Reclassification of Council Waterways
11/3/14	A Ward Committee
11/3/14	Ballina TAFE Campus Awards
13/4/14	Meeting – Applicant Dwelling in Alstonville Zone – 10.00 am
13/3/14	Meeting – re Swimming Pools
13/3/14	Meeting with new Gallery Co-ordinator
13/3/14	Port Ballina Taskforce
13/3/14	C Ward Committee
15/3/14	Gallery Exhibition Launch – 'Timeless Stitch'
15/3/14	Lions Youth of the Year – Lennox Head
16/3/14	Crawford House Exhibition
17/3/14	B Ward Committee
18/3/14	Finance Committee
18/3/14	Seniors' Week – Ballina Meals on Wheels – Crane Street
19/3/14	Northern JRPP – Site Inspection and Panel Meeting
19/3/14	Seniors' Week – Ballina RSL
20/3/14	Close the Gap – Ballina High/Southern Cross High
20/3/14	Briefing – Koala Management Study
21/3/14	Launch – Bushland regeneration – Lennox Head
24/3/14	2014 Australian Coastal Councils' Conference
24/3/14	Cr Briefing – Progress of Pressure leakage Management Plan
24/3/14	Cr Briefing – Lennox Head Surf Club/Lake Ainsworth precinct
25/3/14	2014 Australian Coastal Councils' Conference
26/3/14	2014 Australian Coastal Councils' Conference
27/3/14	Council Meeting

RECOMMENDATION

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

16. Questions Without Notice

16. Questions Without Notice

17. Confidential Session

17. Confidential Session

Nil Items