



## 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 22 May 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 Richmond Christian College.

**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**

An apology has been received from Cr Robyn Hordern.

**4. Confirmation of Minutes**

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 24 April 2014 were distributed with the business paper.

**RECOMMENDATION**

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 24 April 2014.

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

**6. Deputations**

**7. Mayoral Minutes**

Nil Items

## 8.1 DA 2014/91 - 9 Killarney Crescent, Skennars Head

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### 8. Development and Environmental Health Group Reports

#### 8.1 DA 2014/91 - 9 Killarney Crescent, Skennars Head

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<b>Applicant</b>	Peter Turner and Associates
<b>Property</b>	Lot 22, DP 805365 9 Killarney Crescent, Skennars Head
<b>Proposal</b>	Alterations and additions to an existing two storey dwelling including the creation of a third storey
<b>Effect of Planning Instrument</b>	The land is zoned R2, Low Density Residential under the provisions of the Ballina LEP
<b>Locality Plan</b>	The subject land is depicted on the locality plan attached

#### Introduction

The development application seeks approval to carry out ground and first floor alterations and additions to an existing two storey dwelling, as well as the creation of a new second floor area, resulting in three floor levels.

The proposed dwelling modifications are permissible having regard to the introduction of both the Ballina Local Environmental Plan (BLEP) 2012 and Ballina Shire Development Control Plan (DCP) 2012 in February 2013, which increased the allowable maximum overall building height to 8.5m.

It is also noted that Council at its Ordinary Meeting of 27 March 2014 resolved to place on public exhibition a number of proposed changes to DCP 2012, including additional design parameter requirements for buildings where a third storey "loft" is proposed. The proposed draft DCP 2012 modifications requires any third storey to be incorporated as a loft area within the roof space and not give the appearance of a third storey.

The notification process has resulted in six written submissions being received, with two being received from the one objector. Five submissions from nearby residents are attached, whilst one other is confidential and available to Councillors on request. The issues raised are privacy, loss of views, the draft DCP 2012 modifications and the potential for a precedent being established which will result in similar developments within the Skennars Head "Headlands" Estate.

#### Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

### **Public Exhibition**

In accordance with the provisions DCP 2012, Chapter 1 – Administration, the proposed development qualified as a level 1 – Targeted Notification;

This includes residential development types where it is determined there may be issues such as impacts on privacy, overshadowing or view loss.

Accordingly, the proposed development was notified to adjoining/nearby owners and occupiers likely to be affected by the proposed development.

As a result of the notification, six letters of objection have been received with no submissions received in support of the proposal.

### **Applicable Planning Instruments**

The pertinent Planning Instruments considered applicable to this development are as follows.

- Ballina Local Environmental Plan 2012.
- Ballina Development Control Plan 2012

### **Report**

The application was lodged with Council on 10 March 2014, following a number of pre-lodgement consultations between the applicant and Council staff for the purpose of discussing the design requirements to satisfy the provisions of both the BLEP 2012 and DCP 2012.

The application has been assessed in accordance with the heads of consideration under Section 79C of the Environmental Planning and Assessment Act 1979. The proposed alterations and additions are generally in accordance with the provisions of both the BLEP 2012 and DCP 2012.

Although not required by legislation, consideration and comment is also provided on the proposed draft Building Height modifications contained within DCP 2012.

In relation to the six submissions received, two have been submitted from the adjoining neighbour to the north, one from the immediate southern neighbour, one from a resident located two properties to the south of the site and another from a property to the south west of the site. A further submission has also been received from a resident within Killarney Crescent who is not an immediate or nearby neighbour.

A summary of the objections and comments are provided as follows:

#### **Height of building**

Objections were received regarding the proposed height of the building, questioning the accuracy of the existing ground levels as shown on plan.

However, the information provided with the application included a survey plan prepared by a Registered Surveyor which detailed the existing ground levels at various points surrounding the building. The ground levels as shown on plan are considered accurate and a copy of the Survey plan is attached.

Under the previous BLEP, a height reference limitation of 6.4 metres applied to the upper ceiling level of dwellings within urban residential zones, which no longer applies under the recent BLEP 2012.

The BLEP 2012 now allows for a maximum overall building height of 8.5 metres, as measured from existing ground level to the top of the roof ridge line. DCP 2012 also states that there is no limit on the numbers of storeys within a dwelling. This overall height can now accommodate multi levels, including a three storey development, however consideration is to be given to privacy and overshadowing.

The plans provided indicate a building with an overall height of 29.14 metres Australian Height Datum (AHD), as measured from a natural ground level of 20.65 m (AHD), giving an overall building height of 8.49 metres.

The existing ground level immediately below the highest point of the uppermost second floor level is approximately 20.73 m (AHD) based on the levels taken on the ground at two locations on the southern wall of the building, and one on the northern wall. Accepting the existing ground level is 20.73 m (AHD), to comply with the maximum building height requirements the roof height should not exceed 29.23 m (AHD). The proposed overall roof height is shown on plan as RL 29.14 m (AHD), being 90mm below the permissible height.

Comment was also made that the ceiling height of the second floor addition is less than that specified by the Building Code of Australia (BCA), being a minimum 2.4 metres for a habitable room. The plan reveals the ceiling height in this area has a minimum height of 2.4 metres in accordance with the BCA. Part of this area is shown to have a ceiling height of less than 2.4 metres however that part has no floor below, with the area being a void extending to the floor level below the second floor.

#### Privacy

Two neighbors, one to the immediate north, and the other to the immediate south, claim that approval of the proposed additions will result in loss of privacy, with their living areas in direct line of sight from the proposed uppermost second floor.

The original proposal detailed windows to this area facing immediately north and south. As the windows are more than 3.0 metres from a side or rear boundary and have sill heights in excess of 1.5 metres above floor level, the proposal satisfies the privacy requirements of DCP 2012 and therefore privacy screens are not required.

However the applicant, having read some of the objections to the proposal, has chosen to provide amended plans which detail privacy slats to both the southern elevation windows and high set windows to the northern elevation. This will prevent a person seated in the uppermost floor area from viewing the adjoining properties to the north and south.



There are two smaller windows proposed to the western wall elevation, however there were no objections from residents to the immediate west, and the existing landscaping to the rear of the premises will ensure the privacy of those residents to the west will not be compromised.

Therefore, it is considered the requirements necessary to satisfy the privacy provisions of DCP 2012 have been met.

*Building Height Plane*

One objection related to the extent of the Building Height Plane (BHP) to the southern boundary, claiming the proposed extension of the southern wall of the proposed additions at ground level will exacerbate the loss of sunlight to the property to the south.

This does not appear to be the case as the proposal includes removing part of the existing first floor roof and stepping the building back from the southern property boundary (refer proposed western elevation), which will improve the level of solar access to the property to the south. The proposed uppermost third level addition complies with the BHP requirements.

An objection was also made in respect to the encroachment into the BHP at the front of the property (refer eastern elevation). Under DCP 2012, there are no BHP provisions applied to front primary street elevations, therefore the proposal complies in this respect.

The building line setback requirements are covered by Chapter 4 – Part E DCP 2012, which in this case is 6.0 metres from the front property boundary. The proposal complies with this requirement.

An objection was also received in respect of the proposed skillion roof addition over the ground floor garage doors, claiming the skillion roof will be too close to the front property boundary. The plans indicate the supporting posts to be set back 6.0 metres from the front property boundary which also complies with DCP 2012.

*Appearance, Design and Compatibility*

Almost all objectors claim the design is not compatible with the existing development within the Headlands Estate area and does not meet the objectives of DCP 2012. There are concerns the approval of this development will set a precedent and other similar proposals will ensue.

Under the Environmental Planning and Assessment Act (EPAA), this development is assessed by reference to the relevant current provisions contained within the BLEP 2012 and Chapter 4 of DCP 2012. Comment however, is also provided on the proposed draft amendments to DCP 2012 regarding Building Height.

The Planning objectives of Chapter 4 – Residential & Tourist Development, Part 3, General Controls, specifies the following Planning objectives:

- a. Achieve well designed development which relate to the landscape and character of the locality;

- b. Manage the bulk, scale and traffic generation of residential development to avoid adverse impacts on adjoining land uses;
- c. Ensure new development recognizes and responds to the privacy and amenity of adjoining premises whilst providing for passive surveillance of public areas;
- d. Encourages dwellings which respond to the sub-tropical climate; and
- e. Provide for flexibility in the use of buildings with respect to residential accommodation and tourist and visitor accommodation uses.

With the adoption of the BLEP 2012, which modified the previous maximum building height controls, it is reasonable to expect that eventually a proponent would seek approval to carry out a three storey development under the new height provisions which does not reference floor level numbers. The opportunity now exists to create additional floor levels, providing the proposal does not exceed the overall 8.5 metre height restriction.

Chapter 4 of DCP 2012 makes it clear that providing the controls set down by DCP 2012 are met, the building will generally be within the "Character" of the area.

The relevant "controls" described in the BLEP 2012 and DCP 2012 relate to Building Height, Privacy, Floor Space Ratio, Building Height Plane and Building Setbacks.

*Building Height:* The controls for the Height of Buildings are described in DCP 2012 and require that the height of any building is to comply with the provisions of the BLEP 2012, being an overall building height of 8.5 metres.

As stated previously, the overall height of the building is less than 8.5 metres and therefore complies with the BLEP 2012.

*Privacy:* DCP 2012 states that buildings with three floor levels or greater must be designed to minimize overshadowing and protect the privacy of occupants of adjoining buildings.

The applicant has designed the uppermost second floor area to comply with the design requirements of DCP 2012 in respect to privacy and has added privacy slats to the windows to the southern elevation whilst raising the window sills to the windows on the northern elevation.

The issue of privacy is considered to have been satisfied.

*Floor Space ratio:* Under the BLEP 2012, the floor space ratio is not to exceed 0.5:1. The proposed floor space ratio is 0.48:1, therefore complies.

*Building Height Plane (BHP):* The existing building was constructed prior to the introduction of the DCP 2012 BHP controls, which now includes a requirement for the BHP to be met to the northern, southern and western elevations.

The applicant in their submission makes the point that while the northern and southern walls of the existing residence do not comply with the BHP, the building alterations have been designed to minimize the encroachment of the residence into the BHP envelope, through modifications being made to the existing roof profile.

These changes should improve solar access to the adjoining premises to the south.

*Building Setbacks:* No part of the building is to be constructed forward of the 6.0 metre front building line, which complies with the setback requirements of DCP 2012.

The changes proposed to the dwelling have all been designed to meet the requirements of both the BLEP 2012 and DCP 2012. In the case of the BHP, the level of solar access to adjoining properties is considered to have been improved.

Due to this application being the first within the estate to take advantage of the new height controls involving the creation of a third level, it could be argued that the proposal will not be in keeping with the existing general height design parameters within the subdivision. The development may appear to “stand out” in isolation when viewed from the street and Sharpes Beach foreshore areas.

However, should the current height controls be maintained into the future, other similar developments may occur within the area and the proposal would not stand in isolation.

As mentioned earlier in the report, Council at its Ordinary meeting of 27 March 2014, resolved to place on exhibition a number of proposed changes to DCP 2012, including a modification to the controls for Building Heights. These draft changes are still on public exhibition and accordingly they have not been formally adopted by Council and incorporated within DCP 2012.

The draft amendment relating to Building Height currently on exhibition is as follows:

*“(iv) A third storey in the form of a loft only is permitted within residential development 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; and*

*(c) The maximum roof pitch is not to exceed 35 degrees; and*

*(d) Compliance with building envelope controls”*

Giving consideration to the above proposed amendments and this application, the proposal does not comply due to the upper floor addition presenting the appearance of a third storey, being not contained within a typical loft area incorporated within the roof space area and ceiling below.

### **Conclusions**

The application seeks approval for alterations and additions to an existing two storey dwelling, including the construction of a new third storey.

The proposed height of the building is slightly lower than the permissible 8.5 metres permitted by the BLEP 2012 and meets the relevant design controls specified by the current DCP 2012.

A total of six objections have been received, concerned mainly with privacy issues, building height and character of the building.

The proposal does not comply with the proposed draft DCP 2012 amendments regarding Building Height and the creation of a third storey, with the upper floor third level not contained within the roof as a loft area. The draft changes to DCP 2012 however, have not been formally adopted by Council and are currently on exhibition.

Should the development proceed, it will be quite prominent, being the first three level proposal within the estate to take advantage of the current overall building height controls that permit the creation of multi levels, including three storeys. This prominence will be diminished should similar developments of height and scale occur into the future where the current planning height controls are maintained.

It is considered the applicant has designed the proposal in good faith, with thoughtful consideration being given to meet the design controls specified by Council's current planning instruments and controls. Accordingly, the application is worthy of approval.

Council has the following options:

1. Refuse the application as submitted
2. Request the applicant re-design the proposal; or
3. Approve the application as submitted subject to the application of Council's standard conditions.

Option three is the preferred recommendation for the reasons outlined within this report.

### **RECOMMENDATION**

That Development Application 2014/91 be **APPROVED** subject to the application of Council's standard conditions.

### **Attachment(s)**

1. Locality Plan
2. Architect's Submission
3. Plans of Proposed Development (Amended)
4. Survey Plan showing Height Levels
5. Letters of Objection

## **8.2 Legal Proceedings - Entry onto Private Property to Remove Waste**

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### **8.2 Legal Proceedings - Entry onto Private Property to Remove Waste**

**Delivery Program** Development Services

**Objective** To obtain Council's position and endorsement for ongoing actions to have waste removed.

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#### **Background**

Mrs Verna Wall has come to the notice of Council on previous occasions for various environmental issues. This matter relates to the importation of waste building materials from the demolition of the Rous Hotel and depositing those materials at premises known as Lot 2, DP 578543, being Nos 883-891 Pimlico Road, Wardell ("the subject premises").

Council has served formal Notices and Orders on Mrs Wall to remove these materials and when compliance was not forthcoming, Council adopted the following recommendation:

#### **Legal Action – Pimlico Road, Pimlico**

*That Council having given due consideration to all the facts outlined in the report, approves the following actions:*

- 1. Option 2 (Declaration of Potential Contaminated Land) is implemented as a matter of urgency; AND*
- 2. Option 5 (Carrying out of works) is endorsed to enter onto the subject premises and the carrying out of works to give effect to the Orders as served.*

Recommendation one has been implemented and this report deals with the requirements for recommendation two.

#### **Key Issues**

- Ongoing non-compliance with formal Notices as served by Council
- Evidence of commission of similar environmental offences being committed over an extended period of time by the owner / occupant
- Deterrent for ongoing offences being committed by owner / occupant
- General deterrent to the local community and residents of the Ballina Shire
- Ongoing delay in completing works in line with Council resolution.

#### **Information**

Staff have been attempting to carry out the resolution to enter onto the subject premises in line with the Council resolution to remove the waste materials and deposit them in a lawful waste transfer facility.

## **8.2 Legal Proceedings - Entry onto Private Property to Remove Waste**

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Council has attempted, on two separate occasions, to enter onto the property to undertake clean up works and the works have not proceeded due to either weather conditions or the health of Mrs Wall. In January 2014, Council again attempted for the third time to gain access to the property to undertake the clean up works.

Prior to the works commencing, Council received correspondence from Mrs Wall's new legal representative, who is based in Sydney, to stop the clean up works. This correspondence also included a proposal for the use of some of the material within the subject premises for erosion stabilisation works and that the remaining material was to be removed by contractors employed by Mrs Wall.

Council sought legal advice on these matters and, while Council could still proceed to carry out the works, our legal advice recommended that Council enter into negotiations with Mrs Wall's legal representatives to minimise the clean up costs to Council, which are currently in the vicinity of \$16,500, before any clean up works have been undertaken.

These negotiations have resulted in a written proposal being received from Ardill Payne for the use of some materials within the subject property as erosion protection works and that any unused materials would be lawfully disposed of at an approved waste facility. A copy of this proposal is attached.

### **Sustainability Considerations**

- **Environment**  
The non compliances identified have had an impact on the environment, given the proximity of the activities at the subject premises to cane drains and the Richmond River. Waste dumping within the Ballina Shire, if left unchecked will have a major impact on the local environment.
- **Social**  
Not Applicable
- **Economic**  
Not applicable

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

Legal proceedings generally are costly and to minimise costs and to achieve an outcome to give effect to the Orders as served, Council has a number of options as outlined within this report.

### **Consultation**

This matter has been referred to Council's solicitor, who is providing ongoing advice in relation to this matter.

## **8.2 Legal Proceedings - Entry onto Private Property to Remove Waste**

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### **Options**

Council has a number of options as to what form of action, if any, is contemplated for removal of the unauthorised waste within the subject premises.

These options are more fully outlined in the *Ballina Shire Council Enforcement Policy*.

Council also has to give due consideration to the requirement for a general deterrent to other residents, both within the immediate vicinity and within the Ballina Shire as a whole, that unauthorised works and the depositing of waste building materials on land within the Ballina Shire is not acceptable.

Further the visible nature of the waste materials that have been dumped adjacent to a roadway impacts on adjoining neighbours, to the extent that complaints have been received from those neighbours.

Having given due consideration to the considerations for legal action as outlined in Part 3 of the Enforcement Policy and the need for a general deterrent as opposed to the impact on the private activities of a resident and ratepayer, the clean up action is justifiable against Verna Kathleen Wall as the current occupant of the subject premises.

Council currently has two options available in relation to this unauthorised land use as identified within the Enforcement Policy. These options are:

1. Agree to pursue the proposal as submitted by Ardill Payne for the use of some of the waste materials within the subject premises and the disposal of all surplus to an approved waste facility;
2. Reject the proposal and resolve to continue with efforts to enter onto the subject premises to undertake the clean up works.

### Option One

Currently, there is a legal impediment to this option. Council has issued a formal Order under the provisions of section 121B, *Environmental Planning and Assessment Act 1979* (NSW) requiring that the material is to be removed from the subject premises. Any action taken to utilise material within the site for erosion protection works would be in contravention to the Order as served and would leave any person carrying out those works to possible legal action.

It is open to Council however to either:

- (a) Amend the Order as served permitting these works to be undertaken; or
- (b) Revoke the Order as served and serve a substitute Order requiring works be undertaken in line with an approved Plan and with restricted time frames to ensure that the works are undertaken within a specified time frame.

Should this option be favoured, there would need to be amendments to the attached proposal to bring it into line with Council's requirements, including:

## **8.2 Legal Proceedings - Entry onto Private Property to Remove Waste**

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1. All land contamination assessment, reporting, remediation and validation must be in accordance with *SEPP 55 'Remediation of Land, Contaminated Land Management Act and Council's Policy 'Management of Contaminated Land'*;
2. A quantity surveyor is to be engaged to determine the quantities of waste to be recycled on site that are not contaminated and are suitable for reuse and the quantities of waste to be transported off site and disposed of at an approved landfill. This report is to be submitted to and approved by Council prior to works commencing on site;
3. All receipts of waste material disposed to an approved landfill are to be referenced to the quantity surveyor's estimates and are to be submitted to Council within seven days of disposal;
4. All high erosion liable areas in the drainage works and areas disturbed during the remediation would need to be turfed and maintained until established;
5. Following removal of the stockpiles the land area subject to the stockpiles of waste material is to be tested for land contamination. A Contamination Report outlining the soil testing undertaken, the conclusions and, if required, a remediation plan is to be submitted to and approved by Council;
6. *Clause 3.2 – Proposed Works*
  - (a) A formal definition of what is meant by "foundry material" would need to be determined;
  - (b) The hydraulic equivalence should include the culvert under Pimlico Road and drainage on the eastern side of Pimlico Road;
  - (c) Clarification of what is meant in dot point 7 of this clause (at the bottom of page 4) where it is stated that "*The Drainage Line shall and crossing shall be rebuilt to the required hydraulic capacity*", and
7. There would need to be an agreement reached as to the total extent of the eroded area within the subject premises that is to be treated.

If Council were to prefer this option, Council staff would commence negotiations with Mrs Wall and her solicitor to have this proposal modified to achieve Council's objectives prior to the revoking or amendment of the current Order as served.

### Option 2:

It is open to Council to reject this submission and to require that this waste material is lawfully disposed of at an approved waste transfer facility in line with Council's Order.

When this matter first came to the attention of Council in 2008, Mrs Wall was previously given the opportunity to complete the works she now seeks to undertake. Council served Mrs Wall with a Notice of Proposed Order and was required to carry out scour protection works and rectification works involving:



## **8.2 Legal Proceedings - Entry onto Private Property to Remove Waste**

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- Appropriate material being placed on both sides of the gully for the extent of the area that has been stripped of grass (maximum distance of 20 metres east beyond the current works);
- Removal of the loose bricks on top of the wall at the top end of the gully to prevent them from falling into the gully;
- Reshaping the material placed just inside the fence to form a dish drain over the existing pipe such that it would allow excess flow to spill over the pipe and flow overland to the north; and
- Laying an additional 375mm diameter pipe adjacent to the existing pipe and to clear the outlet of the existing pipe. An attempt has been made to lay an additional pipe but the work is not satisfactory. The pipe has not been laid deep enough and the pipes have not been laid in a satisfactory manner.
- The removal of all excess demolition material from the property and transportation to an approved waste facility. Receipts are to be obtained and produced to Council confirming where the material has been transported to and deposited.

On 18 June 2008, Mrs Wall wrote to Council requesting additional time to comply with the Notice of Proposed Order dated 13 June 2008, citing a need to employ a contractor to carry out the works as required by the Proposed Order. On 26 June 2008, Council agreed to this request for additional time to comply with the terms of the Proposed Order.

On 18 July 2008, Mrs Wall again contacted Council through her (then) employed solicitor seeking further time to comply as she claimed there was a problem with truck access to the property to remove the waste building materials.

It was subsequently ascertained in June 2009, some 11 months later, Mrs Wall had failed to undertake the works as provided for by the Notice of Proposed Order. It was at this time that these present proceedings were commenced to have all waste material removed from the subject premises.

On balance option two is the preferred approach as Council has attempted on many occasions to have Mrs Wall address these concerns without success. Therefore the preference is to continue with Council's existing Order.

### **RECOMMENDATION**

That based on the contents of this report Council endorses option two to continue with action to require the removal of the waste materials from 883-891 Pimlico Road, Pimlico, in line with Council's existing Order.

### **Attachment(s)**

1. Letter from Woolf Associates re remediation of Verna Wall's Property 883-891 Pimlico Road, Pimlico. PN: 260 and 9928

### 8.3 Development Consent Statistics - April 2014

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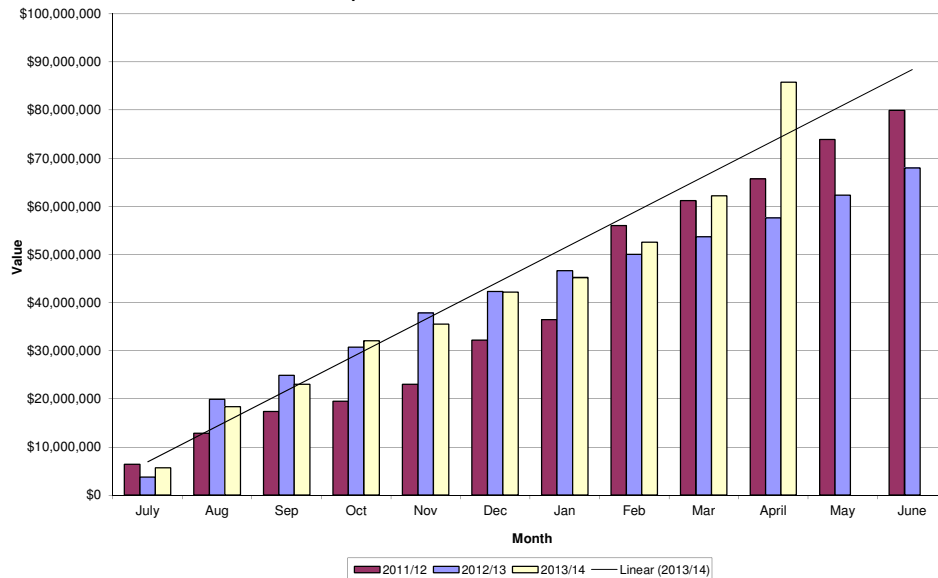
### 8.3 Development Consent Statistics - April 2014

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During the period of 1 April 2014 to 30 April 2014 the Development and Environmental Health Group issued Development Consent comprising of:

Number of Applications	Value of Work
33 Other Building Related	\$ 1,024,000
17 Dwelling/Duplexes/Residential Flat Buildings	\$ 22,599,000
1 General Developments	\$ 0
<b>Total Value</b>	<b>\$ 23,623,000</b>

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



### RECOMMENDATION

That Council notes the contents of the report on development consent statistics for 1 April 2014 to 30 April 2014.

### Attachment(s)

Nil

#### 8.4 Development Applications - Works in Progress - May 2014

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#### 8.4 Development Applications - Works in Progress - May 2014

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The following schedule sets out current development applications that have not yet been dealt with for the reasons cited:

Please note that duplex and dual occupancy applications are not included in this report.

DA No.	Date Rec'd	Applicant	Proposal	Status
2011/515	30/11/2011	Newton Denny Chapelle	Staged development - 5 x lot subdivision for future cluster housing development and construction of public road - No. 565-589 River Street, West Ballina	Awaiting Additional Information
2012/291	23/07/2012	Newton Denny Chapelle	To undertake a staged 47 Lot Community Title residential subdivision with lots ranging in size from 303m <sup>2</sup> to 773m <sup>2</sup> , associated road, earth and infrastructure servicing works, creation of a public road and one 6.4 hectare Torrens Title residue lot - 565-589 River Street, West Ballina	Awaiting Additional Information
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	Awaiting Additional Information

**8.4 Development Applications - Works in Progress - May 2014**

<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
			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	
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 Sneebys Lane, East Wardell	Being Assessed
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	Referred to Government Departments
2014/31	5/02/2014	Newton Denny Chapelle	Staged development application pursuant to S.83B for a residential subdivision	Referred to Government Departments

**8.4 Development Applications - Works in Progress - May 2014**

<b>DA No.</b>	<b>Date Rec'd</b>	<b>Applicant</b>	<b>Proposal</b>	<b>Status</b>
			comprising two stages, with stage one including 159 residential lots, five public reserve lots, tree removal, civil 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	
2014/46	13/02/2014	RJ & L Johnson	To establish a bed and breakfast facility - 412 Friday Road, Brooklet	Determination Pending
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 Processing - 61 Jorgensens Lane, Brooklet and 145 Brooklet Road, Newrybar	Referred to Government Departments
2014/149	07/04/2014	Greg Clark Building P/L	Alteration & Additions to Ballina Bowling and Recreation Club - 68 Cherry Street,	Being Assessed

**8.4 Development Applications - Works in Progress - May 2014**

DA No.	Date Rec'd	Applicant	Proposal	Status
2014/161	11/04/2014	Steve & Carol Cranitch	Ballina Erection of a single storey dwelling house - Lot 4 Boundary Creek Road, East Wardell	Being Assessed
2014/172	17/04/2014	Ardill Payne & Partners	To undertake a leasehold subdivision for future aviation related purposes - 167 & 210 Southern Cross Drive, Ballina	Being Assessed
2014/173	17/04/2014	Paul & Julie Menier	Vegetation management works comprising the removal of one tree - 14 The Avenue, Alstonville	Determination Pending
2014/185	29/04/2014	Edward Rockman	Vegetation management works comprising the removal of five trees - 300 Old Byron Bay Road, Newrybar	Being Assessed

**Regional Development (Determined by Joint Regional Planning Panel)**

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

#### 8.4 Development Applications - Works in Progress - May 2014

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2013/286	5/08/2013	Ballina Shire Council	Establishment and Operation of a Biochar and Waste-to-Energy Facility - 167 Southern Cross Drive, Ballina	Referred to Government Departments
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#### 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 May 2014.

#### Attachment(s)

Nil

## **9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, Lennox Head**

### **9. Strategic and Community Facilities Group Reports**

#### **9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, 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 1 DP 1165957 known as No.s 44-52 Blue Seas Parade, Lennox Head and to seek direction in relation to the further progress of the matter.

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#### **Background**

Lot 1 DP 1165957 (Lot 1), known as No.s 44-52 Blue Seas Parade, Lennox Head, was created in July 2011 and has an area of 3.476 hectares. Lot 1 resulted from the re-subdivision of Lot 2 DP 587685 (Lot 2) and two other lots. Lot 2 which had an area of 31.52 hectares was the subject of a rezoning application submitted in May 2008.

The Council, at its Ordinary Meeting held in July 2010 [Minute No. 220710/7] resolved to initiate a stand alone LEP amendment for Lot 2. That LEP amendment proposed that a residential zone be applied to part of Lot 2. An indicative plan of subdivision showed 12 residential lots were proposed to be created at that time.

Following assessment of issues relevant to the rezoning and, in particular, visual amenity issues, the Council resolved at its Ordinary Meeting held in March 2011 [Minute No. 240311/11] to cease processing of the LEP amendment request. This was on the basis of several unresolved issues and followed the proponent formally withdrawing the request.

Council's March 2011 resolution also provided for the land designated for potential urban development within Lot 2 to be reduced in area, primarily based on assessment of visual amenity issues. This reduction was subsequently incorporated within the Ballina Shire Growth Management Strategy as well as the Strategic Urban Growth Area mapping within Ballina LEP 2012.

Lot 2 was subsequently subdivided in July 2011 and its ownership changed. The Coastal Grove residential subdivision, which is located on land to the west of Lot 1, was created in February 2012.

Council received an LEP amendment request in February 2014 for the rezoning of part of Lot 1 from rural to residential purposes. The land the subject of this LEP amendment request is shown in the site plan contained at Attachment 1. The extent of this proposed rezoning reflects the reduced area resulting from Council's resolution in March 2011.

The proponent and landowner is Mr G Farley. The LEP amendment request, contained in Attachment 2, has been prepared by Mr Paul Snellgrove of Ardill Payne & Partners.



## **9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, Lennox Head**

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

### **Key Issues**

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

### **Information**

#### *Zoning – Ballina LEP 2012 and Ballina LEP 1987*

The western most (front) section of Lot 1, which has a frontage to Blue Seas Parade is substantially zoned RU1 Primary Production under the provisions of the Ballina Local Environmental Plan 2012 (BLEP 2012). The eastern most (rear) and southern most sections of Lot 1 are designated as deferred matters under BLEP 2012 and retain their Ballina LEP 1987 zonings.

The eastern most (rear) section of Lot 1, which has a frontage to The Coast Road, is zoned 7 (d) Environmental Protection (Scenic/Escarpment) under the provisions of Ballina LEP 1987. In addition, a small section of Lot 1 at its southern most end, fronting Blue Seas Parade, is zoned 1(d) (Urban Investigation).

Attachment 3 contains a map which shows the zones that apply to Lot 1.

The LEP amendment request relates to part of the western most section of Lot 1, which is designated as a Strategic Urban Growth Area under the provisions of Ballina LEP 2012. This section of Lot 1, which is currently zoned RU1 Primary Production, has an approximate area of 1.1 hectares and a frontage of approximately 196 metres to Blue Seas Parade. It is this area that is proposed to be zoned R2 Low Density Residential. Lot 1 has a total frontage to Blue Seas Parade of 220.89 metres.

A minimum 40 hectare lot size is currently applicable to Lot 1. The applicant proposes to replace this with a 600m<sup>2</sup> minimum lot size for that part of Lot 1 the subject of the rezoning proposal. The proponent's submission indicates that the land could yield up to 13 lots.

A 600m<sup>2</sup> minimum lot size is applicable to the residential lots located on the western side of Blue Seas Parade opposite Lot 1. Whether such a minimum lot size is also suitable for residential lots resulting from a rezoning of a portion of Lot 1 is matter that will be determined (and reported to the Council) once detailed site assessment information has been submitted.

Attachment 4 contains a map which shows how Lot 1 is proposed to be zoned.

#### *Ballina Shire Growth Management Strategy (BSGMS)*

The BSGMS designates that part of Lot 1 the subject of the LEP amendment request as being a part of a strategic urban growth area.

*Lennox Head Structure Plan*

The Lennox Head Structure Plan (LHSP) includes the whole of Lot 1 within an area designated as *visually significant land*. This is land that was envisaged would be retained and protected into the future. It should be noted, however, that the land the subject of the current LEP amendment request has been subject to some visual amenity assessment in association with the previous rezoning request over the land. The subject land is located generally below the top of the ridgeline on the landward side. As such, it was incorporated as a Strategic Urban Growth Area within Ballina LEP 2012. The LHSP was adopted in 2004, well before the BSGMS and Ballina LEP 2012.

*Far North Coast Regional Strategy 2005 (FNCRS)*

The subject land is identified as being located within the existing urban footprint of Lennox Head and designated as a future urban release area. The application of a residential zone over part of Lot 1 is consistent with this strategy.

*Site Assessment*

The proponent has submitted a brief overview of applicable land constraints with minimal detailed information being provided. The submission recognises the previous site history and the need for further investigative work relating to land contamination, visual impact and bushfire threat.

An examination of applicable land constraints has revealed that more detailed site investigations will be required. It is suggested that this information be sought post Gateway determination if the matter continues to proceed. This would include the various matters listed in the table below:

<b>Issue</b>	<b>Investigation Required</b>
Land Contamination	A Detailed Contamination Land Assessment and Remedial Action Plan were previously submitted in support of the 2008 rezoning proposal. The proponent will be required to assess the contamination status of the land in the context of the revised site area.
Coastal Zone Impacts and Visual Amenity Impacts	Consideration of relevant matters for consideration as specified in Clause 8 of <i>SEPP 71 - Coastal Protection</i> and Appendix C – Table 3 of the <i>NSW Coastal Policy</i> . This includes issues associated with visual impacts.  The <i>Coastal Zone Design Guidelines 2003</i> are also required to be considered. Consideration of potential building envelopes and subdivision lot design will be required.
Bushfire Threat	Lot 1 is partly affected by Category 2 vegetation and is located within the 30 metre bushfire buffer area. A Bushfire Threat Assessment Report will be required.

Issue	Investigation Required
Land Slip	Lot 1 is located within an area identified as being susceptible to land slip (Coffee Partners Pty Ltd report and Department of Mineral Resources mapping.) More detailed investigation is required as to the degree of risk associated from landslip and its impact on any potential residential subdivision.
Access and Right of Carriageway (ROW)	A 10 metre wide ROW affects Lot 1 in favour of Lot 2 DP 1165957. The manner in which access is proposed to be obtained to the proposed subdivision and its relationship to the ROW will need to be detailed by the proponent. It may not be feasible to obtain access directly to proposed lots from Blue Seas Parade due to a significant retaining wall constructed along the boundary of Lot 1 with Blue Seas Parade.
Easement Relocation	A 20 metre wide easement for overhead powerlines affects lot 1 in favour of Essential Energy. The feasibility of relocating this infrastructure will need to be examined via consultation with Essential Energy.
Due Diligence Aboriginal Heritage Assessment	Investigation in relation to whether any items of Aboriginal cultural heritage are likely to be impacted by the proposed rezoning will be required.
Services and Stormwater Management Report	<p>A report investigating the manner in which the site will be serviced, including connection to the sewer network, will be required.</p> <p>A stormwater management report will be required which would examine issues related to on-site stormwater detention and location of bio filtration areas, if proposed.</p>
Ecological Matters	Potential flora and fauna impacts require assessment, particularly given the site's proximity to vegetation communities contained within the adjoining Crown reserve to the north.

### 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.

## **9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, Lennox Head**

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- **Social**

Potential visual amenity impacts may be of concern to surrounding residents and the broader community. Consequently, this matter will be examined in further detail if the proposal proceeds.

- **Economic**

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

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

There are no significant resourcing or financial implications associated with the further processing of the LEP amendment. Subject to the Council's decision, the next step in the process would be to prepare a planning proposal suitable for submission to the Department of Planning and Environment (DoP&E) for Gateway determination.

Following a favourable Gateway determination the applicant would be requested to submit additional information which addresses identified land constraint issues, as generally referred to above.

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 1.

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 an appropriate future subdivision configuration, the land the subject of the LEP amendment request appears to be generally suitable for a low density residential zoning. The planning proposal submitted to DoP&E 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.

## **9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, Lennox Head**

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2. Defer or amend the planning proposal.

This approach is not recommended given:

- the proposed rezoning is limited to an area of Lot 1 which has been designated as a Strategic Urban Growth Area in Ballina LEP 2012 and within the Ballina Shire Growth Management Strategy.
- the proposed LEP amendment is consistent with Council's strategic land use planning framework for the locality.
- the proposed LEP amendment is confined to a part of Lot 1 which was subject to a previous land zoning suitability assessment associated with an LEP amendment request submitted in 2008. That assessment generally found the land the subject of this LEP amendment request (reduced land area from previous proposal) suitable for a residential zoning.

Staff will use its best endeavours to “recycle” as much of the formally prepared and submitted technical material as practically possible, to avoid duplication and unnecessary costs to the proponents.

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

For the same reasons outlined in relation to Option 2, this approach is not recommended.

Importantly, the Council can elect to discontinue a planning proposal at other stages of the LEP amendment process if considered appropriate. That said however, certain recourse procedures are now available to proponents if they were dissatisfied with such a Council decision.

### **RECOMMENDATIONS**

1. That Council prepare a planning proposal for the application of an R2 Low Density Residential zone over that part of Lot 1 DP 1165957 designated as a Strategic Urban Growth Area in Ballina LEP 2012.
2. That the subdivision potential and associated minimum lot size for the future development of Lot 1 DP 1165957 be determined following assessment of additional technical information.
3. That a further report be presented to the Council documenting the planning proposal when prepared for submission for Gateway determination.

### **Attachment(s)**

1. Attachment One - Site Plan
2. Attachment Two - LEP Amendment Request
3. Attachment Three - Existing Zoning Map
4. Attachment Four - Proposed Zoning Map

## 9.2 Policy (Review) - University Scholarship

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### 9.2 Policy (Review) - University Scholarship

**Delivery Program** Governance and Finance

**Objective** To review the University Scholarship Policy.

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#### **Background**

The Council has an adopted practice of reviewing all policies during the term of the elected Council to ensure our policies remain contemporary. The purpose of this report is to review the University Scholarship Policy.

#### **Key Issues**

- Whether the policy meets the objectives of Council
- Promotion of the scholarship exclusively to school leavers, review of eligibility and selection criteria, and the ongoing assessment of successful applicants

#### **Information**

Council has been working with Southern Cross University (SCU) to provide at least one full-time scholarship, on an annual basis for a three-year period. A scholarship equates to \$5,000 per student per annum for the three years.

Council originally had a budget of \$15,000 for this scholarship (i.e. three students per year over a rolling three year period) however this budget was recently reduced to \$10,000 with \$5,000 re-allocated to the Council's Festivals and Events Program. Council was able to do this as currently there are only two scholarships running.

In respect to the policy review recommended amendments to the attached document are highlighted yellow with deletions lined through.

#### *Promotion of scholarship exclusively to school leavers*

Southern Cross University (SCU) has put forward a proposal that Council's Rising Stars Scholarship be offered exclusively to school leavers through their 'Inspiring Schools Program'.

Reasons to support this proposal:

1. SCU has a direct link to schools in the region and school leavers are a "captive audience".
2. According to SCU, local students who undertake university studies locally generally remain in the locality after graduation.

## 9.2 Policy (Review) - University Scholarship

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3. The university suggests that if students are targeted early, in their school leaving years, they are more likely to continue studying. The longer tertiary education is deferred, the likelihood of undertaking tertiary education also diminishes.
4. Council has indicated its desire for more of the shire's youth to undertake tertiary education. This is identified as a 'Prosperous Economy' indicator in the Council's adopted Community Strategic Plan.

Reasons against this proposal:

1. Excludes mature aged students from applying.

The Council may determine to leave its scholarship open to both high school leavers and mature aged students; but perhaps with preference or weighting being given to awarding the scholarship to a high school leaver.

### Scholarship selection

The policy does not clearly stipulate that the scholarship is intended for candidates undertaking their first university degree. It is proposed that the following eligibility criteria be added to the policy:

- *Applicants undertaking their first university degree*

The academic achievement requirement is deemed excessive. A representative of SCU has indicated that the current ATAR requirement of 80+ to 85+ does not fit the average student profile for school leavers applying to study at that university.

Generally, students attaining marks at this level and above are applying for courses at city universities. It is suggested that the policy is changed to reflect that candidates are eligible to apply if they have been accepted into their chosen course.

- *Academic achievement: qualify for admission or be enrolled in a full-time undergraduate degree at SCU in the year following the application.*

Consideration should also be given to students undertaking study at the Gold Coast and Coffs Harbour campuses. The policy wording can be amended to include the following:

- *Consideration should also be given to students undertaking study at the Gold Coast and Coffs Harbour campuses.*

If Council promotes its scholarship to both school leavers and mature aged students the following condition may be added to the policy:

- *Preference will be given to a high school leaver.*

## 9.2 Policy (Review) - University Scholarship

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### Scholarship recipient's obligations

Currently the policy stipulates that for continuation of a scholarship the recipient must maintain at least a Credit average or equivalent in each teaching session. This requirement has been relaxed by the university, with the majority of SCU scholarships continuing payments to students who successfully progress through their course in each teaching session. To align with the majority of SCU scholarships it is proposed that policy wording be amended to the following:

- *Payments are made subject to the recipient maintaining successful academic progression in each teaching session.*

### **Sustainability Considerations**

- **Environment**  
Some scholarship recipients may potentially deliver or promote improved environmental outcomes for the shire.
- **Social**  
The Council's scholarship will encourage participation in learning opportunities.
- **Economic**  
The scholarship assists to foster youth undertaking tertiary education.

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

Full Council scholarships are valued at \$15,000 over a three-year period, and paid in three instalments over that period.

### **Consultation**

Council has liaised with the Office of Development and Alumni Relations at Southern Cross University in reviewing this policy. If the Council is comfortable with the changes which have been suggested, it is proposed that the revised policy be exhibited for feedback by the community.

### **Options**

Council may accept or amend the proposed changes to the policy. It is suggested the changes are largely of a "housekeeping" nature. Consequently, it is recommended that the policy be adopted as presented. It is also recommended that if no submissions are received in response to the exhibition process, the policy be adopted with no further action required. Of course, it is open to the Council to determine that it no longer wishes to provide the Southern Cross University scholarship. This is not the recommended course of action.



**RECOMMENDATIONS**

1. That Council adopts the amended University Scholarship Policy, as attached to this report.
2. That the revised policy be placed on exhibition for public comment, with any submissions received to be reported back to the Council. If no submissions are received then no further action is required.

**Attachment(s)**

1. Policy (Review) - University Scholarship

### **9.3 Policy (Review) - Festival and Events - Council Support**

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### **9.3 Policy (Review) - Festival and Events - Council Support**

**Delivery Program** Tourism

**Objective** To review the Festival and Events - Council Support policy

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#### **Background**

The Council's policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Festival and Events – Council Support Policy.

The Council first adopted this policy in December 2010 and it is due for review in 2014.

The review is also necessary as a result of the Council's resolution at its December 2013 Ordinary Meeting, determining that Council would not be conducting an expression of interest process for the 2014/15 Festivals and Events Support Program. This decision is not consistent with the objectives of the current policy and, in this context, a review is also warranted.

#### **Key Issues**

- Whether the policy meets the Council's objectives of the support program
- Accessible and equitable process for requests for event support
- Open and transparent decision making process for event support
- Continued viability of the policy

#### **Information**

The objectives of this policy are to ensure an open and transparent decision making process is in place for requests for support from the Council, and also to provide an accessible and equitable process for not-for-profit organizations seeking financial support for their event.

Upon review, it is suggested the provisions of the policy that might be reviewed are as follows:

##### *Application process*

At the Council's Ordinary Meeting held in December 2013 it was resolved that Council would not be conducting an expression of interest process for the 2014/15 Festivals and Events funding program. However, the current policy states that '*Council shall call for submissions from the community as part of the annual Operational Plan process.*' As stated, this provides an equitable and transparent process for not-for-profit organisations seeking event support from the Council.

The removal of the application process will preclude any new event proposals being presented to the Council. It will also deny existing events now presenting amendments to their current event program and financial support.

### **9.3 Policy (Review) - Festival and Events - Council Support**

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It is noted that organisers could be directed to the Community Donations Program if this is the preferred position of the Council. However, this could lead to confusion between the two programs and the number of funding streams Council has available for community events.

An expression of interest process allows the Council to assess applications for funding, determine eligibility and allocate funding on a needs basis. It is therefore recommended that an expression of interest process be retained.

#### *Eligibility*

Within the context of the current policy, Council staff have concerns with respect to the eligibility of some events, including the Lennox Head Carols and Riverside Carols. The policy states, '*to be eligible for support the total cost of the festival/event must be estimated at over \$20,000, with a minimum of \$15,000 allocated towards cash expenses, excluding the Council contribution*'.

Historically these two events have not met the above criteria; consequently they have been funded from the Community Donations Program. However, without an expression of interest process it is unclear if events such as the Lennox Head Carols and Riverside Carols meet this criterion.

Should the Council wish to continue to fund these two events, there are two options. One option is to remove the criteria from the policy in order to align with Council's resolution from December 2013, and continue to fund them in future years. The alternative is to fund the two events that don't meet the criteria from Community Donations Program, as has occurred in the past.

It is recommended that the eligibility criteria in the policy be retained. Providing this specific criterion will ensure that the purpose of the policy, which is to support major events, is met.

#### *In-kind support*

The current policy states that '*Council is to provide cash or in-kind support for community based festivals or events*'. It is recommended that any reference to 'in-kind support' be removed; as this support is typically a real cost to Council and, if provided, is absorbed by a Council budget. Any services requiring support from Council should be costed by the applicant and included as part of their funding application.

Further changes within the amended policy will reduce duplication, where a number of the items being removed are provided via the application process for funding, within the funding agreement (terms and conditions) or as part of the events on public land application (if applicable). A copy of a template funding agreement is attached as an example, as is a copy of the Application Form, for reference purposes.

A copy of the amended policy is attached to the report. The recommended changes have been marked in yellow and deletions in strikethrough.

### **Sustainability Considerations**

- **Environment**  
Events are managed to limit adverse environmental impacts.

### **9.3 Policy (Review) - Festival and Events - Council Support**

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- **Social**  
Events provide social benefits to the broader community.
- **Economic**  
Events make a positive contribution to the local economy.

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

A central application process for community events to obtain financial support from the Council allows for the efficient use of financial and human resources. It also provides clarity and transparency for community organisations.

#### **Consultation**

As the document affects a number of community organisations, it is recommended it be placed on exhibition for public comment. If any submissions are received, they are to be reported back to the Council; however there will not be a need for any further report if there are no submissions.

#### **Options**

The Council may accept the proposed changes to the policy. This is the preferred and recommended option as it will simplify the policy whilst maintaining the broad objectives of the program.

The Council itself may choose to make other/additional amendments to the policy. Should the Council choose this option, it might have regard for the fact that the changes set out in this report are based on evidence from staff coordinating the program consecutively over a period of four years.

The Council may also determine to make the policy obsolete, however this is not a recommended option given the success of the Festival and Events - Council Support Policy and associated funding program.

#### **RECOMMENDATIONS**

1. That Council adopts the amended Festivals and Events – Council Support Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be presented by way of further to the Council. If no submissions are received then no further action is required.

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

1. Festivals and Event Support - Draft Policy
2. Festival and Event Support Program - Funding Agreement Template 2014
3. Festival and Events - Council Support - Application Form

## **9.4 Policy (Review) - Richmond Room Hiring Conditions**

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### **9.4 Policy (Review) - Richmond Room Hiring Conditions**

**Delivery Program** Governance and Finance

**Objective** To review the Richmond Room Hiring Conditions Policy with a view to revoking it.

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#### **Background**

All of the 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 Richmond Room Hiring Conditions Policy. A copy of this policy is attached. Council first adopted this policy in August 2004.

#### **Key Issues**

- Relevance of policy

#### **Information**

The review of this policy has identified the preference to revoke this policy in light of the following changed circumstances:

- This policy was previously used when the management and hire of the Richmond Room was administered by Council's Commercial Services Section. The management of this venue transferred to Council's Strategic and Community Facilities Group in late 2011, as part of a restructure of operational areas which occurred at that time.
- Conditions of Hire for all of Council's Community Facilities are outlined in the Community Facilities Guidebook publication, which is available at Council's Customer Service Centre, the Lennox Head Cultural and Community Centre and on the Council web site. These terms and conditions of hire have been in use, and highly effective, for over two years, superseding the stand-alone Richmond Room Hiring Conditions policy.
- The procedures under which the Community Facilities Team operates have been developed and consolidated over the last 12 – 18 months since the Council resolved to maintain the management of the Lennox Head Cultural and Community Centre. The transfer of these procedures into Council's relevant template format is currently on the team's work schedule for the coming year. A copy of the Community Facilities Guidebook is attached to this report.

### **Sustainability Considerations**

- **Environment**  
The terms and conditions of use, as set out in the Community Facilities Guidebook, take into consideration the important issues of noise emission and waste management.
- **Social**  
The terms and conditions of use, as set out in the Community Facilities Guidebook, ensure community groups have equal access to Council's community facilities and takes into consideration impacts on local communities and/or groups (such as issues of safety) for each event that takes place within the venues.
- **Economic**  
The terms and conditions of use, as set out in the Community Facilities Guidebook, ensure that Ballina Shire residents and community groups have access to high quality, yet affordable, facilities in which to host their events or activities.

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

The terms and conditions of use, as set out in the Community Facilities Guidebook, enable Council to make a partial cost recovery in the provision of these services to the community, and ensure that safeguards are in place to recover additional costs of damage or cleaning on the rare occasion this is required. The guidebook has also been produced as a means of promoting Council's duty of care in the operation of these facilities, as well as maintaining and protecting these important community investments.

### **Consultation**

No consultation is considered necessary as the recommendation is to revoke the existing Richmond Room Hiring Conditions Policy.

### **Options**

The Council may revoke this policy, noting that the current terms and conditions of use of its various community spaces, as set out in the Community Facilities Guidebook, have been consolidated and implemented on an operational basis. This is the preferred and recommended course of action.

Alternatively, the Council may determine that the existing policy be maintained in its independent form and request that the current terms and conditions of use relating to the Richmond Room, as set out in the Community Facilities Guidebook, be incorporated into the policy in order to give it currency. This option is not recommended as it is administratively "cumbersome" and, for the purpose of marketing and promoting our facilities, it is considered much more desirable to have all relevant information in a centralised location.

**RECOMMENDATION**

That Council rescinds the Richmond Room Hiring Conditions Policy on the basis that the relevant hiring information for that facility is now contained in the Ballina Shire Council Community Facilities Guidebook.

**Attachment(s)**

1. Policy - RO1 Richmond Room Hiring Conditions Adopted 260804
2. Community Facilities Guidebook 2014 (under separate cover)

## **9.5 Cumbalum Precinct B Locality - Naming**

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### **9.5 Cumbalum Precinct B Locality - Naming**

**Delivery Program** Strategic Planning

**Objective** To invite the Council's consideration of a process for the re-naming of the Cumbalum Precinct B locality.

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#### **Background**

The Council, at its Ordinary Meeting held on 24 January 2014 received and considered a report relating to the draft development control plan which had been prepared for land within the proposed urban release area of Cumbalum Precinct B. In endorsing the material for public exhibition, the Council also resolved to request a separate report regarding the process involved in identifying an alternative name for Cumbalum Precinct B for the purpose of future geographic reference.

The following report seeks to respond to that decision of the Council.

#### **Key Issues**

- Locality naming for a future urban centre
- Community consultation

#### **Information**

The Council has been diligently planning to cater for continuing population growth within the Shire. The Council's adopted Growth Management Strategy outlines how the projected population change will be accommodated during the forthcoming planning period (to 2031). A substantial part of this growth is to be catered for in the future urban release of the Cumbalum Ridge in the identified areas of Precincts A and B. These areas are illustrated in the map forming Attachment No.1 to this report. The Council has finalized the processes associated with the rezoning of these two precincts and it is envisaged that the respective planning proposals will be made by the Minister for Planning in the near future.

In relation to Precinct B, the Council has now adopted a development control plan which provides the guideline for future development of that area (subject to the Minister approving the planning proposal). It is difficult to predict with any precision the future population of Precinct B. However, in broad terms, the housing yield is expected to be between 1,350 and 2,000 dwellings. At an average occupancy rate of 2.5 persons per dwelling, the precinct may accommodate between 3,375 and 5,000 residents, in addition to the existing residents in the locality.

Also illustrated on Attachment No.1 are the respective areas of the localities including, and in the vicinity of, Cumbalum Precinct B, as determined by the Geographical Names Board of NSW (GNB), which is the relevant authority in terms of place names. As can be seen on the map, the boundary of Cumbalum Precinct B does not align neatly with the locality boundaries.



## 9.5 Cumbalum Precinct B Locality - Naming

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Given the projected change which is planned for in the precinct, it is suggested that the Council now take steps to identify a new name for the locality. In so doing, it would be timely to rationalize the boundaries of the adjoining localities and seek the GNB's approval of the new arrangement, following community consultation.

Attachment No.2 to this report illustrates a possible alternative outcome in terms of the realignment of the GNB's locality boundaries. This scenario would see a discreet new locality created (the area shaded yellow on the map) incorporating the proposed urban area. It would be bounded in the north by the existing locality boundary between Tintenbar and Knockrow, to the east by the Ballina Nature Reserve (and will include part of that reserve), to the west by the Pacific Highway motorway and to the south along property boundaries near Sandy Flat Road.

As an alternative, if the Council did not wish to include the properties in the northern part of the yellow shaded area (these properties would remain in the Tintenbar locality), the northern boundary of the new locality could be aligned with Ross Lane.

### ***Naming the new locality***

The attached Fact Sheets are provided by the GNB and explain clearly what is involved in the proposed naming or re-naming of localities and places.

The Council itself could nominate a name for the new location and present that for community feedback. Alternatively, Council could invite ideas from the community, utilising the GNB's Guidelines for the determination of place names as criteria against which to evaluate proposals. This is the preferred approach. Once the Council has indicated its preference (and citing reasons why) the GNB administers a process of community consultation as a verification exercise before a final decision is made.

Although locality re-naming within Ballina Shire has not occurred recently, Council has had some recent experience with changes to road names associated with the Ballina and Alstonville Bypass projects. Such changes, quite understandably, have the potential to be very upsetting for many people, as their contact details and personal affairs must be adjusted.

On the other hand, given the extent of change which is envisaged on this part of the Cumbalum Ridge due to the new urban area, it seems timely and logical to modify the locality name.

The future expansion of the Ballina Heights Estate into Precinct A, as envisaged following the rezoning of that area, will not be impacted by a locality name change in the northern area. Precinct A will remain in the locality referred to as Cumbalum.

### **Sustainability Considerations**

- **Environment**  
Not Applicable

## 9.5 Cumbalum Precinct B Locality - Naming

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

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

Changes to locality naming is not part of Council's endorsed work program, but will consume resources, depending on the level of "buy-in" to the process by community members. At this point in time no additional resources are requested.

### **Consultation**

Effective community engagement will be fundamental to the Council's further consideration of this matter. It is also noted that GNB will wish to be satisfied that directly affected landowners and residents, as well as the broader community, have had opportunities to contribute to the locality naming and boundary adjustment process.

### **Options**

The Council may choose to take no action in relation to the renaming of the locality incorporating the Cumbalum Precinct B land. For the most part, properties would continue to be referred to as being in the Tintenbar locality.

An alternative course of action is to rename the locality. The decision then is to determine the extent of the area proposed to be changed. There is considered to be some merit in consolidating the area as illustrated in yellow shading on the map at Attachment No.2, with the new area separated from the Tintenbar locality by the realigned Pacific Highway. The downside of this option is that it causes change to many landowners and residents who were not involved in the Precinct B rezoning. They may feel that they should not be impacted, and this would be a fair position to hold.

A further option is to retain the northern part of the yellow shaded area within the Tintenbar locality (ie it would continue to straddle the new highway) and use Ross Lane (for example) as the northern boundary of the new locality.

Overall, the preference and recommendation which follows is to invite community feedback about adjusting the locality boundaries to accord with the yellow shaded area on the map at Attachment No.2 and to invite naming suggestions for the proposed new locality.

**RECOMMENDATIONS**

1. That Council notes the contents of this report regarding the process involved in identifying an alternative name for Cumbalum Precinct B for the purpose of future geographical reference.
2. That Council initiate action to adjust the locality boundaries for the purpose of establishing a new locality based on the area shaded yellow on the map at Attachment No.2 to this report. Further, that community feedback be sought for this proposal, and that nominations for a name for the new locality also be invited.
3. That the Council's further consideration of the proposed boundary adjustments and the proposed new locality naming will be based on the relevant guidelines supplied by the Geographical Names Board of New South Wales.

**Attachment(s)**

1. Attachment No.1 - Existing locality boundaries and key developments affecting Cumbalum and Tintenbar localities
2. Attachment No.2 - Proposed new locality showing impact on existing localities of Cumbalum and Tintenbar
3. Fact Sheet - Guidelines for the determination of place names
4. Fact Sheet - Determining suburbs and localities in NSW

## 10.1 Use of Council Seal

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### 10. General Manager's Group Reports

#### 10.1 Use of Council Seal

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#### RECOMMENDATIONS

That Council affix the Common Seal to the following document.

US13/16	<p>Sublease between Ballina Shire Council and Thea Woznitza at Parts Lot 321 DP 55745 &amp; Lot 7003 DP 92641 being that part of the building and surrounds known as the "Old Tintenbar Council Chambers" sitting upon Reserve Number D57675 dedicated for Town Hall site notified 11 October 1895 and called Areas 3 and 4 for a period of three years with a two year option for a commencing rent of \$5,148 pa + GST.</p> <p>Explanation: Council signed a Head Lease with the State of New South Wales by the Minister for Lands for twenty years over the property known as the "Old Tintenbar Council Chambers". This sublease has been offered to a sitting tenant who has been in occupation on a temporary licence awaiting the formalisation of the Head Lease.</p>
US13/17	<p>Section 34A Licence agreement for the occupation of a portion of Crown Land at the Ballina Byron Gateway Airport.</p> <p>Explanation: The Crown has identified a parcel of Crown land within the licensed airport area which Council is occupying. For aviation requirements and insurance purposes, tenure for that site must be formalised by way of licence.</p>
US13/18	<p>Sublease between Ballina Shire Council and Arts Northern Rivers Incorporated at Parts Lot 321 DP 55745 &amp; Lot 7003 DP 92641 being that part of the building and surrounds known as the "Old Tintenbar Council Chambers" sitting upon Reserve Number D57675 dedicated for Town Hall site notified 11 October 1895 and called Area 1 for a period of three years with a two year option for a commencing rent of \$10,764 pa + GST.</p> <p>Explanation: Council signed a Head Lease with the State of New South Wales by the Minister for Lands for twenty years over the property known as the "Old Tintenbar Council Chambers". This sublease has been offered to a sitting tenant who has been in occupation on a temporary licence awaiting the formalisation of the Head Lease.</p>
US13/19	<p>Transfer of Sublease from M &amp; K Hamblin to A Foukkare for premises known as Ballina Gallery Café, for Part Lot 1 DP 1153927, being that part of the building and surrounds known as the "Old Council Chambers".</p> <p>Explanation: This represents the sale of the Gallery café business.</p>
US13/20	<p>Loan Agreement – Local Infrastructure Renewal Scheme Round 2 - \$1.2 loan funding – Ballina Heights Drive</p> <p>Explanation: Council has previously approved this loan funding for Ballina Heights Drive.</p>

## 10.1 Use of Council Seal

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US13/21	<p>Plan of Subdivision and Section 88B Instrument for Lot 2 DP 1171927 owned by J I Sheather.</p> <p>Explanation: Essential Energy has requested a 20 metre wide easement that traverses the abovementioned site for overhead power to service the Ballina Heights Water Reservoir. This requires the consent of both Council and the Landowner.</p>
US13/22	<p>Plan of Subdivision, Section 88B Instrument, Real Property Act Lease and Mortgage on Lease to create a new lot within Crawford Park for the purposes of registration of the lease to the Alstonville Community Pre School.</p> <p>Explanation: For the Alstonville Pre School to access their State Government funding, they are required to register a Mortgage on Lease. To register a Lease to Alstonville Pre School (to enable the registration of the mortgage on lease) requires the creation of a new lot.</p>

### Attachment(s)

Nil

## 10.2 Councillor Attendance

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### 10.2 Councillor Attendance

**Delivery Program** Governance and Finance

**Objective** To provide Councillors with professional development.

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#### **Background**

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

The Australian Local Government Women's Association (ALGWA) is seeking approval for Cr Cadwallader to attend Executive Meetings and Conferences of ALGWA for 2014/15. Cr Cadwallader has been granted approval at the April 2014 Ordinary meeting to attend an ALGWA Executive meeting in Wollongong on 3 May 2014.

#### **Key Issues**

- Benefit of the meetings/conferences and cost.

#### **Information**

Dates and venues for future ALGWA Executive meetings are as follows:

2 August 2014 – Wollondilly  
1 November 2014 – Bathurst  
7 February 2015 – Muswellbrook (venue to be confirmed)  
11 April 2015 – Penrith  
30 April to 2 May 2015 – Conference - Wollongong

Cr Cadwallader has previously been Vice President of the Association. This position can only be held for a two year term. Cr Cadwallader now holds the position of President's Support.

#### **Sustainability Considerations**

- **Environment**  
Matters of environmental, social or economic significance are typically discussed at ALGWA meetings.
- **Social**  
As above
- **Economic**  
As above

## **10.2 Councillor Attendance**

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

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

Council has recently exhibited changes to its Councillor Expenses & Facilities Policy which sets a maximum allowance of \$5,000 (ex GST) per Councillor for conferences and associated travel per financial year. The exhibition period for the policy closes on 21 May 2014 with the report for the adoption of the proposed changes to be submitted to the June 2014 Ordinary meeting.

### **Consultation**

Council's current expenses policy states that these matters must be reported to Council for approval.

### **Options**

The options are to approve or not approve the travel. The recommendation is to approve as this expenditure relates to Cr Cadwallader's role as a Councillor, particularly with respect to promoting women in local government.

### **RECOMMENDATION**

That Council approves Cr Cadwallader's travel to attend Executive Meetings and Conferences of the Australian Local Government Women's Association for 2014/15.

### **Attachment(s)**

1. Letter from ALGWA

### 10.3 Investment Summary - April 2014

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#### 10.3 Investment Summary - April 2014

**Delivery Program** Governance and Finance

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

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#### **Background**

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

#### **Key Issues**

- Investment return and compliance with Investment Policy

#### **Information**

Council's investments are all in accordance with the Local Government Act and the Regulations. The investments breached Council's investment policy on 17 February 2014, when Standard & Poor 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 in February 2014, Council had \$13 million invested with ING, representing 18.5% of the total portfolio. Since that time two investments have fallen due, \$1 million in March and \$3 million in April. Both investments have been placed with alternate institutions.

As at 30 April 2014 Council has \$9 million invested with ING which represents 13.4% 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.

It is pointed out that clause 16 also states; *The objective will be to manage the portfolio back in accordance with the policy limits, within three months from the date the portfolio first exceeds the limit or threshold.*

Given that the portfolio has declined we will not have eliminated the breach within the desired three month period. To achieve this 'objective' we would need to break an investment which would result in a loss of interest income. Given that the rating of ING remains quite strong (A-) this approach is not recommended.



### 10.3 Investment Summary - April 2014

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The next ING deposit renewals are:

- \$1 million on 26/5/14
- \$2 million on 21/7/14

Depending on how the total balance of the portfolio fluctuates over the next few months, it is likely that the ING percentage of the portfolio will be less than 10% by the end of July at the latest.

The balance of investments as at 30 April 2014 was \$67,311,000. This represents a decrease from March of \$1,995,000, however it is anticipated that the balance will rise again during May 2014, given that it is a rates instalment month.

Council's investments as at 30 April are at an average (weighted) rate of 3.74%, which is 1.05% above the 90 Day Bank Bill Index of 2.69%.

The balance of the cheque account at the Commonwealth Bank, Ballina as at 30 April 2014, was \$725,862.

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 to Council's investment portfolio the majority of the approximately \$67 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
<b>Total</b>		<b>100%</b>

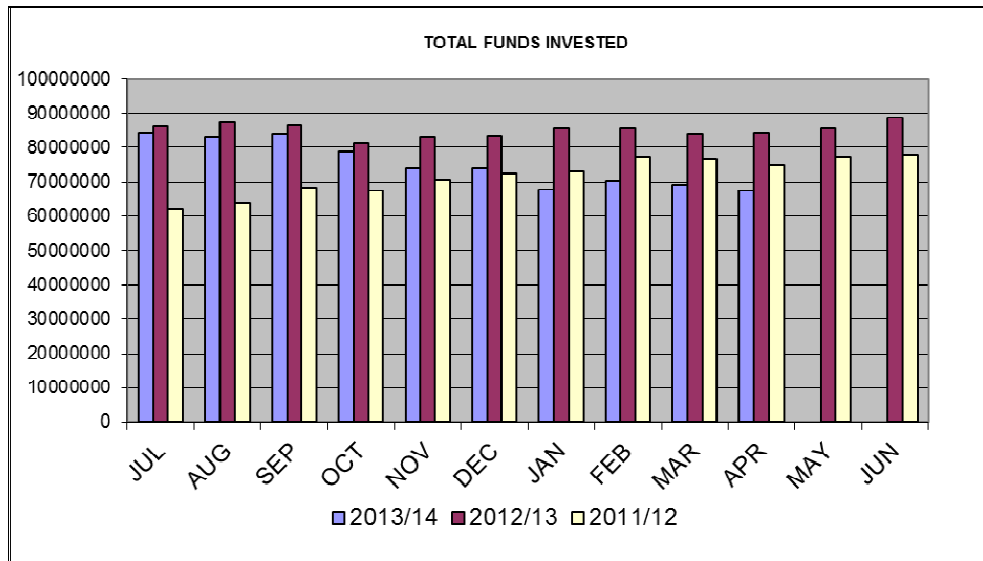
\* Based on reserves held as at 30 June 2013

### 10.3 Investment Summary - April 2014

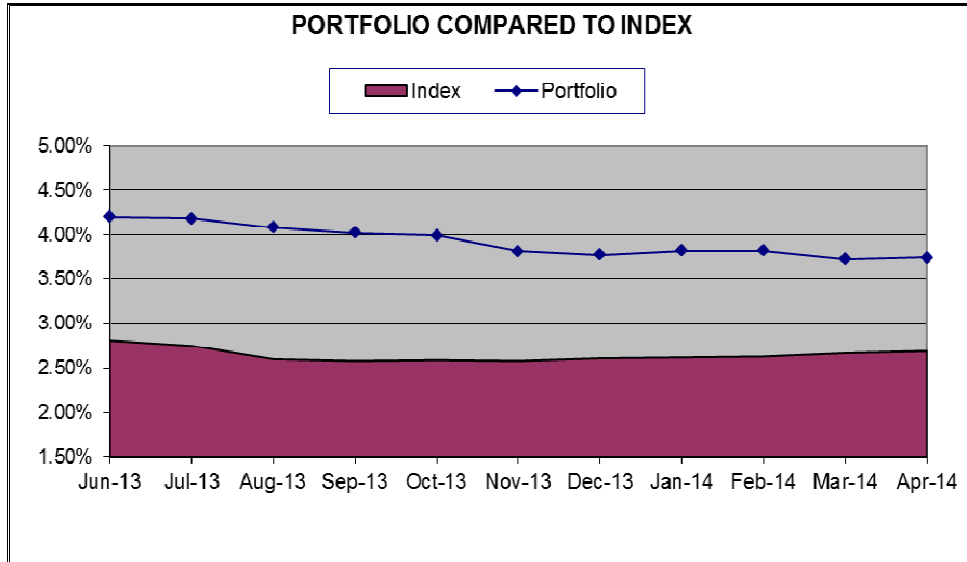
#### A. Summary of investments by institution

Funds Invested With	ADI Rating	Previous Month (\$'000)	Current Month (\$'000)	Quota %	% of Total	Total
<b>Grandfathered Investments</b>						
Goldman Sachs	AA-	1,000	1,000	0	1.4	
National Australia Bank	AA-	1,788	1,788	0	2.6	
National Wealth M'ment Holding	A	2,000	2,000	0	2.9	7%
<b>Rated Institutions</b>						
AMP Bank	A+	6,000	6,000	20	8.9	
Bank of Queensland	BBB+	5,000	5,000	10	7.4	
Commonwealth Bank of Australia	AA-	4,518	4,523	20	6.7	
Defence Bank Ltd	BBB+	1,000	1,000	10	1.5	
Greater Building Society	BBB	2,000	2,000	10	3.0	
Heritage Bank	BBB+	6,000	6,000	10	8.9	
Illawarra Mutual Building Soc	BBB	2,000	0	10	0.0	
ING Bank Ltd	A-	12,000	9,000	10	13.4	
Members Equity Bank	BBB+	4,000	4,000	10	5.9	
National Australia Bank	AA-	10,000	10,000	20	14.9	
Newcastle Perm Bld Society	BBB+	2,000	2,000	10	3.0	
Suncorp-Metway Bank	A+	7,000	10,000	20	14.9	
Westpac Banking Corporation	AA-	3,000	3,000	20	4.5	93%
<b>Unrated ADI's</b>				\$1m	0.0	
<b>Total</b>		<b>69,306</b>	<b>67,311</b>			<b>100%</b>

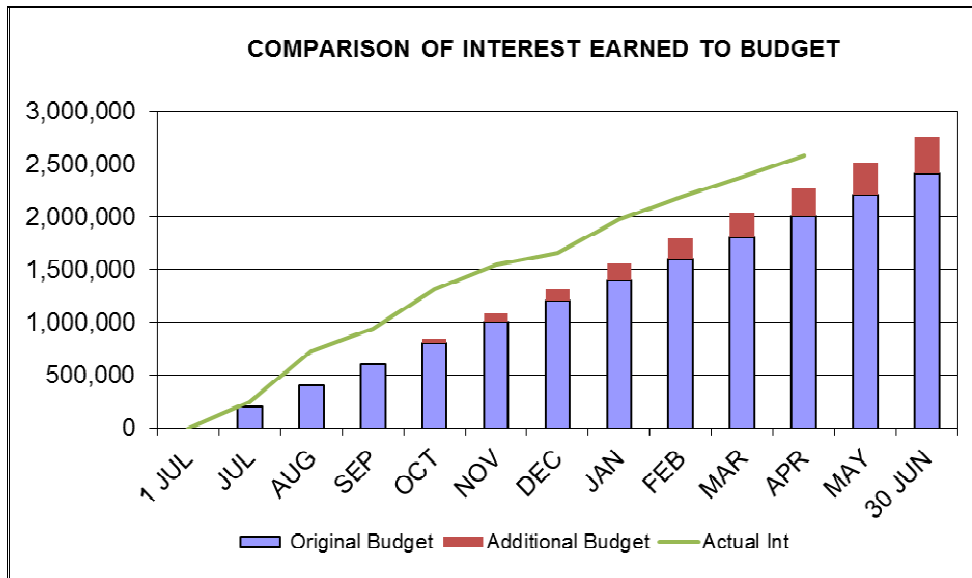
#### B. Monthly Comparison of Total Funds Invested



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



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



### 10.3 Investment Summary - April 2014

#### E. Investments held as at 30 April 2014

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
20/09/04	National Australia Bank (ASX Listed)	FRN	3.88%	Perpetual	1,788	1,395
12/04/06	Goldman Sachs	FRN	3.14%	12/04/16	1,000	994
16/06/06	National Wealth M'ment Holdings	FRN	3.28%	16/06/26	2,000	1,928
	at call Commonwealth Bank Of Australia	FND	2.45%	at call	2,530	2,530
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	1,035
25/01/13	Commonwealth Bank Of Australia	TD	4.36%	25/01/18	1,993	2,025
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	4.11%	07/06/16	2,000	2,010
30/07/13	ING Bank Ltd	FRTD	4.08%	30/07/14	2,000	2,000
31/10/13	Heritage Bank	TD	3.72%	31/10/14	1,000	1,000
06/11/13	Bank of Queensland	TD	3.50%	06/05/14	1,000	1,000
13/11/13	National Australia Bank	TD	3.80%	13/05/14	1,000	1,000
22/05/13	Bank of Queensland	TD	3.70%	22/05/14	3,000	3,000
25/11/13	Suncorp-Metway Bank	TD	3.80%	25/05/14	2,000	2,000
26/11/13	Bank of Queensland	TD	3.75%	27/05/14	1,000	1,000
26/11/13	ING Bank Ltd	TD	3.80%	26/05/14	1,000	1,000
23/12/13	AMP Bank	TD	3.65%	23/06/14	2,000	2,000
14/01/14	Members Equity Bank	TD	3.80%	14/05/14	1,000	1,000
20/01/14	ING Bank Ltd	TD	3.81%	21/07/14	2,000	2,000
24/01/14	AMP Bank	TD	3.90%	23/07/14	2,000	2,000
24/01/14	AMP Bank	TD	3.65%	23/01/15	2,000	2,000
30/01/14	ING Bank Ltd	TD	3.70%	29/07/14	1,000	1,000
04/02/14	Newcastle Permanent Bld Society	TD	3.61%	05/05/14	2,000	2,000
10/02/14	Heritage Bank	TD	3.80%	11/08/14	1,000	1,000
10/02/14	ING Bank Ltd	TD	3.80%	11/08/14	2,000	2,000
17/02/14	Members Equity Bank	TD	3.60%	19/05/14	2,000	2,000
25/02/14	Westpac Bank	FRN	3.50%	25/02/19	2,000	2,013
26/02/14	National Australia Bank	TD	3.75%	27/05/14	2,000	2,000
27/02/14	National Australia Bank	TD	3.70%	26/08/14	1,000	1,000
03/03/14	Suncorp-Metway Bank	TD	3.65%	03/07/14	3,000	3,000
04/03/14	Suncorp-Metway Bank	TD	3.57%	04/09/14	2,000	2,000
24/03/14	Members Equity Bank	TD	3.70%	22/09/14	1,000	1,000
04/04/14	Heritage Bank	TD	3.74%	05/05/14	1,000	1,000
14/04/14	National Australia Bank	TD	3.45%	14/10/14	2,000	2,000
15/04/14	Suncorp-Metway Bank	TD	3.55%	13/10/14	3,000	3,000
30/04/14	National Australia Bank	TD	3.55%	03/11/14	2,000	2,000
<b>Totals</b>					<b>67,311</b>	<b>66,930</b>
FND = Managed Fund			FRN = Floating Rate Note			
TD = Term Deposit			FRTD = Floating Rate Term Deposit			

**RECOMMENDATION**

That Council notes the record of banking and investments for April 2014.

**Attachment(s)**

1. TCorp Economic Commentary - April 2014

## 10.4 Arts Northern Rivers - Delegates

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### 10.4 Arts Northern Rivers - Delegates

**Delivery Program** Governance and Finance

**Objective** To appoint a Councillor as alternate delegate to Arts Northern Rivers.

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#### **Background**

Council currently has one delegate to Arts Northern Rivers (Cr Susan Meehan) with the Gallery Co-ordinator as the alternate delegate. Cr Meehan has been the Chair of Arts Northern Rivers for the past few years. Cr Meehan is seeking to have another Councillor appointed as the alternate delegate, given that other councils have Councillors as the delegate and alternate delegate.

Traditionally the Gallery Co-ordinator has not attended Arts Northern Rivers meetings and due to the nature of Arts Northern Rivers, which is largely a policy based organization, it appears to make more sense for a Councillor to be the alternate delegate. The newly appointed Gallery Co-ordinator has no objection to this proposal.

#### **Key Issues**

- Adequate Councillor representation

#### **Information**

As per the background section of this report. Further information on Arts Northern Rivers is available at the following link.

<https://artsnorthernrivers.com.au/pages/about-us-what-we-do>

#### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Arts are a major part of the social fabric of the northern rivers.
- **Economic**  
Arts are also an important economic contributor to the region.

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

Nil

#### **Consultation**

Arts Northern Rivers consists of all northern rivers councils meaning that it is an important consultation mechanism for local government and the arts industry.

## **10.4 Arts Northern Rivers - Delegates**

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### **Options**

The options are to approve or not approve the appointment of a Councillor as the alternate delegate to Arts Northern Rivers. The recommendation is to approve that appointment as this is consistent with all other councils in the region.

### **RECOMMENDATION**

That Council approves the appointment of a Councillor as the alternate delegate to Arts Northern Rivers.

### **Attachment(s)**

Nil

## **10.5 Port Ballina Taskforce - Membership**

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### **10.5 Port Ballina Taskforce - Membership**

**Delivery Program** Governance and Finance

**Objective** To seek Council's views on additional membership of the Port Ballina Taskforce.

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#### **Background**

Council has received a request from the Richmond Valley Anglers Action Group Inc to become a member of the Port Ballina Taskforce, representing recreational fishers. A copy of the request is attached. The Group also made representations to the last Taskforce meeting held on 8 May 2014.

#### **Key Issues**

- Membership and terms of reference

#### **Information**

In July 2013 Council endorsed the following membership and terms of reference for the Port Ballina Taskforce with expressions of interest being called for community representatives in August 2013

#### **Membership**

- a) Mayor*
- b) Councillors – Two - Cr Williams and Cr Worth*
- c) Ballina Chamber of Commerce – Two*
- d) Ballina Fishermen's Co-operative – Two*
- e) State Government – One from the Department of Premier and Cabinet*
- f) Community representative – One (with an option to increase to two) – This position(s) is to be appointed by the General Manager based on a recommendation from the existing Port Ballina Taskforce members following an expression of interest process.*

#### **Terms of Reference**

*The objective of the Port Ballina Taskforce is to improve the overall marine infrastructure and marine environment for Ballina, through the promotion and lobbying of activities that result in improvements to:*

- a) Overall health of the Richmond River*
- b) Safer boating*
- c) Marine infrastructure both commercial and public*
- d) Tourism and business opportunities*
- e) Recognising and preserving Ballina's maritime history*
- f) Implementation of existing strategies and studies such as the Ballina Foreshore Master Plan.*

The Taskforce subsequently endorsed the appointment of three community representatives from the expression of interest process due to the large number of quality candidates who submitted an expression.



## 10.5 Port Ballina Taskforce - Membership

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At the last meeting of the Taskforce the Richmond Valley Anglers Action Group made a deputation and also highlighted that the Taskforce did not appear to have a group representing recreational fishers.

This is a reasonable point and resulted in the submission from this group to join the Taskforce.

### Sustainability Considerations

- **Environment**  
The Port Ballina Taskforce considers activities that have a range of environmental, social and economic impacts.
- **Social**  
As above
- **Economic**  
As above

### Legal / Resource / Financial Implications

This Taskforce does not consume a large amount of resources as its main role is to promote, lobby and canvass issues with State Government Agencies and the broader community. Overall the Taskforce is gaining some traction with the State Government based on feedback being received on a range of issues (i.e. dredging, marina infrastructure etc).

No delegations are in place for the Taskforce with any actions being taken under the existing delegations of the General Manager.

### Consultation

Consultation on this matter took place with the Port Ballina Taskforce on 8 May 2014.

The Ballina Chamber of Commerce representatives on the Taskforce have also provided the following comments by email.

*Following on from today's meeting and the request from RVAG. The Chamber is of the view that Council would need to call for EOI from recreational fishing reps rather than automatically appoint RVAG to ensure all groups are given the opportunity.*

### Options

The main options are:

- a) Appoint a representative from the Richmond Valley Anglers Action Group Inc to the Port Ballina Taskforce to represent recreational fishers.
- b) Call for Expressions of Interest from recreational fishing groups to become a member of the Port Ballina Taskforce.

## **10.5 Port Ballina Taskforce - Membership**

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- c) Not expand the membership of the Taskforce.

The preferred option is to conduct an expression of interest (EOI) process to appoint a recreational fishing group representative. It is uncertain as to how many recreational fishing groups are located in the Shire and the most equitable option is to call for EOIs. This then allows all interested parties to submit an expression.

It is also recommended that the appointment be made by the Taskforce under the delegation of the General Manager.

### **RECOMMENDATIONS**

1. That the membership of the Port Ballina Taskforce be amended to include one representative from a recreational fishing group, with Council calling Expressions of Interest to fill that position on the Taskforce.
2. The appointment of that position is to be made by the General Manager, in consultation with the Taskforce.

### **Attachment(s)**

1. Correspondence from Richmond Valley Anglers Action Group Inc

## 10.6 Community Donations

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### 10.6 Community Donations

**Delivery Program** Governance and Finance

**Objective** To invite Council to consider two donation requests.

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#### **Background**

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

The applications referred to in this report are deemed to represent exceptional circumstances, primarily as they are due to be held in June. Copies of the two requests are attached.

#### **Key Issues**

- Community benefit
- Funding available

#### **Information**

##### ***Hope Road: Walk for South Sudan***

The Hope Road Walk is seeking assistance from Council by considering some of the following:

- Host a civic reception, public event or fundraiser in either Lennox Head (June 20), Ballina (June 21) or Alstonville (June 22) or several of these locations for the Hope Road project
- Offer the free use of a hall or venue for the conduct of a public event
- Provide a PA or AV system and a skilled operator for it
- Make a monetary contribution to the project
- Promote the Hope Road project and any special public event hosted by Council in informational and promotional material issued by Council
- Write articles for the press in your area about the Hope Road Walk.

##### ***Boshena Warzecha/Tim Apps***

Boshena Warzecha and Tim Apps are running an Empower U for Teenagers course and are seeking use of the Ballina Surf Club for 27, 28 and 29 June 2014. The cost of hire of these rooms for the three days is \$1,150.

#### **Sustainability Considerations**

- **Environment**  
Not Applicable

## 10.6 Community Donations

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

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

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

<b>Items</b>	<b>Budget</b>	<b>Allocated</b>	<b>Balance</b>
Donations (General)	65,000	63,707	1,293
Donations (Halls)	40,000	40,854	(854)
Donations (DA Fees)	4,000	600	3,400
<b>Net Amount Available</b>			<b>3,839</b>

### **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 requests. Typically the recommendation is for Councillors to determine approval or refusal.

In respect to the Hope Road Walk the most beneficial contribution would undoubtedly be a cash contribution to the project (i.e. \$100, \$200 etc). Other items listed such as promotional news could be included as part of Council's weekly advertising at limited cost or nil additional cost to Council dependent on further discussions with the organisers.

In respect to the Empower U for Teenagers course if Council supported this proposal an internal journal would be raised to transfer the cost of hiring the rooms from the donations expense budget to the Ballina Surf Club income budget.

### **RECOMMENDATION**

That Council determine to approve or decline the requests from Hope Road: Walk for South Sudan and Boshena Warzecha/Tim Apps.

### **Attachment(s)**

1. Request from Hope Road Walk for South Sudan
2. Request from Boshena Warzecha/Tim Apps

## **10.7 Policy (Review) - Commercial Activities on Public Land**

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### **10.7 Policy (Review) - Commercial Activities on Public Land**

**Delivery Program** Community Facilities and Services

**Objective** To finalise a review of Council's Commercial Activities on Public Land Policy following the deferral of one item from the April 2014 Ordinary meeting.

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#### **Background**

At the April 2014 Ordinary meeting Council considered a report on possible changes to the existing Commercial Activities on Public Land Policy. The changes were proposed following submissions from parties interested in either obtaining a licence or amending the conditions required to hold a licence.

As a result of that report Council resolved as follows:

- 1. That based on the feedback from organisations such as Australian Lifeguard Service and Ballina Jet Boat Rescue, Council approves the deletion of the requirement for the Advanced Resuscitation Certificate from the operating guidelines for kayak licences.*
- 2. That Council consult with other licensing authorities such as the Office of Environment and Heritage in order to ensure as much consistency as practical in the issuing of licences for similar activities.*
- 3. That Council approves an amendment to the Commercial Activities on Public Land Policy to allow three Stand Up Paddle Board licences, as this is consistent with the original intent of this policy.*
- 4. That Council call expressions of interest for this additional licence with the General Manager authorised to issue this licence based on the contents of the policy.*
- 5. That Council approves the deletion of the final paragraph from clause 5.8 of the existing policy, as attached, as this paragraph only duplicates the information included in the table in clause 5.5*
- 6. That the issue of transfer of licences be referred to a Councillor briefing.*

Items one to five are being progressed and in respect to item six a Councillor briefing was held on 6 May 2014.

The report that now follows deals with the issue of transferring licences as this remains the one matter outstanding. A copy of the existing Council policy, without the amendments from the April Ordinary meeting, is included as the first attachment to this report.

#### **Key Issues**

- Advantages and disadvantages in allowing the transfer of licences
- Difficulties in ensuring compliance with any restrictions placed on licences

## 10.7 Policy (Review) - Commercial Activities on Public Land

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### Information

As reported to the April 2014 Ordinary meeting there are currently five surf school licences, with those licences held by:

- Simon Freeden trading as Summerland Surf School – Gloria Street, South Golden Beach
- Kool Katz – Shirley Street, Byron Bay
- Soul Surf School (renamed from East Point Surf School) – Bay Street, Byron Bay
- Mojo Surf - PO Box 507, Byron Bay
- Cheyne Horan School of Surf – Dress Circle Drive, Lennox Head

The actual name on each licence is as follows:

- S Freeden T/A Summerland Surf School
- T Hannon & M Borrack T/A Kool Katz Learn to Surf
- Cheyne Horan T/A Cheyne Horan School of Surf
- S Riley T/A Soul Surf School
- Mojo Surf Pty Ltd

Four of the licences are held in the name of a person(s) with Mojo Surf being in a company name.

The issue facing Council is that Simon Freeden has approached Council in respect to the sale of their business. Mojo Surf is the proposed purchaser of the business and from the emails received it appears that Mojo Surf would be operating the business with Summerland Surf School still holding the licence. A copy of the emails relating to this is included as the second attachment to this report.

The current policy only allows an operator to hold one class of licence, with Council specifically resolving not to support one operator holding two licences within the same class of licence (i.e. Surf School, Elite Surf School, SUPB) as part of the September 2013 review of this policy.

It is understood that Mojo Surf are already operating some their lessons through the existing Summerland Surf School licence. This partnership has resulted in an element of discontent with two other operators having complained to Council that Mojo is operating with two licences. Council has been unable to address these complaints as the second licence is still technically held by Simon Freeden.

This highlights the difficulties that arise when councils, or similar authorities, try and place restrictions on commercial operations. There are many business structures or agreements that can be drawn up that still satisfy the technical part of a policy or legislation, but perhaps don't satisfy the intent.

In respect to the sale or transfer of licences, clause 5.10, of the existing policy states as follows:

*(b) Licences are not tangible assets and cannot be transferred to a new operator*

## **10.7 Policy (Review) - Commercial Activities on Public Land**

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This is going against the business model Mojo Surf is pursuing as they clearly are striving to expand their business operations and possibly obtaining additional licences from councils, as they become vacant or are sold.

### **Sustainability Considerations**

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

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

There is limited resource or financial implications from this report.

### **Consultation**

A Councillor briefing was held to discuss the issue of transferring licences.

### **Options**

The options available are to approve or not approve the licence transfer.

#### ***Reasons to support transfer***

- This allows a person to sell their business with the licence
- This allows the private market to determine the value of businesses
- This simplifies matters and recognises that no matter what restrictions Council puts in place operators will always be able to develop business structures that circumvent Council's "artificial" restrictions

#### ***Reasons not to transfer***

- Adopted policy, on which the licences were awarded, states that licences are not transferable
- The existing licence terms, conditions and fees are based on this condition
- There are only a small number of licences issued for specific localities – Therefore Council does not want to encourage the sale / trading of licences which could lead to inflated prices being paid for the licences
- If a person no longer requires a licence, the licence becomes vacant – Council can then call expressions of interest for any new person to submit an expression of interest for the licence – This helps with transparency and openness in the issuing of licences, along with ensuring diversity in the industry
- Licences are only offered for three years – There is no absolute guarantee that a new licence will be issued at the end of the three year period – If a licence is being traded and sold there is an expectation that the licence will be there in perpetuity

## **10.7 Policy (Review) - Commercial Activities on Public Land**

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These are all good arguments both for and against. In determining a preferred staff position the general feeling is that even though the arguments not to approve transfer are well founded and are supported the practicalities of enforcing such a condition are difficult.

As outlined earlier Mojo, for all intents and purposes, are already operating with the Summerland Surf School licence, even though the licence is still in the name of Simon Freeden.

Even though the objective of Council to achieve openness and transparency in licence transfers may be meritorious, in reality we have now created a business market for these licences and the market will ultimately determine the preferred licence holder.

We can continue to try and restrict licence transfers but this may be too much of a ask unless significant legal funds are expended on reviewing the licence conditions and policy and developing licence agreements that are legally enforceable to ensure that the licence cannot be operated by any other person than the licence holder.

This again maybe impractical as many of the existing licences are in one person's name, but in reality the lessons are being provided by employees or contractors to that person.

Also with one current licence in the name of a company; i.e. Mojo Pty. Ltd. the ownership or holdings in that company could quite easily change resulting in a new owner of that licence, without Council even being aware of that change.

Ultimately Council needs to determine how much it invests in pursuing these restrictions as there may be a need for legal advice to ensure adequate protections are put in place to support the Council policy.

The recommendation to this report does support the current policy position of Council, which is not to allow transfers, however an alternative recommendation to support transfers could be worded as follows:

*That Council amend clause 5.10 of the commercial Activities on Public Land Policy to allow the sale / transfer of licences, with this amendment being applicable to any existing licence holders. Any person / entity being offered the sale / transfer of an existing licence must meet the expertise and experience criteria as outlined in clause 5.9 of the existing policy.*

The other issue that arises from this is that Simon Freeden is looking to transfer / sell his business to Mojo Surf and the current policy limits each operator to one licence per class of activity.

The emails attached appear to only talk about the sale of the business, which is a matter for Mr Freeden and Mojo, however the deputation from Mr Freeden at the last Council meeting was focused more on the transfer of the licence.

This issue of the two licences has been previously debated by Council with one licence being the resolved policy position. Therefore there is no recommendation to change the current policy.



## **10.7 Policy (Review) - Commercial Activities on Public Land**

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However again it is important to emphasise that different legal structures could be established that would allow the licence to be held in different names, even though the ultimate holders of the licence could well have some form of business connection.

It is clear that Simon Freeden wishes to transfer / sell his licence to Mojo therefore even a decision to allow the existing licence to be transferred will not satisfy Mr Freeden, unless Council resolves to amend the one licence condition.

If this condition remains Council staff will endeavor to ensure that the policy is not circumvented through some legal structure or agreement between the parties, however there may be limitations as to the actions Council can take to prevent this occurring.

In summary the recommendation that follows is largely as per the report to the April 2014 Ordinary meeting in respect to the issue of transferring licences, based on the understanding that this does not support Mr Freeden's proposal to transfer his licence to Mojo Surf.

### **RECOMMENDATION**

That in respect to the proposal for Simon Freeden (trading as Summerland Surf School) to transfer / sell his licence to Mojo Surf, Council confirms that it has no role to play in the transfer of one business operations to another, however the transfer of the licence is not approved for the following reasons:

- a) It is inconsistent with the licence agreement and the Council policy which does not permit the sale of licences
- b) It results in one operator having more than one licence in a particular class of activity
- c) It can result in inflated market values for what are non-tangible assets
- d) Council's preference is to call expressions of interest for vacated licences to ensure a fair and transparent process is conducted in the allocation of licences.

### **Attachment(s)**

1. Policy - Commercial Activities on Public Land
2. Correspondence - Summerland Surf School

## 10.8 Sundry Debtor - Write Off

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### 10.8 Sundry Debtor - Write Off

**Delivery Program** Governance and Finance

**Objective** To obtain Council approval to write off a sundry debt.

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#### **Background**

Procedures for the management of outstanding debt include an assessment of when it is no longer viable to continue to pursue unpaid accounts. In conducting this assessment it is apparent that the account which is the subject of this report falls into that category. The General Manager only has delegated authority to write-off debts to the value of \$1,000.

#### **Key Issues**

- Value of the write off
- Recovery action undertaken to date
- Cost versus benefit of continuing action

#### **Information**

The account that has been identified to be written off is detailed below.

#### Account

Debtor Name:	Ephraim Isaac
Original amount due:	\$2,800
Service provided and date rendered:	Rental Income – Wigmore Arcade
Payments received:	Nil
Balance currently outstanding:	\$2,800
Details of recovery action to date:	

Mr Isaac was a tenant of Shop 10 Wigmore Arcade, Ballina and fell into rental arrears in 2012. Council initiated actions to recover non-payment of rental.

Mr Isaac vacated the premises on 31 December 2012 and recovery action continued including initial letters from Council's solicitor and a meeting between Mr Isaac, the Mayor and Council staff.

An agreement was reached whereby the debt was reduced and Mr Isaac would pay an amount of \$2,800 as settlement of this matter. It was also agreed that he could repay the debt in installments over time. However Mr Isaac has not paid any amounts towards the settlement figure despite being pursued by Council staff and a letter of demand being issued by our debt recovery agency.

Council could continue to pursue the debt by issuing a statement of liquidated claim. This will cost approximately \$500 and it includes court fees, service fees and solicitors costs. Typically the bill ends up around \$1,000 once all avenues are exhausted. There is of course no guarantee of success.

## 10.8 Sundry Debtor - Write Off

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It is a matter of whether we risk a further \$500 to \$1,000 to pursue the \$2,800. Given the amount of debt owing and the efforts taken to date it is not considered cost effective to expend any further time or money in debt recovery.

### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Not Applicable
- **Economic**  
See financial and legal implications

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

In an accounting sense there is an obligation on Council to recognise in the books of account when it becomes very likely that an account will not be paid. In a practical sense there is an obligation on Council to use community resources wisely and recognise that it is no longer economical to continue to pursue the debt.

### **Consultation**

Consultation has occurred between staff and recovery agencies.

### **Options**

1. Council resolves to write off the debt and cease active recovery action.
2. That Council's debtor's officer in conjunction with the recovery agency continues to actively pursue the debt, which will then incur additional external costs.

The preference is option one as the pursuit of this debt is not considered economical.

### **RECOMMENDATION**

That Council approves the write off of the debt for Mr Ephraim Isaac, as detailed in this report, totaling \$2,800, as the further pursuit of this debt is not considered economical.

### **Attachment(s)**

Nil

## **10.9 Write-offs - Concealed Water Leaks**

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### **10.9 Write-offs - Concealed Water Leaks**

**Delivery Program** Governance and Finance

**Objective** To seek Council's approval to write off water consumption charges in accordance with Council's Concealed Water Leaks Policy for eight properties

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#### **Background**

Council adopted a Concealed Water Leaks Policy in February 2011 to provide customers with some level of compassionate financial relief for higher than normal water consumption accounts resulting from a concealed water leak event.

The policy was reviewed at the April 2014 Ordinary Council meeting. The review was requested by Council due to concerns about the level of write-offs provided under the policy following consideration of the earlier 2012/13 rates and charges write off report presented to Council.

The main change to the previous policy following the recent review is that the Part one write-off is now capped at \$1,000. The part one write off is the difference between the first (\$1.91/kl) and second step (\$2.87/kl) water consumption tariffs.

The other important resolution made by Council during the review process was that applications already received, but not yet processed by staff prior to the policy review, are to be assessed under the new policy guidelines rather than the policy in force at the time the unprocessed applications were received.

The amended policy still provides for a two part reduction to the water account. Part one being that the water consumption attributed to the leak is charged at the lower of the two step tariffs to a maximum write-off of \$1,000.00. Part two being that we will write-off 50% of the water consumption charges attributed to the leak event up to a maximum of 250 kilolitres (kl) multiplied by the lower step tariff rate in force at that time. The combined maximum write-off available per application is now \$1,477.50.

The Concealed Water Leaks Policy provides the General Manager with delegation to authorise applications received under this policy and the General Manager has provided the Rating and Customer Service Coordinator delegated authority to determine applications under this policy. Providing the applicant complies with the eligibility criteria contained within the policy, Council will provide financial assistance under the policy once only.

Write offs not covered by specific Local Government legislation must be carried out by Council resolution, unless the General Manager has been provided with delegated authority. The following accounts approved under the Concealed Water Leaks Policy require write off adjustments greater than the General Manager's delegated authority and as a result, must be approved by Council.

## 10.9 Write-offs - Concealed Water Leaks

This report details the specific accounts and amounts proposed to be written off that require Council approval in accordance with Clause 131 of the Local Government (General) Regulation 2005 (LGGR) and section 607 of the Local Government Act 1993 (LGA).

### Key Issues

- Water leak meets the policy guidelines.
- Difference in the write-offs recommended from what the write-offs would have been under the previous policy for the properties listed in this report.

### Information

Council's water meter reading contractor reads all water meters quarterly in a two week period during the months of September, December, March and June each year. Council staff then perform a range of auditing functions prior to accounts being issued.

One of the audits concentrates on accounts where the water consumption for the current billing quarter is significantly higher than the usual consumption for that property. Contact with the customer is immediately initiated if we are unable to justify the higher than usual consumption following internal investigations.

In some cases the customer is unaware of this high consumption as the water leak is concealed. In these cases they may then apply for one-off financial relief in accordance with our Concealed Water Leaks Policy.

The following table provides details of accounts determined to be eligible to receive financial relief under our recently amended Concealed Water Leaks Policy. Each of these applications require write-off approval by Council as they exceed the \$1,000 write-off limit provided to the General Manager by Council under delegated authority.

The applications marked \*\*\* have had their part one calculation capped at \$1,000 in accordance with our amended policy guidelines. The summary section provides information on the estimated part one calculation write-off that would have been recommended pursuant to the previous policy.

### Concealed water leak write-offs that exceed \$1,000

Council Assessment Number	Write Off Amount (\$)	Cause of Water Leak and Write-off Summary
195376	1,037.18	Mr BJ & Mrs Y Bowen <b>Skennars Head Road SKENNARS HEAD</b>  Cause: Leak was located under trees about eight metres from the water meter on their 2.5 hectare property.  Property type: Rural land and house Estimated normal daily use: 0.56 kl/day Approximate use during leak event: 9.0 kl/day Estimated water lost due to leak: 749 kl Part 1 write-off \$559.68 Part 2 write-off \$477.50 (maximum)

## 10.9 Write-offs - Concealed Water Leaks

Council Assessment Number	Write Off Amount (\$)	Cause of Water Leak and Write-off Summary
255118	1,117.82	<p>Mr S Benhayon <b>Converys Lane WOLLONGBAR</b></p> <p>Cause: Water leaks at cold storage warehouse. Near fig tree, underground, and under the road. Council's mains replacement in the area may have been a cause due to improved water pressure.</p> <p>Property type: Industrial cold storage sheds Estimated normal daily use: 0.59 kl/day Approximate use during leak event: 7.4 kl/day Estimated water lost due to leak: 699 kl Part 1 write-off \$640.32 Part 2 write-off \$477.50 (maximum)</p>
***181961	1,477.50	<p>Beare Investments Pty Ltd <b>Broadwater Place WEST BALLINA</b></p> <p>Cause: Broken pipe under significant sized concrete slab and took extensive time to locate.</p> <p>Property type: House and commercial sheds Estimated normal daily use: 0.74 kl/day Approximate use during leak event: 7 to 10 kl/day Estimated water lost due to leak: 1,971 kl Part 1 write-off calculation before capped limit: \$1,892.16 Part 1 write off: \$1,000.00 (maximum) Part 2 write-off \$477.50 (maximum)</p>
***227319	1,477.50	<p>Roman Catholic Church <b>Isabella Drive SKENNARS HEAD</b></p> <p>Cause: Broken water pipe underground in the yard of the Pre-School.</p> <p>Property type: St Francis Xavier Catholic School Estimated normal daily use: 1.50 kl/day Approximate use during leak event: 12.7 kl/day Estimated water lost due to leak: 1,084 kl Part 1 write-off calculation before capped limit: \$1,040.64 Part 1 write off: \$1,000.00 (maximum) Part 2 write-off \$477.50 (maximum)</p>
290778	1,266.62	<p>Mr MD Graveson <b>Rifle Range Road WOLLONGBAR</b></p> <p>Cause: Burst copper water pipe under the bathroom concrete floor - external brickwork had to be removed to isolate the water leak.</p> <p>Property type: House Estimated normal daily use: 0.56 kl/day Approximate use during leak event: 12.8 kl/day Estimated water lost due to leak: 1,222 kl Part 1 write off: \$789.12 Part 2 write-off \$477.50 (maximum)</p>

## 10.9 Write-offs - Concealed Water Leaks

Council Assessment Number	Write Off Amount (\$)	Cause of Water Leak and Write-off Summary
271237	1,382.78	<p>Stojon No. 9 Pty Ltd  <b>Alstonville Plaza Shopping Centre</b>  <b>Main Street ALSTONVILLE</b></p> <p>Cause: Water leaks under concrete and bitumen near building along pathway.</p> <p>Property type: Shopping Centre            Estimated normal daily use: 3.57 kl/day            Approximate use during leak event: 11.6 kl/day            Estimated water lost due to leak: 943 kl            Part 1 write off: \$905.28            Part 2 write-off \$477.50 (maximum)</p>
***153366	1,477.50	<p>PPS Nominees Pty Ltd  <b>Ballina Fair Shopping Centre</b>  <b>Kerr Street BALLINA</b></p> <p>Cause: Burst water pipe was located after significant investigation. Water was absorbed by sandy soil with some water leaching into our stormwater pipe at the rear of the shopping complex near the Swim and Gym pool pumps. The leak was under concrete and inaccessible so the line was capped off.</p> <p>Property type: Shopping Centre            Estimated normal daily use: 29.6 kl/day            Approximate use during leak event: 109 &amp; 36 kl/day during separate periods.            Estimated water lost due to leak: 10,512 kl            Part 1 write-off calculation before capped limit: \$10,091.52            Part 1 write off: \$1,000.00 (maximum)            Part 2 write-off \$477.50 (maximum)</p>
***405488	1,477.50	<p>Harbig Pty Ltd  <b>Ballina Bayside Shopping Centre</b>  <b>Fox Street BALLINA</b></p> <p>Cause: Water leaks were identified under concrete and bitumen near north west and south west corners of building and at the main entry of Coles Supermarket. The plumber advised us that the concealed leaks will likely continue due to the acid sulphate soil and the age of the pipes at the site.</p> <p>Property type: Shopping Centre            Estimated normal daily use: 6.78 kl/day            Approximate use during leak event: 40 &amp; 120 kl/day during separate periods.            Estimated water lost due to leak: 14,315 kl            Part 1 write-off calculation before capped limit: \$13,742.40            Part 1 write off: \$1,000.00 (maximum)            Part 2 write-off \$477.50 (maximum)</p>
<b>Total</b>	<b>10,714.40</b>	

Part of the wastewater charge levied on non-residential properties is based on the volume of water consumed at the property. Each property is allocated a specific wastewater (sewer) discharge factor (SDF). A property's SDF is the estimated volume of water consumed at the property that is returned to our wastewater system.

## 10.9 Write-offs - Concealed Water Leaks

The volumetric wastewater charge for a property is calculated by multiplying their allocated SDF by their water consumption, and then applying a rate per kilolitre (\$1.86/kl in 2013/14).

In cases where non-residential properties experience a water leak, it is our procedure to cancel the volumetric wastewater charges raised on the part of the water consumption lost as a result of the water leak. This is because the water did not return to our wastewater system for treatment. (i.e. SDF of nil).

A similar adjustment system is used for non-residential customers that are also trade waste customers.

These account credits are considered financial adjustments rather than write-offs as the basis for our non-residential volumetric waste water charges is to only charge for water returned to our system.

For Council's information, the volumetric wastewater charges adjusted as described above for the concealed leaks discussed within this report are provided within the following table.

Council Assessment Number and Property Details	Wastewater & Trade Waste Adjustment Details	Credit Applied (\$)
227319 St Francis Xavier School 42-48 Isabella Drive SKENNARS HEAD	Wastewater – 1,084 kl x \$1.86 X 95%	1,915.43
271237 Alstonville Plaza 89 Main Street ALSTONVILLE	Wastewater – 943 kl x \$1.86 X 95% Trade Waste – 943 kl x \$1.48 x 30%	1,666.28 418.69
153366 Ballina Fair 84 Kerr Street BALLINA	Wastewater – 10,512 kl x \$1.86 X 85% Trade Waste – 10,512 kl x \$1.48 x 50%	16,619.47 7,778.88
405488 Ballina Bayside 95-105 Fox Street BALLINA	Wastewater – 14,315 kl x \$1.86 X 95% Trade Waste – 14,315 kl x \$1.48 x 50%	25,294.61 10,593.10
<b>Total</b>		<b>64,286.46</b>

### Sustainability Considerations

- **Environmental**  
Not Applicable

- **Social**  
The policy is designed to provide some level of compassionate financial relief to our water customers that experience higher than usual water accounts as a result of a concealed water leak at their property.



## 10.9 Write-offs - Concealed Water Leaks

- **Economic**

If the write-offs described in this report are approved, \$10,714.40 in revenue will be foregone. It is important to note that customers are still billed for the water lost as a result of their concealed leak at the lower step rate (\$1.91/kl). This is still higher than the price Council pays for bulk water supply from Rous Water (\$1.54/kl).

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

Revenue to the value of \$10,714.40 will be foregone, plus this consumption will impact on Council's contribution to the bulk water supply authority in the following year.

### **Consultation**

Significant consultation with the applicants has been undertaken. All applicants are educated about the importance of checking their water supply to prevent future water wastage. This information is provided verbally and in writing.

### **Options**

Council may decide whether to approve the write offs or not. Council may also decide to provide different levels of assistance at their discretion. For example, change the limits imposed (via set amounts or percentage of amounts) for part one and/or part two adjustments. The recommendation is to approve the write offs in accordance with Council's adopted policy that was amended at the April 2014 Ordinary Council meeting

## **RECOMMENDATIONS**

That Council approves the total write-off of \$10,714.40 in water consumption charges, in accordance with Council's current Concealed Water Leaks Policy, and pursuant to section 607 of the Local Government Act 1993 (LGA) and clause 131 of the Local Government (General) Regulation 2005, as outlined in the following table:

<b>Council Assessment Number</b>	<b>Write Off Amount (\$)</b>	<b>Property Details and Eligibility Summary</b>
195376	1,037.18	Mr BJ & Mrs Y Bowen Skennars Head Road SKENNARS HEAD
255118	1,117.82	Mr S Benhayon Converys Lane WOLLONGBAR
181961	1,477.50	Beare Investments Pty Ltd Broadwater Place WEST BALLINA
227319	1,477.50	Roman Catholic Church Isabella Drive SKENNARS HEAD
290778	1,266.62	Mr MD Graveson Rifle Range Road WOLLONGBAR

## 10.9 Write-offs - Concealed Water Leaks

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271237	1,382.78	Stojon No. 9 Pty Ltd Alstonville Plaza Main Street ALSTONVILLE
153366	1,477.50	PPS Nominees Pty Ltd Ballina Fair Kerr Street BALLINA
405488	1,477.50	Harbig Pty Ltd Ballina Bayside Fox Street BALLINA
<b>Total</b>	<b>10,714.40</b>	

### Attachment(s)

Nil

## **10.10 Financial Review - Quarter Ended 31 March 2014**

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### **10.10 Financial Review - Quarter Ended 31 March 2014**

**Delivery Program** Governance and Finance

**Objective** To provide a review of the 2013/14 financial year budget to the end of March 2014

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#### **Background**

In accordance with the Local Government Act the responsible accounting officer of a council must, not later than two months after the end of each quarter, prepare and submit to the council a budget review statement that shows a revised estimate of the income and expenditure for that year. The report that follows provides this review to the end of the third quarter 2013/14.

#### **Key Issues**

- Variations to the budget and financial performance of Council

#### **Information**

The purpose of this report is to provide information on known budget variances as at 31 March 2014. The format of the report complies with the Quarterly Budget Review Statement Guidelines set down by the Division of Local Government (DLG).

To comply with these guidelines an Operating Statement, Capital Budget, Cash and Investment Statement, Key Performance Indicators, Contractors, Consultants, Legal Information and certification by the Responsible Accounting Officer are required. Commentary on the variations recommended is then provided after the tables. A brief overview of the information provided in the report is as follows:

**Section One - Operating Income and Expense** - These tables provide the operating revenues and expenses for the Funds (General, Water and Wastewater).

**Section Two - Capital Budget** - These tables outline the capital expenditure budgets.

**Section Three - Cash and Investment Statement** - These tables provide details on the projected movements in reserve balances.

**Section Four - Key Performance Indicators** - The ratios provide an indication of the financial health of the organisation.

**Section Five - Contractors/Consultants/Legal Expenses** - This information provides details of specific expenses incurred and contracts entered as required by the DLG.

## 10.10 Financial Review - Quarter Ended 31 March 2014

**Certification** - This is a Statement by the Responsible Accounting Officer as to whether the current year's estimated financial performance is or is not satisfactory.

### General Fund

This next section of the report deals with Council's General Fund operations. Tables for income and expense follow, including recommended variations to budget. Following the tables are comments in respect to proposed budget variations that are considered to be material.

### General Fund – Operating Income and Expenses

Operating Income	Original Budget 000's	September Budget 000's	December Budget 000's	Approved Changes 000's	Revised Budget 000's	Changes for Approval 000's	March Budget 000's	Actual to March 000's
<b>Strategic and Community Facilities Group</b>								
Strategic Planning	228	228	243	60	303	75	378	81
Community Facilities	386	386	402		402	13	415	307
Tourism	38	64	114		114	5	119	82
<b>Sub Total</b>	<b>652</b>	<b>678</b>	<b>759</b>	<b>60</b>	<b>819</b>	<b>93</b>	<b>912</b>	<b>470</b>
<b>Development and Environmental Health Group</b>								
Development Services	322	322	348		348	30	378	292
Building Services	635	635	666		666	134	800	650
Public and Env Health	198	198	198		198	0	198	178
Admin and Public Order	121	121	136		136	0	136	100
<b>Sub Total</b>	<b>1,276</b>	<b>1,276</b>	<b>1,348</b>	<b>0</b>	<b>1,348</b>	<b>164</b>	<b>1,512</b>	<b>1,220</b>
<b>Civil Services Group</b>								
Asset Management	180	237	355	0	355	12	367	313
Stormwater and Env Prot	281	281	411	0	411	0	411	321
Roads and Bridges	37	37	442	0	442	20	462	133
Ancillary Transport Services	659	661	741	0	741	8	749	540
Roads and Maritime Services	800	843	933	0	933	0	933	711
Open Space and Reserves	716	828	883	0	883	64	947	630
Fleet Mgmt and Workshop	3,983	3,989	3,989	0	3,989	0	3,989	2,831
Rural Fire Service	208	208	197	0	197	0	197	144
Quarries and Sandpit	343	343	343	0	343	0	343	252
Swimming Pools	303	303	303	0	303	20	323	323
Landfill Management	6,610	6,615	6,735	0	6,735	0	6,735	4,909
Domestic Waste	7,246	7,274	7,294	0	7,294	0	7,294	7,101
<b>Sub Total</b>	<b>21,366</b>	<b>21,619</b>	<b>22,626</b>	<b>0</b>	<b>22,626</b>	<b>124</b>	<b>22,750</b>	<b>18,208</b>
<b>General Manager's Group</b>								
Administrative Services	28	28	28	0	28	0	28	15
Financial Services	21,780	20,010	20,150	0	20,150	40	20,190	19,689
Regional Library	116	116	111	0	111	0	111	110
Information Services	4	11	11	0	11	0	11	12
Human Resources and Risk	110	110	150	0	150	31	181	176
Property Management	3,171	3,288	3,256		3,256	8	3,264	2,305
Ballina Byron Airport	4,477	4,553	4,649	0	4,649	40	4,689	3,026
<b>Sub Total</b>	<b>29,686</b>	<b>28,116</b>	<b>28,355</b>	<b>0</b>	<b>28,355</b>	<b>119</b>	<b>28,474</b>	<b>25,333</b>
<b>Total Operating Income</b>	<b>52,980</b>	<b>51,689</b>	<b>53,088</b>	<b>60</b>	<b>53,148</b>	<b>500</b>	<b>53,648</b>	<b>45,231</b>

**10.10 Financial Review - Quarter Ended 31 March 20144**

**General Fund – Operating Income and Expenses (cont'd)**

<b>Operating Expenses (excluding depreciation)</b>	<b>Original Budget</b>	<b>September Budget</b>	<b>December Budget</b>	<b>Approved Changes</b>	<b>Revised Budget</b>	<b>Changes for Approval</b>	<b>March Budget</b>	<b>Actual to March</b>
<b><i>Strategic and Community Facilities Group</i></b>								
Strategic Planning	987	1,112	1,161	60	1,221	11	1,232	698
Community Facilities	969	1,158	1,520	0	1,520	21	1,541	942
Tourism	799	857	908	0	908	4	912	664
<b>Sub Total</b>	<b>2,755</b>	<b>3,127</b>	<b>3,589</b>	<b>60</b>	<b>3,649</b>	<b>36</b>	<b>3,685</b>	<b>2,304</b>
<b><i>Development and Environmental Health Group</i></b>								
Development Services	1,232	1,228	1,168	0	1,168	(26)	1,142	774
Building Services	783	737	737	0	737	(10)	727	530
Public and Env Health	722	747	737	0	737	(25)	712	501
Admin and Public Order	1,169	1,169	1,144	0	1,144	(23)	1,121	794
<b>Sub Total</b>	<b>3,906</b>	<b>3,881</b>	<b>3,786</b>	<b>0</b>	<b>3,786</b>	<b>(84)</b>	<b>3,702</b>	<b>2,599</b>
<b><i>Civil Services Group</i></b>								
Asset Management	2,972	3,711	3,839	0	3,839	(80)	3,759	2,731
Stormwater and Env Prot	669	1,051	1,181	0	1,181	0	1,181	631
Roads and Bridges	4,613	4,628	4,422	0	4,422	0	4,422	3,251
Ancillary Transport Services	1,635	1,612	1,691	0	1,691	9	1,700	1,386
Roads and Traffic Authority	800	843	933	0	933	0	933	644
Open Space and Reserves	3,874	3,655	3,636	0	3,636	61	3,697	2,663
Fleet Mgmt and Workshop	2,878	2,823	2,831	0	2,831	4	2,835	2,032
Rural Fire Service	381	407	437	0	437	0	437	325
Quarries and Sandpit	402	402	402	0	402	0	402	37
Swimming Pools	710	739	729	0	729	20	749	728
Landfill Management	5,359	5,406	5,553	0	5,553	0	5,553	4,248
Domestic Waste	6,613	6,623	6,638	0	6,638	(40)	6,598	4,768
<b>Sub Total</b>	<b>30,906</b>	<b>31,900</b>	<b>32,292</b>	<b>0</b>	<b>32,292</b>	<b>(26)</b>	<b>32,266</b>	<b>23,444</b>
<b><i>General Manager's Group</i></b>								
Governance	1,045	1,060	1,060	0	1,060	0	1,060	781
Administrative Services	705	705	554	0	554	(7)	547	481
Financial Services	(3,474)	(3,532)	(3,625)	0	(3,625)	19	(3,606)	(2,991)
Regional Library	1,439	1,465	1,464	0	1,464	0	1,464	1,350
Information Services	1,397	1,411	1,477	0	1,477	10	1,487	1,418
Human Resources and Risk	998	1,101	1,540	0	1,540	315	1,855	1,513
Property Management	2,989	3,084	3,002	0	3,002	11	3,013	2,483
Ballina Byron Airport	3,286	3,263	3,341	0	3,341	96	3,437	2,689
<b>Sub Total</b>	<b>8,385</b>	<b>8,557</b>	<b>8,813</b>	<b>0</b>	<b>8,813</b>	<b>444</b>	<b>9,257</b>	<b>7,724</b>
<b>Total Operating Expenses</b>	<b>45,952</b>	<b>47,465</b>	<b>48,480</b>	<b>60</b>	<b>48,540</b>	<b>370</b>	<b>48,910</b>	<b>36,071</b>
<b>Net Operating Result Before Depreciation</b>	<b>7,028</b>	<b>4,224</b>	<b>4,608</b>	<b>0</b>	<b>4,608</b>	<b>130</b>	<b>4,738</b>	<b>9,160</b>
Depreciation Expense	15,655	15,563	15,655	0	15,655	0	15,655	11,741
<b>Net Operating Result Continuing Operations</b>	<b>(8,627)</b>	<b>(11,339)</b>	<b>(11,047)</b>	<b>0</b>	<b>(11,047)</b>	<b>130</b>	<b>(10,917)</b>	<b>(2,581)</b>

**General Fund Working Capital Forecast**

<b>Item</b>	<b>Original Budget</b>	<b>September Budget</b>	<b>December Budget</b>	<b>Revised Budget</b>	<b>March Budget</b>
Working Capital	(135)	(135)	(86)	(36)	(122)

**Comments - General Fund**

The **forecast operating surplus** (before depreciation) has increased from \$4.6 million to \$4.7 million. Inclusive of depreciation a loss of approximately \$11 million is now forecast. This movement includes numerous positive and negative changes and the material changes are discussed below.

The estimated **unrestricted working capital** position has declined from negative \$86,000 to negative \$122,000. Every effort has been made to offset negative adjustments with positives, where possible.

Two significant issues that affected the quarterly review was firstly the continued recovery of revenue from the Building and Development Services sections. Forecast revenue has been increased from these sections by \$164,000. This revenue has been very important in offsetting to some degree, the second issue which is a continued press on the staff leave budgets, which are struggling to cope.

This issue was mentioned at the December review where there has been a high level of staff turnover and staff taking extended leave. This means that there will be savings in salary budgets (as staff are on leave or while a replacement is being sourced), over expenditures in leave budgets (due to extended leave and payout of entitlements on retirement/retrenchment) and forecast oncost income is trending low (due to less standard salary payments than anticipated).

Budgets were adjusted at December with a net negative impact on working capital of over \$500,000. This adjustment was managed primarily by reductions to salary budgets and use of the employee leave entitlements reserve. It was noted at that review that only part of the trend was brought to account in these adjustments as it was thought that the trend may slow somewhat.

Whilst there has been a slight reduction to the expense going to the leave budgets it remains the case that substantial increases to budgets are necessary. The adjustments recommended in this review represent a net negative impact to working capital of \$335,000.

The adjustments in this review look to remedy the majority of the trend but again not 100%. This is because the trend may slow and prove the adjustment unnecessary but by delaying negative adjustments it provides the opportunity for positive adjustments to surface that can be used as offsets.

In the current review for example the dramatic improvement to revenue from Building Services has contributed strongly to keeping the forecast working capital deficit reasonably close the forecast deficit at the beginning of the quarter. A summary of these changes are shown within the Human Resources expenditure section of this report.

Details of the larger budget variations are as follows.

### **General Fund - Operating Revenues**

#### ***Strategic and Community Services Group***

##### *Strategic Planning*

Planning Income: In total income has been increased by \$75,000 which is due to a combination of fees paid to process rezoning applications \$20,000, contributions for Southern Cross University Planning services \$15,000, estimated income from book sales \$5,000 and additional interest from section 94 funds invested \$35,000.

##### *Community Facilities*

Community Gallery: A new budget of \$3,000 has been raised for a community fundraising event. An equivalent expense budget has also been raised.

#### ***Development and Environmental Health Group***

##### *Development Services*

Operating Income: Most income streams have been increased to varying degrees with a total adjustment of \$30,000. The larger increases were subdivision fees \$13,000 and legal costs recovered \$8,000.

##### *Building Services*

Operating Income: Similar to Development Services most income forecasts have been increased. The total adjustment is \$134,000 with development applications \$45,000 and plumbing and drainage inspections \$45,000 being the largest increases.

The indications are that the building sector has rallied which is a strong positive for the budget.

#### ***Civil Services Group***

##### *Asset Management*

Procurement Software: A contribution of \$12,000 has been raised from non General Fund sections of the organisation towards the purchase of a new software program costing \$18,000. This software is essential in improving the efficiency and accountability of Council's procurement processes.

*Roads and Bridges*

Interest Income: A net increase of \$20,000 to the forecast interest earned on the reserves created following the receipt of funds for the Ballina and Alstonville Bypass'.

*Open Spaces and Reserves*

Vegetation Management: New grant funds received for Fountainea management \$16,000 and for roadside vegetation management \$48,000.

Swimming Pools: Income from entry fees and season tickets has exceeded forecast and budgets have been increased by \$20,000 (Ballina \$12,000 and Alstonville \$8,000). Pools operational budgets (expense) have been increased by the same amount.

*Landfill and Resource Management*

Operating Income: Various adjustments have been made to both forecast income and expense however there is no net change to the budgets.

**General Manager's Group**

*Financial Services*

Interest on Investments: Cash flows have been better than forecast which has contributed to a positive trend in interest returns. The budget has been increased by \$20,000.

Legal Costs Recovered: The legal costs incurred in recovery action for outstanding rates are raised against the property owner. The budget has been increased by \$10,000, evidencing that a number of the actions are getting to the serious end of the process.

Section 603 Certificates: Certificate sales are trending better than forecast indicating that the property market is improving. The budget has been increased by \$10,000.

*Human Resources and Risk*

Contribution to Leave Entitlements: Council has received \$31,000 from another council towards leave entitlements. This money has been transferred to the leave entitlements reserve.

*Ballina Byron Airport*

Operating Income: There has been a net increase to income of \$40,000 which mainly relates to parking fees \$20,000 and car rental franchises \$20,000.

Operating expenses have increased by \$96,000 and forecast capital expense has been reduced by \$6,000 resulting in a net reduction to the predicted cash result of \$50,000.



## **10.10 Financial Review - Quarter Ended 31 March 20144**

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The Airport reserve commenced the year with a negative balance of \$454,000. Following the March adjustments the forecast reserve balance at the end of the year is negative \$386,000. Whilst the outlook is for a small improvement to the reserve balance it was originally anticipated that the majority of the negative (internal loan from property reserves) would be removed this financial year.

### **General Fund - Operating Expenses**

#### ***Strategic and Community Services***

##### *Strategic Services*

Operating Expense: New budgets raised for Southern Cross University Planning services \$15,000, expenses associated with book sales \$5,000 and rezoning expenses for Burns Point Ferry road \$5,000. All of these expenses have equivalent income budgets raised.

Salaries: The budget has been reduced by \$15,000. See comment in Human Resources section of this report.

##### *Community Facilities*

Operating Expense; New budgets raised for a community fundraising event at the Community Gallery \$3,000 and the budget for Council rates at public halls has been increased by \$7,000, reflecting actual expenses.

#### ***Development and Environmental Health Services***

Salaries: In total salaries budgets have been reduced by \$84,000 across this Group (see comments in Human Resources section).

#### ***Civil Services***

##### *Asset Management*

Salaries: Budgets were decreased by a total of \$45,000 (see comments in Human Resources section of this report).

Pop Denison BBQ: A budget of \$53,000 has been relocated from operating to capital expenditure.

Procurement Software: A new budget has been raised to \$18,000 for a software package that will improve the purchasing process.

##### *Roads and Bridges*

Alstonville Bypass Budget: There is an existing budget for By Pass works and this budget will not be fully expended this financial year. It is proposed to spend \$35,000 on replacement of handrails on Ballina Road at Geoff Watt oval.

## 10.10 Financial Review - Quarter Ended 31 March 2014

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### *Open Spaces and Reserves*

Vegetation Management: New budgets raised for Fountainea management \$16,000 and for roadside vegetation management \$48,000 funded from grant income.

OSR Operations: Budgets in this section have been adjusted down to enable new budgets to be raised for a playground audit and a land swap with the RSL. There is no net change to budgets.

### *Domestic Waste Management*

Operating Expenses: Forecast salaries have been increased by \$20,000 whilst collection expenses (plant and labour costs) have been reduced by \$60,000.

### **General Manager's Group**

#### *Financial Services*

Legal Expenses: Staff have been endeavouring to recover overdue rates and in numerous instances legal action has been instigated. The budget has been increased by \$10,000.

Asset Valuations: A standing budget of \$8,000 is in place to pay for revaluations of assets. This budget is not adequate to meet the new accounting requirements and it was increased to \$15,000 in December and a further \$8,000 is now required.

#### *Information Services*

Computer Software: This budget has been increased by \$10,000 due to extra costs associated with new products and enhancements.

#### *Human Resources and Risk*

Salary/Leaves/Oncost: As noted earlier in this report there are numerous budget adjustments proposed that relate to staff retirements and extended leave. A summary of the adjustments are shown in the table below.

<b>Budget Name</b>	<b>Adjustment to Budget</b>	<b>Value (\$)</b>	<b>Comment</b>
Strategic Salaries	Reduce expense	15,000	Trending low
Development/Health Salary	Reduce expense	84,000	Trending low
Civil Salaries	Reduce expense	45,000	Trending low
GM Group Salaries	Reduce expense	15,000	Trending low
<b>Net credit to budget</b>		<b>159,000</b>	
Staff leave expenses	Increase expense	200,000	Trending high
Oncost income	Reduce income	135,000	Trending low
<b>Net debit to budget</b>		<b>335,000</b>	

The leaves budgets are trending well in excess of forecast and the adjustments made as part of this review (increase to budget of \$350,000) may not be quite sufficient to see the year out. The approach has been to address most of the trend and consider the outcome at year's end.

The leave entitlements reserve has not been used to offset the net negative impact on working funds thanks mainly to the increased income from the Building and Development Services sections.

## 10.10 Financial Review - Quarter Ended 31 March 20144

Effectively what is happening in this process is that we are using operating revenue to pay off debts that will otherwise accrue and multiply. Given that the leave entitlements reserve is only approximately 20% of the value of the debt it is very important that sources other than the reserve are used to pay some of the leave liabilities.

The net adjustment for the Human Resources section of the budget is an increase to expense of \$315,000 which is summarised as follows:

Item	Change	Amount (\$)
HR Salaries	Decrease estimated expense	10,000
Leave Entitlements	Increase estimated expense	200,000
Oncost income	Reduce estimated income	135,000
Insurance and public risk	Reduce estimated expense	10,000
<b>Net change</b>	<b>Increased estimated expense</b>	<b>315,000</b>

### *Ballina Byron Airport*

Operating Expenses: Forecast expenses have been increased by \$96,000 which includes a combination of increases to different parts of the operation. The largest increases relate to security \$40,000, aircraft movement area \$20,000 and promotion \$10,000.

### **Water Operations**

This next section of the report deals with Council's water operations.

#### **Water - Statement of Operating Income and Expenses (\$'000)**

Item	Original Budget	September Budget	December Budget	Approved Changes	Revised Budget	Changes for Approval	March Budget	Actual to March
Operating Income	9,250	9,250	9,405	0	9,405	624	10,029	6,468
Operating Exps (excl. dep)	9,185	9,188	9,312	0	9,312	104	9,416	7,942
<b>Net Operating Result Before Depreciation</b>	<b>65</b>	<b>62</b>	<b>93</b>	<b>0</b>	<b>93</b>	<b>520</b>	<b>613</b>	<b>(1,474)</b>
Depreciation Expense	1,810	1,810	1,810	0	1,810	0	1,810	1,358
<b>Net Operating Result from Continuing Operations</b>	<b>(1,745)</b>	<b>(1,748)</b>	<b>(1,717)</b>	<b>0</b>	<b>(1,717)</b>	<b>520</b>	<b>(1,197)</b>	<b>(2,832)</b>

The forecast Operating Result before depreciation is a surplus of \$613,000 and a loss of \$1.2 million after depreciation. This is a massive improvement from the previous quarter (\$520,000) and is attributable to more income from water consumption than was anticipated.

Forecast operating revenues have increased by \$624,000 and consumption income accounts for \$550,000 of this amount.

This trend was noted at the previous review however a conservative approach was taken to the forecast at that time.

No doubt the prolonged period of fine weather that we have enjoyed has played a part in this outlook. The other large adjustment relates to lease payments for radio towers on reservoir sites which have been increased by \$70,000.

## 10.10 Financial Review - Quarter Ended 31 March 2014

Forecast operating expenses have been increased by \$104,000 which primarily relates to repair and maintenance of water meters which has been increased by \$100,000.

### Wastewater Operations

This next section of the report deals with Council's Wastewater operations.

#### Wastewater- Statement of Operating Income and Expenses (\$'000)

Item	Original Budget	September Budget	December Budget	Approved Changes	Revised Budget	Changes for Approval	March Budget	Actual to March
Operating Income	14,151	14,319	14,319	0	14,319	70	14,389	12,701
Operating Exps (excl. dep)	14,006	14,226	14,267	0	14,267	0	14,267	10,076
<b>Net Operating Result Before Depreciation</b>	<b>145</b>	<b>93</b>	<b>52</b>	<b>0</b>	<b>52</b>	<b>70</b>	<b>122</b>	<b>2,625</b>
Depreciation Expense	3,104	3,104	3,104	0	3,104	0	3,104	2,328
<b>Net Operating Result from Continuing Operations</b>	<b>(2,959)</b>	<b>(3,011)</b>	<b>(3,052)</b>	<b>0</b>	<b>(3,052)</b>	<b>70</b>	<b>(2,982)</b>	<b>297</b>

The forecast **operating result** is a surplus of \$122,000 excluding depreciation. This is an improvement from the previous quarter of \$70,000 however it remains a very marginal surplus and the aim must be to improve this performance.

The improved outlook is due to an increase in forecast revenue of \$70,000. The larger positive adjustments include access charges \$15,000, trade waste volume charges \$25,000 and non residential usage charges \$30,000.

### Capital Expenditure

This next section of the report looks at capital expenditure and examines proposed changes to the program.

#### General Fund - Capital Budget - Source and Application of Funds (\$'000)

Items	Original Budget 2013/14	September Budget	December Budget	Approved Changes	Revised Budget	Changes for Approval	March Budget	Actual to March
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Capital Funding</b>								
General Revenue	3,453	3,571	3,206		3,206	76	3,282	3,282
Reserves	19,270	29,398	26,262	(6,136)	20,126	889	21,015	21,015
Loans	727	727	1,200	(1,050)	150	0	150	150
Section 94 Conts	3,350	3,461	4,360		4,360	(645)	3,715	3,715
Grants and Conts	8,266	7,601	7,692	(646)	7,046	156	7,202	7,202
<b>Total Funding</b>	<b>35,066</b>	<b>44,758</b>	<b>42,720</b>	<b>(7,832)</b>	<b>34,888</b>	<b>476</b>	<b>35,364</b>	<b>35,364</b>
<b>Capital Expenditure</b>								
<b>Strategic and Community Facilities Group</b>								
Community Facilities	81	95	85	(15)	70	0	70	45

## 10.10 Financial Review - Quarter Ended 31 March 20144

<b>General Manager's Group</b>								
Admin / Info Serv	286	286	311	0	311	0	311	47
Commercial Prop	4,380	4,686	2,071	25	2,096	40	2,136	1,095
Community Prop	0	1,179	1,449	(623)	826	0	826	513
Camping Ground	10	10	10	0	10	0	10	11
Ballina Airport	4,917	4,903	4,999	0	4,999	(6)	4,993	4,994
<b>Development and Environmental Health Group</b>								
Animal Shelter	370	844	844	0	844	0	844	800
<b>Civil Services Group</b>								
Asset Management	2,550	2,922	1,336	(320)	1,016	53	1,069	486
Stormwater	340	770	770	0	770	(5)	765	380
Roads and Bridges	14,823	17,815	18,862	(1,272)	17,590	(14)	17,576	9,698
Ancillary Transport	1,055	1,867	2,640	0	2,640	370	3,010	1,310
Town Beautification	0	637	299	0	299	0	299	180
Water Transport	0	26	26	0	26	0	26	53
Parks and Reserves	307	370	326	0	326	0	326	241
Sporting Fields	4,466	4,753	5,478	(4,972)	506	0	506	300
Cemeteries	0	45	45	0	45	0	45	34
Fleet and Plant	750	1,870	1,870	0	1,870	0	1,870	1,030
Rural Fire Service	0	210	210	0	210	0	210	187
Swimming Pools	250	272	22	0	22	38	60	22
Waste Management	481	1,198	1,067	(655)	412	0	412	212
<b>Total Capital Exp</b>	<b>35,066</b>	<b>44,758</b>	<b>42,720</b>	<b>(7,832)</b>	<b>34,888</b>	<b>476</b>	<b>35,364</b>	<b>21,593</b>

### General Fund - Capital Budget

The column showing approved changes has the majority of the adjustments for the period. This is because most of the changes have been considered by Council as part of the reports presented to Finance Committees over recent months.

#### General Manager's Group

**Commercial Property:** The budget for the refurbishment of Wigmore Arcade has been increased by a further \$40,000 to reflect expenditure being incurred this year rather than in 2014/15 as part of the total refurbishment project.

#### Civil Services

**Asset Management:** The budget for Pop Denison Park BBQ's (\$53,000) has been shifted from operating to capital expenditure.

**Roads and Bridges:** Minor increases to budgets for Hutley Drive (\$5,000) and Ballina Surf Club car park (\$9,000). The additional \$9,000 for the car park is funded via a contribution from Essential Energy.

**Ancillary Transport:** A new budget to \$370,000 has been raised for the Swift Street bus interchange. Funds have been sourced from the Roads and Maritime services.

**Pools:** New budget raised to \$38,000 for works on the Alstonville Pool water tank based on a Council resolution.

## 10.10 Financial Review - Quarter Ended 31 March 2014

### Water - Capital Budget - Source and Application of Funds (\$'000)

Items	Original Budget 2013/14 \$'000	September Budget \$'000	December Budget \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for Approval \$'000	March Budget \$'000	Actual to March \$'000
<b>Capital Funding</b>								
Reserves	1,858	1,150	963	(175)	788	(85)	703	703
Section 64 Conts	1,720	2,130	2,098	0	2,098	(45)	2,053	2,053
Grants and Conts	0	0	0	0	0	200	200	200
<b>Total Funding</b>	<b>3,578</b>	<b>3,280</b>	<b>3,061</b>	<b>(175)</b>	<b>2,886</b>	<b>70</b>	<b>2,956</b>	<b>2,956</b>
<b>Capital Expenditure</b>								
Water Storage	840	1,424	1,850	0	1,850	0	1,850	1,758
Pump Stations	573	573	115	(45)	70	0	70	9
Pressure Management	180	180	180	0	180	0	180	170
Trunk Mains	1,573	633	633	(380)	253	0	253	43
Other	412	470	283	250	533	70	603	183
<b>Total Capital Expend</b>	<b>3,578</b>	<b>3,280</b>	<b>3,061</b>	<b>(175)</b>	<b>2,886</b>	<b>70</b>	<b>2,956</b>	<b>2,163</b>

There has been a net reduction to the program of \$105,000 since the previous quarter with most of these changes adopted as part of the capital works report presented to the April meeting of Council. The only change since that time is a new budget of \$70,000 for telemetry installation.

### Wastewater - Capital Budget - Source and Application of Funds (\$'000)

Item	Original Budget 2013/14 \$'000	September Budget \$'000	December Budget \$'000	Approved Changes \$'000	Revised Budget \$'000	Changes for Approval \$'000	March Budget \$'000	Actual to March \$'000
<b>Capital Funding</b>								
Reserves	8,703	10,540	11,020	(1,811)	9,209	85	9,294	9,294
Section 64 Conts	1,663	1,663	1,663	(918)	745	0	745	745
Loans		690	690	0	690	0	690	690
<b>Total Funding</b>	<b>10,366</b>	<b>12,893</b>	<b>13,373</b>	<b>(2,729)</b>	<b>10,644</b>	<b>85</b>	<b>10,729</b>	<b>10,729</b>
<b>Capital Expenditure</b>								
Consultancies	40	52	82	0	82	0	82	85
Treatment Plants	1,850	3,218	3,137	(327)	2,810	0	2,810	1,385
Recycled Irrigation	310	686	546	(203)	343	50	393	310
Pump Stations	2,937	2,519	2,519	(2,108)	411	0	411	383
Trunk Mains	4,110	5,787	6,230	(141)	6,089	0	6,089	5,458
Plant	184	209	309	85	394	0	394	94
Other	935	422	550	(35)	515	35	550	317
<b>Total Capital Expend</b>	<b>10,366</b>	<b>12,893</b>	<b>13,373</b>	<b>(2,729)</b>	<b>10,644</b>	<b>85</b>	<b>10,729</b>	<b>8,032</b>

The adjustments for approval are to increase budgets by \$85,000. They are for an increase to the Telemetry program budget of \$35,000 and a new budget of \$50,000 for a shed at Skennars sports fields associated with the re-use implementation.

## 10.10 Financial Review - Quarter Ended 31 March 20144

### Investments

The next table shows details of the projected cash and investments.

	Original Budget 2013/14	September Budget	December Budget	Approved Changes	Revised Budget	Changes for approval March	Revised Budget March
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Unrestricted</b>	<b>1,566</b>	<b>1,566</b>	<b>1,566</b>	<b>0</b>	<b>1,566</b>	<b>0</b>	<b>1,566</b>
<b>Externally Restricted</b>							
- Section 94	1,156	2,346	2,072	675	2,747	446	3,193
- Domestic Waste M'ment	889	1,031	1,036	347	1,383	42	1,425
- Unexpended Grants / Loans	0	0	0	0	0	0	0
- Other	61	72	72	0	72	0	72
- Section 64 Water	6,288	6,812	6,864	(323)	6,541	0	6,541
- Water	570	1,369	1,565	703	2,268	446	2,714
- Section 64 Sewer	4,157	1,442	1,417	918	2,335	100	2,435
- Sewer	8,514	10,192	9,696	1,811	11,507	(15)	11,492
<b>Total Externally Restricted</b>	<b>21,635</b>	<b>23,264</b>	<b>22,722</b>	<b>4,131</b>	<b>26,853</b>	<b>1,019</b>	<b>27,872</b>
<b>Internally Restricted</b>							
- Strategic and Com Facilities	167	289	263	0	263	0	263
- Employee Leave Entitlements	1,705	1,932	1,682	0	1,682	31	1,713
- Plant Replacement	294	162	153	0	153	(3)	150
- Quarries	1,276	1,333	1,333	0	1,333	0	1,333
- Property Reserves	177	354	1,352	3,084	4,436	(50)	4,386
- Properties Refurbishment	1,134	3,552	3,494	350	3,844	0	3,844
- Open Spaces and Reserves	95	195	195	1,607	1,802	0	1,802
- Landfill Management	1,842	1,609	1,714	305	2,019	0	2,019
- Civil Works	3,694	3,338	4,334	1,080	5,414	0	5,414
- Other	119	175	175	0	175	0	175
<b>Total Internally Restricted</b>	<b>10,503</b>	<b>12,939</b>	<b>14,695</b>	<b>6,426</b>	<b>21,121</b>	<b>(22)</b>	<b>21,099</b>
<b>Total Restricted</b>	<b>32,138</b>	<b>36,203</b>	<b>37,417</b>	<b>10,557</b>	<b>47,974</b>	<b>997</b>	<b>48,971</b>
<b>Total Cash and Investments</b>	<b>33,704</b>	<b>37,769</b>	<b>38,983</b>	<b>10,557</b>	<b>49,540</b>	<b>997</b>	<b>50,537</b>

The unrestricted cash figure is not inclusive of transactions that would normally be included when calculating working capital; i.e. it is exclusive of movements in items such as debtors and creditors. The available cash figure is taken from note six of the financial statements as at 30 June 2013. Council does not track movements in available cash on a quarterly basis.

### Statements

1. Council's investments are all in accordance with the Local Government Act and the regulations.

## 10.10 Financial Review - Quarter Ended 31 March 2014

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2. As per the investments summary for March 2014, funds invested amounted to \$69,306,000. All restricted monies are included in these investments.
3. Cash has been reconciled to the bank statement as at 31 March 2014 to the amount of \$1,660,520.
4. Actual year to date cash and investments amount to \$70,966,520 as at 31 March 2014. This amount includes cash at bank of \$1,660,520 and funds invested of \$69,306,000 which has been reconciled to bank statements and investment reports.

### Bank Reconciliation Summary as at 31 March 2014

<b>Balance as per Bank Statement</b>	<b>1,718,834</b>
Less Unpresented Cheques	158,673
<b>Sub Total</b>	<b>1,560,161</b>
Plus Outstanding not Credited	111,523
<b>Sub Total</b>	<b>1,671,684</b>
Less Amounts Deposited at end of month not in ledger	11,164
<b>Balance as per ledger</b>	<b>1,660,520</b>

### Comment on Cash and Investment Position

The forecast reserves position has increased from \$39 million at December to \$50.5 million.

There have been numerous adjustments that make up this net movement however the majority of the increase is because proposed capital works will not be completed this financial year and the budgets have been relocated to next year.

It is also the case that most of the adjustments have been approved via either the Finance committee process or the capital works report that went to the April Council meeting.

### Section 94 Reserves

There has been a net increase to these reserves of \$446,000 mainly because contributions are trending well above forecasts. This holds true for all of the different plans and again highlights an increase in development related activity.

### Domestic Waste Management

The reserve is forecast to increase by \$42,000 following an improved outlook for the operating surplus.

### Water

There is a net increase to the reserves of \$446,000 following adjustments to operating forecasts and to the capital program.



### Wastewater

There is a forecast increase of \$100,000 to section 64 reserves. Adjustments to operating income and capital works have resulted in a decrease to the refurbishment reserve of \$15,000.

### Employee Leave Entitlements

The adjustment to the reserve, increase by \$31,000, is due to a payment by another council of the accrued entitlements relating to an employee who has transferred to Ballina Shire.

### Airport Reserve

In comparison to the previous quarter the reserve is forecast to reduce by \$50,000. This is following budget adjustments in respect to forecast income and expense.

### **Key Performance Indicators**

The next section of the report takes selected financial benchmarks that have been adopted by Council and compares the 30 June 2012 and 2013 ratios with the forecast at 31 March for 30 June 2014. The performance indicators that have been selected have a short term focus which suits the quarterly review which also tends to focus on the short term.

The actual and forecast performance indicators measured against the benchmark provide an important insight into the financial wellbeing of the organisation. The indicators should be used to assist financial policy and strategy.

It is important to understand that estimating ratios is particularly difficult given the variables and complexities involved in the calculation. It is almost inevitable that the ratio forecast will be in error to some degree.

### **Key Performance Indicators - Description**

1. Unrestricted Current Ratio - Unrestricted current assets divided by unrestricted current liabilities.

Measured: as a ratio

Purpose: this ratio is used to measure Council's ability to meet short term liabilities with available short term assets.

Indicator type: Financial Position

Benchmark: >1.5:1 (NSW TCP)

2. Operating Balance Ratio – Net operating result from continuing operations (excluding capital items) as a percentage of operating revenue (excluding capital items).

Measured: as a percentage

## 10.10 Financial Review - Quarter Ended 31 March 2014

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Purpose: this percentage measures whether the Council is sustainable in terms of its operating result. Council should not be recording recurring operating deficits or funding operating results from capital revenue.

Indicator type: Financial Performance

Benchmark: <-10% (IPART)

3. Debt Service Ratio – Loan principal and interest payments divided by revenue from continuing operations excluding capital items and specific purpose grants and contributions.

Measured: as a percentage

Purpose: The purpose of this percentage is a measure of whether Council has excessive debt servicing costs relative to operating revenue.

Indicator type: Financial Position

Benchmark: <12% (LGMA Health Check)

### Benchmark Indicators – General Fund

1. Unrestricted Current Ratio – General Fund

Benchmark: >1.5:1 (NSW TCP)

2011/12	2012/13	March
Actual	Actual	Estimate
2.89:1	2.61:1	2.15
Pass	Pass	Pass

#### Comment

In 2013/14 the forecast is that unrestricted cash reserves will decline by approximately \$11 million as the capital works program is completed which will have a downward influence on the ratio.

The forecast has improved since December however as part of the capital program has been rolled forward into the following year, resulting in an increase to forecast cash on hand at year end.

2. Operating Balance Ratio – General Fund

Benchmark: <-10% (IPART)

2011/12	2012/13	March
Actual	Actual	Estimate
(8.00)	(14.70)	(19.07)
Fail	Fail	Fail

## 10.10 Financial Review - Quarter Ended 31 March 20144

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### Comment

The forecast is for a further decline in this ratio in comparison to the previous year as expenses are forecast to increase more than income. Among other things the 2012/13 financial year benefitted from a one off payment in respect to the two by pass hand overs which favourably distorts the outcome in that year.

A strategy to improve this ratio is to continue to closely monitor operating expenses and increase income. Over time it is important that this result improves to ensure that the organisation is able to meet all future liabilities.

The ratio assumes that Council will receive a prepayment of the 2014/15 Financial Assistance Grant late this financial year.

### 3. Debt Service Ratio – General Fund

Benchmark: <12% (LGMA Health Check)

<b>2011/12</b>	<b>2012/13</b>	<b>March</b>
Actual	Actual	Estimated
6.70	8.00	10.86
Pass	Pass	Pass

### Comment

In 2012/13 Council borrowed approximately \$13 million relating to the Airport and other infrastructure improvements. This represented an approximate 70% increase in General Fund debt. Hence this is the main driver in the forecast increase to the ratio.

### **Benchmark Indicators - Water**

#### 1. Unrestricted current ratio - Water

Benchmark: >1.5:1 (NSW Tcorp)

<b>2011/12</b>	<b>2012/13</b>	<b>March</b>
Actual	Actual	Estimated
33.96:1	30.67:1	28:1
Pass	Pass	Pass

### Comments

The ratio is forecast to decline in comparison to 2012/13 as reserves are used to fund capital works in 2013/14. However in comparison to December the forecast is a substantial improvement because of additional income from water consumption that has increased the forecast cash reserve.

## 10.10 Financial Review - Quarter Ended 31 March 2014

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### 2. Operating Balance Ratio – Water

Benchmark: <-10% (IPART)

2011/12	2012/13	March
Actual	Actual	Estimated
(20)	(13.49)	(12.28)
Fail	Fail	Fail

#### Comments

The business continues to struggle with matching income to expenses and this has been the case for some years.

There has been a substantial improvement in this ratio in comparison to the December forecast due to the increase in water consumption revenue after the third quarter metre readings. If this trend continues it is possible that the benchmark will be achieved by year end.

Mitigating strategies include an increase to tariffs for 2014/15 that will exceed cost of living rises.

### 3. Debt Service Ratio – Water

Benchmark: <12% (LGMA Health Check)

2011/12	2012/13	March
Actual	Actual	Estimated
Nil	Nil	Nil
Pass	Pass	Pass

#### Comments

The fund has no external borrowings.

## **Benchmark Indicators - Wastewater**

### 1. Unrestricted current ratio - Wastewater

Benchmark: >1.5:1 (NSW Tcorp)

2011/12	2012/13	March
Actual	Actual	Estimated
8.19:1	4.00:1	1.65
Pass	Pass	Pass

#### Comments

The forecast is that the ratio will fall considerably in comparison to the 2012/13 position. This is due to the \$63 million borrowing taking affect. The forecast still reflects a pass mark but it is quite close to the fail mark.

## 10.10 Financial Review - Quarter Ended 31 March 20144

### 2. Operating Balance Ratio – Wastewater

Benchmark: <-10% (IPART)

2011/12	2012/13	March
Actual	Actual	Estimated
(22.00)	(26.90)	(21.02)
Fail	Fail	Fail

#### Comments

The forecast is that the business will fail this benchmark. The business is meeting costs associated with capital works and loan repayments from reserve funds and this situation will need to change.

The strategy is to continue to increase annual charges by a margin well in excess of cost of living increases and carefully manage expenses. The long term financial plan predicts that it will take until 2016/17 for the operating surplus (exclusive of depreciation) to fund the capital and interest components of loan repayments.

### 3. Debt Service Ratio – Wastewater

Benchmark: <12% (LGMA Health Check)

2011/12	2012/13	March
Actual	Actual	Estimated
21.00	34.00	50.42
Fail	Fail	Fail

#### Comments

The business is set to fail this benchmark by a massive margin due to the recent loan program. This ratio will exceed benchmark for many years to come and it is the control that Council has over the annual charge that keeps the business viable over the medium term. The strategy is to continue increasing the annual charge so that the enterprise can operate in a sustainable manner.

### **Contractors**

The table below provides details of contracts entered into in the March quarter. Contracts below \$50,000 are not included.

Contractor Name	Purpose	Amount (\$'000)	Start Date	Duration of Contract	Incl in Budget Y/N
Nil					

There were no new contracts above \$50,000 actually signed or entered into in the quarter.

**Consultants**

The table below summarises the expense incurred to date on consultants. The definition of consultants includes a person or organisation engaged under contract on a temporary basis to provide recommendations or high level specialist advice or professional advice to assist decision making by management.

Item	Expenditure YTD	Included in Budget Y/N?
Consultancies	472,000	Y

**Legal Expenses**

The table below summarises the expense incurred to the end of March on legal fees. For the purposes of the report legal fees have been included where there is a dispute situation. This includes for example recovery of rates not paid but excludes processing of infringement notices (no dispute at this point) and amounts paid to legal firms that may be related to the creation of a lease or sale of land.

Item	Expenditure YTD	Included in Budget Y/N?
Legal Fees	197,000	Y

**Statement**

The following statement is made in accordance with clause 203(2) of the Local Government (General) Regulations 2005. It is my opinion that the Quarterly Budget Review Statement for Ballina Shire Council for the quarter ended 31/3/14 indicates that Council's projected financial position at 30 June 2014 will be satisfactory\* at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

\* The satisfactory position is based on the short term (twelve month) outlook.



Signed Peter Morgan, Responsible Accounting Officer

**Sustainability Considerations**

- **Environment**  
This report encompasses the entire Council budget and as such has implications for environmental, social and economic outcomes. Council needs to bear in mind the implications of allocating or not allocating resources to particular works and services.
- **Social**  
As above
- **Economic**  
As above

**Legal / Resource / Financial Implications**

This report informs Council of actual financial results to date in comparison to budget. Where legal ramifications are envisaged they are detailed within the information section of this report.

**Consultation**

This report has been prepared to inform the community of budget variations.

**Options**

Council may approve the budget amendments proposed, make changes or not approve any changes. It is considered that the proposed changes reflect either Council policy or necessary adjustments that reflect the trending of actual incomes and expenses.

**RECOMMENDATION**

That Council notes the contents of the 31 March 2014 Quarterly Budget Review and approves the changes identified within this report.

**Attachment(s)**

Nil

## **10.11 Lease Terms - Shop 151 River Street, Ballina - Summary**

### **10.11 Lease Terms - Shop 151 River Street, Ballina - Summary**

**Delivery Program** Commercial Services

**Objective** The purpose of this report is to provide an overview of the contents of the confidential report included elsewhere in this agenda in relation to a request from a tenant at Shop 151 River Street, Ballina.

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#### **Background**

At the Commercial Services Meeting held on 9 December, 2013, Council resolved to offer a lease to Ms Louise Hayes for retail premises at 151 River Street, Ballina. The terms and conditions pertaining to the lease are summarised in the confidential report elsewhere in this meeting agenda.

Ms Hayes entered into a lease agreement with Council on 1 February, 2014 and took occupation of the premises thereafter. On 5 May, 2014 Ms Hayes met with Council staff seeking to review the terms and conditions pertaining to her lease. This request forms the subject of this report.

#### **Key Issues**

- Review of lease terms and conditions.

#### **Information**

Ms Hayes owns and operates a business trading as “Belly Buttons” a children’s boutique from 151 River Street. She executed a lease agreement for the premises on 1 February 2014, and took possession thereafter.

Council’s debtors section advise that Ms Hayes is up to date with payment of rental and property outgoings.

Ms Hayes met with Council staff on 5 May, 2014 to review the terms and conditions pertaining to her lease.

Council staff responded in writing to Ms Hayes on 9 May, 2014 advising her of her obligations under the lease and proposing a course of action as outlined in the confidential report

Ms Hayes responded in writing to Council staff and Councillors on 12 May, 2014 requesting that Council consider options as outlined in the confidential report. Staff have provided comments in response to Ms Hayes’ requests as outlined in the confidential report.

#### **Sustainability Considerations**

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



## **10.11 Lease Terms - Shop 151 River Street, Ballina - Summary**

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Not Applicable

- **Economic**  
Not Applicable

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

Council has an executed lease with Ms Hayes that runs until 31 January, 2015. Council has budgeted to receive rental income from Ms Hayes.

### **Consultation**

Consultation has been undertaken with Ms Hayes and LJ Hooker Ballina

### **Options**

The purpose of this report is to provide an overview of the information contained in the confidential report for the information of the public. The recommendation for this report is for noting purposes only, with the confidential report providing the actual recommendation in respect to the tenant request.

### **RECOMMENDATION**

That Council notes the contents of this report, which provides a summary of the contents of the confidential report, regarding the leasing terms for Shop 151, River Street, Ballina.

### **Attachment(s)**

Nil

## 10.12 Land Sale - Old Tintenbar Quarry - Summary

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### 10.12 Land Sale - Old Tintenbar Quarry - Summary

**Delivery Program** Commercial Services

**Objective** The purpose of this report is to provide an overview of the contents of the confidential report included elsewhere in this agenda in relation to the sale of a Council property known as the Old Tintenbar Quarry.

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#### Background

A report on this matter was presented to the Commercial Services meeting of 15 October, 2013, whereby Council resolved to provide approval for the sale of surplus Council owned land located at Tintenbar. The property is generally known as the "Tintenbar Quarry" ("the Property") and comprises two lots (Lot 3 DP 532703 and Lot 1 DP 597343). Details pertaining to the Property are summarised as follows:

Lot	DP	Site Area	Zoning	Services	Building Improvements
3	532703	15,850m <sup>2</sup>	RU1 Primary Production	Nil	Nil
1	597353	9,352m <sup>2</sup>	RU1 Primary Production	Nil	Nil

The quarry operation on the Property was abandoned many years ago. A few years ago Council engaged contractors to remove the derelict plant and equipment pertaining to the quarry.

In its current state the Property is heavily overgrown. A major problem with the Property is that it is land locked. It is understood that when the Property was operational as a quarry, access was gained over an adjoining property to the south, however this arrangement was never formally legalised as an easement or right of way.

Council's Development and Environmental Health Group has advised that Lot 1 DP 597343 has a dwelling entitlement pursuant to Clause 3(c) of Ballina LEP 2012, however Lot 3 DP 532703 does not have a dwelling entitlement.

Council obtained an independent property valuation from a registered valuer and resolved at the Commercial Services meeting of 15 October, 2013 (subject to endorsement at the October 2013 Ordinary Council meeting) as follows:

- 1. That Council approves the sale of the property (Lot 3 DP 532703 and Lot 1 DP 597343) by offering it for sale to each of the three adjoining property owners at the value assessed by the independent valuer, or greater.*
- 2. The property is to be sold to the highest bidder, however if the independent valuation is not reached, any offers received are to be submitted to Council for final determination of the sale.*
- 3. Council authorises the seal to be attached to the contract for sale for the property.*

## **10.12 Land Sale - Old Tintenbar Quarry - Summary**

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This report provides an update on the negotiations with any confidential matters contained in the confidential report later in this agenda.

### **Key Issues**

- Sale of an asset surplus to Council's needs

### **Information**

Following on from the Commercial Services meeting of 15 October, 2013, the three adjoining owners were written to on 16 December, 2013, advising each of them that the Property was for sale at the registered valuer price. Discussions have been on-going and the outcomes from those discussions are outlined in the confidential report.

### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
Not Applicable
- **Economic**  
The asset is considered surplus to Council's requirements. An independent report by Groundwork Plus commissioned by Council indicates the economic value of the Property as a commercial quarry to be marginal.

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

The Property is classified as "operational land" and can be sold.

### **Consultation**

The three adjoining owners have been contacted by mail and phone to determine their interest in purchasing the subject Property.

### **Options**

This report provides an overview of the information contained in the confidential report for the information of the public. The recommendation for this report is for noting purposes only, with the confidential report providing the recommendation in respect to the Property sale.

### **RECOMMENDATION**

That Council notes the contents of this report, which provides a summary of the contents of the confidential report, regarding the sale of surplus Council land, being the Old Tintenbar Quarry.

### **Attachment(s)**

Nil

## **11.1 Pimilico - Uralba Water Main**

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### **11. Civil Services Group Reports**

#### **11.1 Pimilico - Uralba Water Main**

**Delivery Program** Water and Wastewater

**Objective** To seek further directions in respect of the proposal to decommission the water main that services Pimilico and Uralba.

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#### **Background**

At the 27 February 2014 Ordinary meeting Council resolved to proceed with the Smith Drive Water Main Replacement Project for the section of main servicing properties to the east of Emigrant Creek, but resolved to decommission the remainder of the main to the west.

Council requested officers to advise affected residents of Council's decision to terminate the water service and undertake a consultation in respect of the impacts of that decision, including an assessment of the costs of any requests by land owners to be provided with an alternative water supply.

In doing so, Council was not making any commitment to providing alternative supplies or arrangements; rather the purpose of the consultation was to enable Council to give consideration to requests for assistance in response to its decision.

Initial consultation has now been carried out, and further legal advice received from Council's solicitors; both of which are detailed within this report.

Given design works have begun on the section of pipeline to the east of Emigrant Creek, this report focusses only on the section of the water pipeline servicing properties to the west of Emigrant Creek.

#### **Key Issues**

- Economic Efficiency
- Asset Renewal
- Equity
- Legal Requirements
- Water Loss
- Compensation

### Information

#### Consultation

Letters were sent to all affected residents immediately following the 27 February resolution. Where residents wished to meet with Council, one-on-one meetings with the Manager Water & Wastewater were undertaken, either on site, or in Council's offices. A table summarising the discussion with each property owner is included in the confidential report later in this business paper. As the table contains names and addresses it is a requirement not to publish these details.

#### Overview of responses

Without exception, water users were upset, disappointed and surprised by the decision to terminate the water supply. A number of landholders stated they are not financially able to undertake any works to arrange an alternative water supply. An approximately equal number of users would consider paying an additional levy to continue to be connected to the town water supply.

Several common concerns raised were:

- A feeling of a lack of prior warning and communication from Council
- A feeling that Council was disconnecting conscientious ratepayers
- Uncertainty regarding exact timing of the disconnection
- Need for provision of appropriate alternative water supply - either fully or partially funded by Council
- Concern that alternative water supplies will not be as drought resistant as town water supply
- Negative impacts on land value
- Why the service could not be extended across Emigrant Creek using the existing underbore that was completed in 1999
- Whether location, space and roof area required for rainwater tanks was available.

All impacted water users are located on rural zoned land. Water use and connection points vary between users as outlined below and in Figure 1.

#### Low water users at Pimilico and Uralba

- Five primarily residential water users (low volume, low fluctuation):
  - two at Pimilico with connection to a meter immediately adjacent to and west of Emigrant Creek
  - two at Uralba with connection to meters at the end of the Uralba section of pipeline.
- Almost solely domestic water use.
- Significant lengths of private poly-pipe already installed from main meter, including suspended crossings across Duck Creek.
- Alternative 100kL rainwater supply (as proposed at Council's February 2014 meeting) is a suitable, relatively reliable and cost efficient solution.

## 11.1 Pimlico - Uralba Water Main

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### Medium / High water users at Pimlico and Uralba

- Four mainly primary production water users (med-high volume, high fluctuation):
  - the Department of Primary Industries research farm at Pimlico with connection to a meter immediately west of Emigrant Creek
  - one adjacent to the old Pacific Highway-Bruxner Highway intersection
  - two towards the end of the Uralba section of pipeline; one of which contains a plant nursery with several hundred thousand dollars worth of stock (pers. comments from owner).
- Majority of water used for agriculture, with some domestic use.
- Alternative 100kL rainwater supply is insufficient.
- Concerns that groundwater is brackish and of unsuitable quality.
- Properties west of Pacific Highway and at Uralba could construct farm dams on slopes, but may require new pipework, pumps and power.

### **Sustainability Considerations**

- **Environment**

The opportunities to prevent water supply losses are important in terms of reducing the demand on the natural environment to support urban population.

- **Social**

The removal of town water supply from Pimlico and Uralba may be viewed as being fair (in that rural customers do not generally have town water supply and supply is relatively uneconomic) or unfair (the removing an existing service) depending on perspective.

- **Economic**

Loss of water services, or levying of additional charges, may affect businesses and impact on land values in Pimlico and Uralba.

Renewing infrastructure in Pimlico and Uralba will reduce water loss (Council buys water lost through its system from Rous Water but does not receive any income for it).

Levying of a charge in those areas will reduce cross-subsidies currently provided by the rest of the shire.

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

The latest legal advice differs from previous legal advice reported to Council in February 2013. The original advice was there is no obligation to supply town water but it did not specifically address whether an existing supply of town water could be disconnected.

Further legal advice has now been provided through CH Law from expert counsel Mark Seymour. Copies of the initial advice and counsel advice to Council are attached in the confidential section of the business paper. To assist the community and the affected residents understand Council's position in this matter and the options potentially available, the advice is summarised below.

## 11.1 Pimilico - Uralba Water Main

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The advice of counsel confirms that Council does not have an obligation to supply water, however it can only disconnect users for reasons listed under clause 144 of the Local Government General Regulations, such as unpaid water rates, inappropriate water fittings, drought or any other unavoidable cause. Therefore, Council has *“no express power to cut off supply due to a desire to simplify or rationalise water supply, even when that will result in significant savings to the council.”*

It is also noted that, should the system fail, in a legal sense, Council is under no obligation to either replace the pipeline, or in the case of replacing it, under no obligation to reconnect the users. However, in a practical sense, failure of the system would require Council to turn off (or disconnect) the system to avoid draining the rest of the Shire’s reticulation system and this would amount to disconnecting users, which can only be done for the reasons listed under cl 144.

Mark Seymour advises it is possible for Council to request declaratory relief from the Court as to whether Council can lawfully disconnect the water. This would put the onus on Council to show the disconnection is justified given the substantial cost to replace the system will benefit only nine properties. This process would also enable affected residents to comment on the basis of Council’s request through the courts.

He also advises Council may impose a special levy to replace, repair or maintain the infrastructure or it may withdraw the service provided this is consented to or requested by the landowner.

Construction budgets were set out in the previous reports to Council. Additional legal costs, not previously identified, could occur depending on the path taken by Council. This information is summarised in each of the options below.

### **Consultation**

Consultation was undertaken during March and April 2014 by meeting one-on-one with each landholder and tenant to establish the individual needs of affected persons prior to disconnection.

Previous consultation was limited to specific enquiries during drafting of the water main replacement options study in early 2013.

### **Options**

While the Council has previously resolved to decommission the main, based on landholder feedback and the latest legal advice, it is suggested to Council that it should again review the options available to it.

Each of the proposed options are expected to realise savings to Council and the community estimated at approximately \$185,000 per annum through reduced water loss (as reported to Council in July 2013).

## 11.1 Pimilico - Uralba Water Main

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### Option 1 – Disconnect the pipeline given it has effectively already failed

Condition reports and water losses to date evidence the fact the pipeline has technically failed, can no longer be effectively repaired, and requires complete replacement. Even though the line has failed, Council would need to disconnect the failed section of pipeline (and the affected landholders). To be certain such disconnection is lawful, legal advice is that declaratory relief should be sought.

Council would need to show the disconnection was caused by an “unavoidable cause”. Advice from Clarissa Huegill is that the cost of this process to Council would be approximately \$5,000 depending on how the affected users decided to involve themselves in the legal proceedings.

It is uncertain that the court would support Council's request. The assessment in the court would likely follow a similar assessment to the Council deliberations in this matter.

On one view it is unreasonable for the community to provide a subsidy of this size to a small section of the community and the effect of this is the lost opportunity to undertake other works.

The alternative position is that the works are affordable as the cost represents a relatively small proportion of the total asset renewal works to be undertaken by Council over the next 10 to 20 years and the avoided water loss represents an effective rate of return on investment.

Declaratory relief is likely to cause landholders to become involved in the legal proceedings which could cause additional legal expenses. Even if declaratory relief was granted, there is still the possibility of further proceedings from landholders and ongoing court costs.

The court may also feel that Council has a moral obligation to assist impacted landholders through compensatory measures.

### Option 2 – Seek compensation agreement and disconnect

The latest legal advice is that Council could disconnect the pipeline if this were agreed to by the landholder. Negotiations could include an offer to provide compensation, similar to the rainwater tank option contained in the February 2014 Council report.

The budget estimate for this is  $9 \times \$20,000 = \$180,000$ . These costs would be born by Council.

Some landholders may prefer this option because it provides them with the certainty of an alternative water source paid for by Council. It does not address other issues such as loss of land value, and would not provide adequate water for primary producers.

Agreement may not be reached with all landholders. Council's position at that point might be to compensate those where agreement has been reached and then request declaratory relief from the Court to disconnect the remaining landholders.



## 11.1 Pimilico - Uralba Water Main

### Option 3 - Renew the entire pipeline west of Emigrant Creek and charge landholders an additional annual fee for construction.

This option is to replace the pipeline as per the original report of July 2013, but a special rates charge could be levied on landholders such that landholders bear all or a proportion of the costs associated with initial capital replacement of the pipeline.

Council is able to levy special rates under Section 495 of the Local Government Act. Several affected landholders indicated support for this approach.

Works would entail renewing the entire length of pipeline from Smith Drive across Emigrant Creek to Uralba (2.4km). The budget estimate from Council report July 2013 is approximately \$430,000 (assuming it can be designed and constructed together with the remaining Smith Drive mains replacement - the design of which is proceeding as per Council's resolution from February 2014).

Estimates of possible alternative special rates charges are shown below. The charges are calculated as \$/kL as volumetric charges, based on depreciation of the pipeline over 20, 30 or 40 year periods. Average residential and primary production bills are based on estimates of previous years' water usage of approximately 220kL/yr and 1430kL/yr respectively.

Final figures would depend on factors such as actual construction costs, depreciation period, water usage, etc. All alternatives are shown in 2014 dollars and assume special rates would be indexed annually in line with other Council fees and charges.

The first table assumes a simplified linear depreciation period on the pipeline without any consideration of opportunity costs. The second assumes an investment interest rate of 7%, but reduces this to 4% to allow for annual indexation of special rates charges.

<b>Table 1: Simple linear depreciation</b>				
<b>Contribution by landholders (%)</b>	<b>Payback period (yrs)</b>	<b>Special rates charge (2014)</b>		
		<b>20</b>	<b>30</b>	<b>40</b>
100%	\$/kL	\$3.10	\$2.07	\$1.55
	<i>Avg Residential \$/yr</i>	\$700	\$466.67	\$350
	<i>Avg Prim. prod. \$/yr</i>	\$4,500	\$3,000	\$2,250
80%	\$/kL	\$2.48	\$1.65	\$1.24
	<i>Avg Residential \$/yr</i>	\$560	\$373.33	\$280
	<i>Avg Prim. prod. \$/yr</i>	\$3,600	\$2,400	\$1,800
50%	\$/kL	\$1.55	\$1.03	\$0.78
	<i>Avg Residential \$/yr</i>	\$350	\$233.33	\$175
	<i>Avg Prim. prod. \$/yr</i>	\$2,250	\$1,500	\$1,125
30%	\$/kL	\$0.93	\$0.62	\$0.47
	<i>Avg Residential \$/yr</i>	\$210	\$140	\$105
	<i>Avg Prim. prod. \$/yr</i>	\$1,350	\$900	\$675

<b>Table 2: Depreciation allows for opportunity cost calculated at 4% (assumes 7% interest rate less 3% inflation to allow for indexed charging)</b>	
<b>Special rates charge (2014)</b>	

## 11.1 Pimilico - Uralba Water Main

Contribution by landholders (%)	Payback period (yrs)	20	30	40
		100%	\$/kL <i>Avg Residential \$/yr</i> <i>Avg Prim. prod. \$/yr</i>	\$6.70 \$1,487 \$9,588
80%	\$/kL <i>Avg Residential \$/yr</i> <i>Avg Prim. prod. \$/yr</i>	\$5.36 \$1,190 \$7,670	\$5.28 \$1,172 \$7,556	\$5.92 \$1,314 \$8,472
50%	\$/kL <i>Avg Residential \$/yr</i> <i>Avg Prim. prod. \$/yr</i>	\$3.35 \$744 \$4,794	\$3.30 \$733 \$4,722	\$3.70 \$821 \$5,295
30%	\$/kL <i>Avg Residential \$/yr</i> <i>Avg Prim. prod. \$/yr</i>	\$2.01 \$446 \$2,876	\$1.98 \$440 \$2,833	\$2.22 \$493 \$3,177

It is possible that Council would receive future applications to connect to the pipeline from a small number of adjacent landholders who are currently unconnected.

Due to the replacement objective of the charge, it would not set a precedent for other rural areas wanting to connect to town water. Any request to connect would be dealt with on a case-by-case basis under Council's existing connections policy.

The necessity of constructing the pipeline through environmental zones could increase construction costs. The poor ground conditions along the pipeline route may result in some increase to maintenance costs; however it is not considered that these would be significant.

### Summary

A Councillor briefing has been arranged to enable questions to staff in regards to the options before Council. In addition to the options, it is also an option for the Council to replace the main without any additional financial impost on the property owners. Information regarding this option was included in the original report to Council. This option is not further discussed in this report as the current resolved position of Council is not to allocate funds to the project, except to meet reasonable compensation arrangements.

Without further consultation with the affected property owners, it is considered premature to advance the option one position to seek declaratory relief from the Court for Council to lawfully disconnect the water service. Therefore it is recommended that Council seek further comment from the property owners in respect of both options two and three, if both of these options are still potentially acceptable to Council.

It may be the case that some property owners prefer one option over another, however it will not be possible to provide a mix of options in the final decision as disconnection from the supply should only occur if the main is not replaced. If however only option two is acceptable to the Council, then the suggested resolution for this position would be for Council to direct staff to seek the finalisation of compensation agreements that lawfully enable the disconnection.

## **11.1 Pimilico - Uralba Water Main**

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Alternatively, if only option three is acceptable to the Council, then the suggested resolution for this position would be for Council to direct staff to consult with the landowners in respect of a charging scheme and report the outcomes to Council.

As there is new information in this report about the options, it is recommended that further feedback be requested from residents in respect of options two and three and a further report be presented to Council. This process does not preclude option one from being the final position of Council if agreement is not possible under the other options.

### **RECOMMENDATION**

That Council undertake further consultation with affected property owners seeking feedback in respect of options two and three as outlined in this report with feedback from that consultation to be reported back to Council.

### **Attachment(s)**

Nil

## 11.2 Tamar Street Fig Trees

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### 11.2 Tamar Street Fig Trees

**Delivery Program** Open Spaces and Reserves

**Objective** To provide information on issues caused by fig trees in Tamar Street, Ballina and to respond to concerns raised by a property owner.

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#### **Background**

Council has received ongoing requests from a property owner in respect to the removal or trimming of fig trees at 77 Tamar Street, Ballina due to ongoing issues with leaf drop. The leaf drop requires the resident to undertake increased maintenance on the property, due to the leaf build up in gutterings causing water damage. To date, ongoing mechanical intervention by the resident has been unsuccessful and the resident is pleading hardship in the ability to regularly undertake maintenance due to age.

The trees have previously been an issue due to invasive tree roots causing damage. Following reports presented in 2012, Council resolved to retain the fig trees and undertake extensive root barrier installation in lieu of tree removal.

As staff have not been able to reach a final position with the resident, including a meeting with the Mayor, this report has been prepared to enable Councillors to consider the matter. Two photos from the site are attached for information purposes.

#### **Key Issues**

- Intrinsic value of street trees
- Property damage
- Cost

#### **Information**

The fig trees (*Ficus spp*) were planted in 1932, with 10 street trees currently established on the northern side of Tamar Street, Ballina, forming an integral component of the streetscape that provides aesthetic and environment benefits.

The first complaint regarding leaf drop was received in September 2013, with a response provided by Council's Risk Management section. Further complaints were received in March 2014 and subsequent meetings have been held between Council and the resident.

A number of inspections of the trees have been undertaken by Council's AQF V qualified arborist, with reports on the trees completed in 2009 (updated 2011) and 2013. Additional inspections were undertaken in 2014. The recent inspection indicates that whilst significant pruning of the trees has occurred due to the proximity to power lines, the overall health of the tree is fair to moderate.

## 11.2 Tamar Street Fig Trees

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Council's adopted Urban Vegetation and Tree Management Policy (2010) clearly defines Council's commitment to the management of the urban forest and tree maintenance program.

Whilst consideration is given to the potential hazards that trees on public land have to people or property, the policy states;

*Provided that no significant hazard to people or property applies, then the following **shall not** generally be considered as valid reasons to remove a tree on public land:*

- *Leaf drop into gutters, downpipes, pools and so on*

This situation is not considered to represent a significant hazard.

It should be noted that the actual awning for the building in question is over the Council owned road reserve. This is not an unusual occurrence with many awnings in the town centres located over the road reserve. Council's insurance advice is that even though awnings are located over the road owner the building owner has responsibility for the maintenance of the awning.

### **Sustainability Considerations**

- **Environment**

The planting of appropriate street tree species and ongoing management of these trees provides environmental benefits such as air purification, softening of built environment, fauna habitat and cooling of urban environments

- **Social**

Aesthetically, street trees make an important contribution to the character or amenity of the local area and form a notable visual element in the landscape.

Street trees improve our quality of life by providing a sense of peacefulness, restfulness, serenity and tranquility as a result of creating a more natural and less artificial environment.

- **Economic**

The management of fig trees can incur significant expenditure for Council.

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

Council has limited resources to undertake tree maintenance, and manages tree from a risk management approach. Council has been advised that it is the legal responsibility of the property owner to clean and maintain their gutters. Any proposed tree removal would have impacts on the existing tree maintenance budget.

### Consultation

There have been on-going discussions with the property owner with agreement not able to be reached as the owner wishes to see the fig tree trimmed or ultimately removed.

### Options

The following options are available to Council.

1. Acknowledge that leaf drop is naturally occurring and in accordance with Council's adopted policy, continue to undertake regular inspections and maintenance of the trees, but no specific action to reduce leaf drop.
2. Undertake pruning of the trees. Due to significant pruning already undertaken by Essential Energy, further pruning of the trees could cause significant stress on the health of the trees. Pruning would have a minimal effect on reducing the leaf litter load of the trees.
3. Undertake further investigations and planning for the selective removal of fig trees and replacement planting. The estimated cost for the removal of each tree has been estimated at \$6,000. Any proposed removal would have impacts on the existing tree maintenance budget. The effectiveness of selective removal is unknown due to no control over prevailing wind direction. New Essential Energy clearance guidelines would also restrict the replacement options available in this location.
4. Undertake further investigations and planning to remove all 10 fig trees and develop an appropriate replacement plan. The estimated removal cost is approximately \$60,000. Any proposed removal would significantly impact the existing tree maintenance budget. New Essential Energy clearance guidelines would restrict the replacement options available in this location.
5. The Council could acknowledge the hardship suggested in this request and undertake maintenance activities to remove the leaves from the property. The disadvantage of this option is that it is unfair to the many residents in similar positions who manage a response without referral to the Council. Also, as there are many complaints received regarding leaf drop, this option may create a difficult precedence to manage notwithstanding the specific circumstances for this resident.

Options two, three and four are not recommended as the Council has previously determined that extending the life of the trees to fullest extent possible is a priority while ever options to manage the impacts to infrastructure and property assets are available. In this case, regular maintenance will address the issue.

Option five is not recommended for the reasons of equity and precedence discussed above.

## **11.2 Tamar Street Fig Trees**

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Option one represents the current policy position of Council and is therefore recommended. Unfortunately this will not appease the property owner, however this position reflects it is the owner's responsibility to maintain their property and Council has limited actions it can undertake to remove the problem, besides replacing the fig tree. Council has previously resolved not to replace these trees.

### **RECOMMENDATIONS**

1. That Council notes the contents of this report in respect to the fig tree concerns for 77 Tamar Street, Ballina.
2. That in accordance with the adopted Urban Vegetation and Tree Management policy, Council continues to undertake regular inspections and maintenance of the Tamar Street fig trees, however no additional specific actions are to be taken to reduce leaf drop or maintain the private property due to the points raised as per the contents of this report.

### **Attachment(s)**

1. Photos of the trees

### **11.3 Tender - Removal of Biosolids from Wastewater Treatment Plants.**

### **11.3 Tender - Removal of Biosolids from Wastewater Treatment Plants.**

**Delivery Program** Water and Wastewater

**Objective** To obtain Council approval to award the contract for the removal of biosolids from the wastewater treatment plants.

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#### **Background**

Council has a current contract for the transport and removal of biosolids from our wastewater treatment plants. The current contract expired 30 April 2014.

A request for tender was advertised on 15 March 2014 for a schedule of rates contract for the removal of biosolids from from the Ballina, Lennox Head and Alstonville Wastewater Treatment Plants (WWTP) for a period of three years. The biosolids are to be removed and transported to approved sites and in accordance with the EPA Biosolids Guidelines.

At the close of the tender period three tenders were received.

This report details the outcome of the tender evaluation process.

#### **Key Issues**

- Engage a suitably qualified and conforming contractor.
- Award the tender in accordance with the Local Government (General) Regulations 2005;

#### **Information**

Tender submissions were received from:

Arkwood Organic Recycling  
Compass Equipment Hire  
Conhur PtyLtd

All tenders were initially assessed by the Water and Wastewater Engineer for conformity with the tender specification and the requirement for the nominated beneficial use sites to conform to the EPA Biosolids Guidelines - all tenders were deemed to be conforming.

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

- Identified & Assessed Site for Beneficial use of Biosolids - Mandatory
- Pricing Structure - 80%
- Management Systems – 20%



### **11.3 Tender - Removal of Biosolids from Wastewater Treatment Plants.**

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The tender evaluation panel, consisting of the Manager – Water and Wastewater, Water and Wastewater Engineer and Foreman Water and Wastewater then assessed each of the tenders against the above criteria. The following is the final rankings of the tender submissions.

<b>Tenderer</b>	<b>Ranking</b>
Compass Equipment Hire	1
Arkwood Organic Recycling	2
Conhur PtyLtd	3

Based on the assessment criteria, Compass Equipment Hire is ranked the highest in the evaluation and has tendered the lowest rates, whilst conforming to the mandatory requirements.

Based on the tender rates and the estimated amount of work, it is expected that the annual cost of these works will be \$90,000. This amount will be a reduction in the current annual cost for the disposal of biosolids of approximately \$60,000 per year.

#### **Sustainability Considerations**

- **Environment**  
The proper management of biosolids is required to ensure the environment is protected.
- **Social**  
Not Applicable
- **Economic**  
The delivery of efficient council services at least cost reduces can assist to support economic development.

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

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

This work will be performed when required, based on the schedule of rates provided by the tenderer.

As noted above, the tender outcome is an improved financial outcome when compared to previous.

#### **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.

### **11.3 Tender - Removal of Biosolids from Wastewater Treatment Plants.**

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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, Compass Equipment Hire.

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 removal of biosolids from from the Ballina, Lennox Head and Alstonville Wastewater Treatment Plants (WWTP) for a period of three years from Compass Equipment Hire.
2. That Council authorises the Council seal to be attached to the contract documents.

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

Nil

## **11.4 Tender - Security Screening Services - Ballina Byron Gateway Airport**

### **11.4 Tender - Security Screening Services - Ballina Byron Gateway Airport**

**Delivery Program** Commercial Services

**Objective** To obtain Council approval to award the contract for the provision of security and screening services at the Ballina Byron Gateway Airport for a five year period.

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#### **Background**

A request for tender was advertised on 26 March 2014 for security and screening services at Ballina Byron Gateway Airport, as required by the Department of Infrastructure and Regional Development for a five year period commencing 1 July, 2014.

At the close of the tender period five tenders were received.

This report details the outcome of the tender evaluation process.

#### **Key Issues**

- Engage a suitably qualified and conforming contractor
- Award the tender in accordance with the Local Government (General) Regulations 2005;

#### **Information**

Tender submissions were received from:

BSMS Security  
Always Synergy  
Asset Group Solutions  
SNP Security  
MSS Security

All tenders were initially assessed for conformity with the tender specification with both SNP Security and MSS Security being conforming in all areas, in particular “satisfactory performance in aviation passenger screening”. The remaining three tenderers have no experience in aviation passenger screening and were deemed marginally conforming.

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

- Total price - 40%
- Previous satisfactory performance in aviation passenger screening – 20%
- Proposed staff / team – 10%
- Quality & occupational health & safety – 30%

The tender evaluation panel, consisting of the Airport Manager, the Airport Security Supervisor and the Project and Contract Co-Ordinator then assessed each of the tenders against the above criteria.

## **11.4 Tender - Security Screening Services - Ballina Byron Gateway Airport**

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The following is the final rankings of the tender submissions.

<b>Tenderer</b>	<b>Ranking</b>
MSS Security	1
SNP Security	2
BSMS Security	3
Always Synergy	4
Asset Group Solutions	5

Costings provided in the tender schedules allowed for estimated of annual expenditure to be calculated for each tenderer. MSS Security has provided the highest rates, followed closely by SNP Security - the estimated difference per annum is approximately \$25,000 between these tenderers.

Although the rates tendered by remaining three tenderers offered savings of between \$95,000 to \$160,000 per annum, none of these companies have experience in aviation passenger screening, a key evaluation criteria and therefore these companies were allocated a relatively low score for that part of the evaluation.

The proposed contract is a schedule of rates contract and Council is invoiced monthly on the hours required to provide screening services. The number of hours each month is determined by the number of services which require screening as determined by the Aviation Transport Security Regulations 2005.

The expected cost of screening services under the new contract is estimated at \$724,000 per annum based on the current number of services. An analysis of the schedule of rates indicates the pricing proposed for the recommended tenderer is very similar to the pricing in the current contract.

All costs related to security and screening services are recovered from the operating airlines.

Based on the assessment criteria, MSS Security is ranked the highest in the evaluation. MSS Security is the current provider of security and screening services at Ballina Byron Gateway Airport and has performed all services at the airport to a very high standard. The Office and Transport and Security undertake four audits of security services per annum and MSS Security have not recorded a non-conformance during the past three years.

Both MSS and SNP provided very competitive tenders and even though SNP provided a slightly lower price MSS scored higher on key considerations such as performance standards.

### **Sustainability Considerations**

- **Environment**  
Not Applicable

## **11.4 Tender - Security Screening Services - Ballina Byron Gateway Airport**

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- **Social**

This contract is required to support the regulatory compliance needs of the airport. The airport is considered to be an important contributor to the social development of the Region.

- **Economic**

This contract is required to support the regulatory compliance needs of the airport. The airport is considered to be an important contributor to the economic development of the Region.

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

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

The services will be performed based on the schedule of rates provided by the tenderer. As noted these costs are recovered from the airlines operating at the airport and this revenue and expense is managed within the budget for the Airport. Council is required to provide screening services by the Aviation Transport Security Regulations 2005.

### **Consultation**

A public tender process was 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, MSS Security Pty Ltd.

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 from MSS Security Pty Ltd, for the provision of aviation security and screening services at Ballina Byron Gateway Airport, for a period of five years commencing 1 July, 2014.
2. That Council authorises the Council seal to be attached to the contract documents.

**Attachment(s)**

Nil

## **11.5 Tender - Supply of Fill Sand**

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### **11.5 Tender - Supply of Fill Sand**

**Delivery Program**      Engineering Works

**Objective**              To obtain Council approval to award the contract for the Supply of Fill Sand.

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#### **Background**

Tenders for the Supply of Fill Sand were advertised on 15 March 2014, and closed on 8 April 2014. The tender is initially for a one year period until 30 June 2015, but the tender documentation includes scope for extending the contract by a further one year period up until 30 June 2016, subject to approval from the General Manager or their delegate.

Tenders were received from the following suppliers:

- Ballina Sands Pty Ltd - Quarry located at Newrybar Swamp Road, Tintenbar NSW
- Ramtech Pty Ltd t/a Dunloe Sands Quarry – Quarry located at 762 Pottsville Mooball Road, Mooball NSW
- Newman Quarry & Landscape Supplies – Quarry located at Lot 193 Boggy Creek Road, Bungawalbin NSW
- Sydney Quarry & Haulage Group t/a Rixa Contractors – Quarry Located at 405 Evans Head, Road Evans Head NSW
- Riverside Industrial Sands Pty Ltd – Stockpile site 17 Skyring Terrace, Newstead QLD

#### **Key Issues**

- Appropriate assessment of suppliers of fill sand for the next two year period.
- Award the contract in accordance with the Local Government (General) Regulations 2005

#### **Information**

Council recently called tenders for the Supply of Fill Sand. This report provides details of the tender results. A précis of tender results is shown below. Full details are available to Councillors on request from the Group Manager Civil Services.

## 11.5 Tender - Supply of Fill Sand

Tender	Rate per Tonne (ex quarry/stockpile) (ex GST)
1. Newman Quarry & Landscaping	\$ 9.00
2. Ballina Sands	\$10.00
3. Ramtech	\$11.50
4. Riverside Industrial Sands	\$17.00
5. Sydney Quarry & Haulage Group	\$18.00

Fill sand is used on a number of Council's works; however it is mainly used to replace unsuitable subgrade material excavated during road construction projects. Council uses approximately 15,000 tonnes per year.

Comparison of tender rates not only requires consideration of the product cost (ex quarry/stockpile) but also requires consideration of truck haulage costs. The combined cost of these two items will result in the total cost to Council for the purchase and delivery of a product to site. The majority of sand fill purchased by Council is used on road projects in Ballina.

The following table shows the haulage distance from each quarry/stockpile site to Ballina, the haulage cost based on the average rate paid by Council and the total cost per tonne delivered to Ballina for each tenderer:

Tender	Haul Distance	Haul Cost	Total
1. Ballina Sands	14km	\$4.19/t	\$14.19/t
2. Newman Quarry & Landscaping	50km	\$12.85/t	\$21.85/t
3. Ramtech	56km	\$14.39/t	\$25.89/t
4. Sydney Quarry & Haulage Group	44km	\$11.15/t	\$29.15/t
5. Riverside Industrial Sands	191km	\$30.97/t	\$47.97/t

### Sustainability Considerations

- Environment**  
 All NSW quarries are required to operate in accordance with an environmental management plan.
- Social**  
 This tender assists in the maintenance of the road network and thereby supports the community's transport needs
- Economic**  
 This tender will provide competitive prices for materials used in the maintenance and construction of the road network, an essential asset for economic development.



## **11.5 Tender - Supply of Fill Sand**

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

This report aims to assist Council to meet its statutory and other legal obligations. Purchases made utilising this tender will be costed against applicable project and program budgets.

### **Consultation**

A public tender process was conducted.

### **Options**

On previous occasions, for the supply of similar materials, Council has adopted a list of preferred contractors. However, on this occasion, given that the delivered cost for the second lowest tender is over 50% higher than the lowest tender, it is unlikely that Council will purchase materials from any other supplier. Should circumstances arise where an alternative source is required, separate quotations will be invited. The contract also allows for separate quotations for large projects requiring in excess of 3,000 tonnes.

### **RECOMMENDATIONS**

1. That Council accepts the tender from Ballina Sands Pty Ltd as preferred contractor for the supply of sand for the period to 30 June 2015.
2. In accordance with the terms of the Contract, the General Manager or delegate is authorised to extend the Contract period to 30 June 2016, if desirable.
3. That Council authorises the Council seal to be attached to the contract documents.

### **Attachment(s)**

Nil

## **11.6 Policy (Review) - Footpaths & Cycleways - Inspection**

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### **11.6 Policy (Review) - Footpaths & Cycleways - Inspection**

**Delivery Program** Asset Management

**Objective** To present to Council the Review of the Footpaths & Cycleways - Inspection, Evaluation & Maintenance Policy

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#### **Background**

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Footpaths and Cycleways – Inspection, Evaluation and Maintenance policy.

Council first adopted this policy in 2003. The key point of this policy was to assist the Council in terms of risk management by determining the extent of resources allocated to the management of these types of assets.

#### **Key Issues**

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

#### **Information**

The template for Council policies has changed since this policy was adopted and the new template includes information on definitions, policy history etc. Therefore the policy has been amended to suit the new template.

In addition to template changes, the text has been amended to include references to our internal procedures. These procedures are crucial to the implementation of the policy as they provide the rules and directions in respect to issues such as inspection frequency, intervention levels, repairs standards and so forth.

From time to time these procedures need to be reviewed and changed. At this level, the types of changes relate to the practical implementation of the policy rather than the overall scope of resources applied or intended service levels of the Council. To enable these changes to be made efficiently when they are required, the procedures are only referenced in the policy and are not directly incorporated into the document. This means approval for any amendments to the procedures can be undertaken by management without the need for formal reporting and public exhibition of a revised policy. Councillors interested in the details of the procedures can be provided with a copy.

The changes have been marked in yellow.

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

### **Sustainability Considerations**

- **Environment**  
Management of maintenance with a prioritised system will enhance environmental outcomes.
- **Social**  
Risk management approach to maintenance will ensure adverse social impacts will be minimised.
- **Economic**  
Risk management approach to maintenance will ensure adverse economic impacts will be minimised.

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

The policy is modelled on Council's insurer's Best Practice Manual for risk management for footpaths, nature strips and medians.

### **Consultation**

As this is an existing policy, with no amendment, 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 Footpaths and Cycleways – Inspection, Evaluation and Maintenance Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be presented by way of further to the Council. If no submissions are received then no further action is required.

### **Attachment(s)**

1. Draft Policy - Footpaths & Cycleways - Inspection, Evaluation & Maintenance

## **11.7 Policy (Review) - Alcohol Regulation on Public Land**

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### **11.7 Policy (Review) - Alcohol Regulation on Public Land**

**Delivery Program** Governance and Finance

**Objective** To review the Alcohol Regulation on Public Land Policy

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#### **Background**

All of Council's existing policies are progressively being reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Alcohol Regulation on Public Land policy.

Council first adopted this policy in January 2010.

#### **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.
- Wardell has been updated as an Alcohol Free Zone, which was adopted at October 2010 Council meeting.
- The map reference to Ross Park has been updated

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.

Council also provides detailed information and maps on its website to inform the community of Alcohol Free Zones and Alcohol Prohibition derived from this policy.

#### **Sustainability Considerations**

- **Environment**  
Not Applicable
- **Social**  
The excessive consumption of alcohol in public places results in anti-social behaviour and can lead to violence and damage to both private and public property

## **11.7 Policy (Review) - Alcohol Regulation on Public Land**

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- **Economic**  
Not Applicable

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

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

### **Consultation**

The Local Area Command of the NSW Police were contacted in regards to this policy and in response advised they did not need any changes to the current arrangements.

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 Alcohol Regulation on Public Land Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then the policy will be determined to be adopted by Council.

### **Attachment(s)**

1. Draft Policy - Alcohol Regulation on Public Land

## **11.8 EOI - Extracting Sand from North Creek**

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### **11.8 EOI - Extracting Sand from North Creek**

**Delivery Program** Operations Support

**Objective** To provide an overview of the expression of interest process currently being conducted by the NSW State Government for a licence to extract sand from North Creek.

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#### **Background**

Council recently authorised an application under the Rescuing our Waterways grant program for funding to assist with dredging North Creek, and possibly for smaller areas such as Emigrant Creek. If successful this grant will provide assistance to Council towards the costs of completing the studies necessary to obtain planning approvals and to assess the economic viability of any proposal to dredge North Creek.

Further to this grant process, to undertake any dredging, it is a requirement for an operator to hold a licence over the designated dredging area.

Council has previously written to the NSW Government asking for a licence to be awarded to dredge North Creek. In order to ensure a transparent and open process is conducted, the State Government has now invited expressions of interest (EOIs) for the "Opportunity to Extract Sand from North Creek at Ballina".

A copy of the documentation has been provided to the Councillor IPADs. The area identified in the documentation is the same as that provided by Council to NSW Trade and Investment.

Based on Council's resolved interest in this matter, staff have commenced preparing the required documentation to respond to the invitation, with submissions closing on 2 June 2014. There are commercial aspects to the EOI response and the purpose of this report is to meet the requirements of the Local Government Act by providing a summary of the confidential report included later in this agenda, which provides details of the commercial aspects of the EOI process.

#### **Key Issues**

- EOI process

#### **Information**

The EOI requires an applicant to indicate an annual licence rental and the royalty for any extracted material. Without the supporting studies proposed to be completed if our grant application is successful, it is difficult to understand the feasibility of the project and the value that the business plan could afford in respect of payments to the State Government. Furthermore the extent of competition for the licence is unknown.

## **11.8 EOI - Extracting Sand from North Creek**

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However as Council's primary objective is to achieve the clearance of North Creek and to see the sand resource beneficially used, if another applicant is successful in the EOI process over Council, this may not be a major concern as the overall objective will still be achieved, albeit that Council may miss out on a potential commercial opportunity.

Based on these comments the confidential report outlines the commercial aspects of Council's proposed EOI.

### **Sustainability Considerations**

- **Environment**  
Environmental studies are required to assess the proposal and to obtain any planning approval.
- **Social**  
The proposal will improve the social amenity available from this waterway.
- **Economic**  
This proposal has the potential to support economic development by providing a sustainable source of building material.

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

Council has allocated \$150,000 from the Quarry Reserve to finance the approval process, if Council is successful in securing the EOI. The actual process will then involve Council obtaining a licence to obtain the planning approvals and if consent is granted a licence will then be provided to dredge the approved area.

### **Consultation**

The State Government is conducting an EOI process.

### **Options**

The purpose of this report is to provide an overview of the information contained in the confidential report. The recommendation for this report is for noting purposes only, with the confidential report providing the actual commercial details of Council's proposed response to the EOI.

### **RECOMMENDATION**

That Council notes the contents of this report, which provides a summary of the expression of interest process currently being conducted by the NSW State Government, to extract sand from North Creek.

### **Attachment(s)**

Nil

12. Public Question Time

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**12. Public Question Time**



### **13.1 Notice of Motion - Ballina Byron Gateway Airport - ATM Facilities**

## **13. Notices of Motion**

### **13.1 Notice of Motion - Ballina Byron Gateway Airport - ATM Facilities**

**Councillor** Cr Smith

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I move that

That the General Manager hold discussions with the cafe operator to ask them to consider a revenue share agreement in relation to the existing two installed ATMs at Ballina Byron Gateway Airport.

If an agreement cannot be met, Council call for expressions of interest in providing fully managed ATM facilities at Ballina Byron Gateway Airport.

#### **Councillor Comment**

The Ballina Byron Gateway Airport provides significant amenity and economic benefits to Ballina Shire and the Northern Rivers region.

While bringing substantial value, the airport runs at an extremely tight budget, therefore Council must ensure it's doing everything possible to maximise all revenue opportunities.

Council is currently missing out of an important revenue opportunity in the way of ATM facilities currently at the airport.

Historically, the cafe operator was given permission to put an ATM in the airport to service their customers (and more recently given permission to install a second one). This certainly made sense for both Council and the operator at the time, however over time, the airport's facilities have grown and with the airport well on its way to annual passenger turnover of 500,000, Council needs to ensure that it's not missing out on a significant revenue opportunity that has eventuated out of Council's investment into the airport facility.

The modern ATM market is extremely competitive with numerous competitors out there offering fully maintained and managed ATM's with venue's receiving typically around \$1 of the traditional \$2-\$2.50 transaction fee every time a transaction is made on the ATM.

The ATM's can be fully managed by the provider, creating no additional human resource burden - Council simply collects a cheque for providing the facility.

### **13.1 Notice of Motion - Ballina Byron Gateway Airport - ATM Facilities**

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The objective of this motion is as a matter of goodwill first ask the cafe operator to consider a revenue share agreement with the existing ATMs, this is an important step, as it's important to acknowledge the cafe operators partnership with council over the years, however, failing such an outcome the motion then asks for Council to call for expressions of interest in supplying ATM facilities to Ballina Airport.

#### **COUNCILLOR RECOMMENDATIONS**

1. That the General Manager hold discussions with the cafe operator to ask them to consider a revenue share agreement in relation to the existing two installed ATMs at Ballina Byron Gateway Airport.
2. If an agreement cannot be met, Council call for expressions of interest in providing fully managed ATM facilities at Ballina Byron Gateway Airport.

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

Nil

## **13.2 Notice of Motion - Crawford House Signage**

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### **13.2 Notice of Motion - Crawford House Signage**

**Councillor** Cr Smith

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I move

That Council install appropriate directional signage for Crawford House in Alstonville.

#### **Councillor Comment**

Crawford House is an essential part of the character and history of Alstonville. Crawford house provides significant amenity to the local community and is always of interest to people visiting our shire.

The Historical Society has made it known that people often find it hard to find and as such are requesting basic directional signage to help people find Crawford House.

This is different from tourist signage, the intention of this motion is simply to ask Council to provide a directional sign to Crawford House.

#### **COUNCILLOR RECOMMENDATION**

That Council install appropriate directional signage for Crawford House in Alstonville.

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

Nil

### **13.3 Notice of Motion - Lake Ainsworth Remedial Works**

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### **13.3 Notice of Motion - Lake Ainsworth Remedial Works**

**Councillor**

Cr Jeff Johnson

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I move

That Council transfer the estimated savings (\$10,000) from the Councillor Training and Development budget for 2013/14 to allow the surplus funds to be expended on urgent remedial works to the south eastern precinct of Lake Ainsworth.

#### **Councillor Comments**

The current state of the south eastern precinct at Lake Ainsworth is very poor with limited grass covering and significant erosion. Ideally Council should be undertaking improvements (i.e.returfing, seeding etc) to this area in the low tourist season to allow time for those works to establish over the winter months.

In discussions with the General Manager the open spaces section has no funds immediately available for this work, however as reported to the April 2014 Ordinary meeting the Councillor expenses budget will have surplus funds that could be allocated. The General Manager has estimated that there will be approximately \$10,000 remaining in this budget after expenses are deducted for Councillors attending the National General Assembly of Local Government in Canberra. By transferring this estimated saving to Lake Ainsworth the urgent works can be completed this financial year.

Our Open Spaces and Reserves Manager has confirmed that the grassy area in the SE corner is in a particularly poor condition and would benefit from urgent remedial works such as additional grass plantings and temporary fencing/information signs, particularly where the erosion occurs due to runoff from the road.

Investigations have already commenced to source appropriate grass species and these works could be commenced immediately.

#### **COUNCILLOR RECOMMENDATION**

That Council transfer the estimated savings (\$10,000) from the Councillor Training and Development budget for 2013/14 to allow the surplus funds to be expended on urgent remedial works to the south eastern precinct of Lake Ainsworth.

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

Nil

#### **13.4 Notice of Motion - Support for a Gasfield Free Northern Rivers**

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#### **13.4 Notice of Motion - Support for a Gasfield Free Northern Rivers**

**Councillor**

Cr Jeff Johnson

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I move

That Council write to the NSW Premier, Mr Mike Baird, NSW Planning Minister, Ms Pru Goward, Member for Ballina, Mr Don Page, and cc all NSW Government MP's expressing -

1. Council's support for the Bentley farmers and community members right to peacefully protest to prevent the creation of Gasfield developments in the Northern Rivers.
2. Concern about the diversion of up to 800 police officers from LAC's (Local Area Commands) across the State to facilitate the development of a Gasfield in the Northern Rivers (Bentley) despite the overwhelming community opposition.

#### **COUNCILLOR RECOMMENDATIONS**

That Council write to the NSW Premier, Mr Mike Baird, NSW Planning Minister, Ms Pru Goward, Member for Ballina, Mr Don Page, and cc all NSW Government MP's expressing -

1. Council's support for the Bentley farmers and community members right to peacefully protest to prevent the creation of Gasfield developments in the Northern Rivers.
2. Concern about the diversion of up to 800 police officers from LAC's (Local Area Commands) across the State to facilitate the development of a Gasfield in the Northern Rivers (Bentley) despite the overwhelming community opposition.

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

Nil

## **13.5 Notice of Motion - Save Ballina's Koala Campaign**

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### **13.5 Notice of Motion - Save Ballina's Koala Campaign**

**Councillor**

Cr Jeff Johnson

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I move

1. That Council approve the installation of 'Save Ballina's Koalas' information signs at any vacant Council community events signage stations, until a decision on the preferred Pacific Highway re-alignment is made by the NSW State Government.

#### **Councillor comment**

Council has constructed a number of structures around the Shire to promote community events. Many of these structures are at times vacant. Even though the structures have been provided for community events, if there are vacancies they provide an opportunity for Council supported initiatives to be promoted. With Council resolving unanimously to support a review of the Pacific Highway alignment at the last meeting there is an opportunity for the 'Save Ballina's Koalas' information signs to be displayed without impacting on any event banners. This motion requests that until a decision is made about the highway route that the information signs be allowed to be displayed at these locations, acknowledging that any community events should be provided with first priority.

2. That Council waives the fees associated with 'signage collection' to enable the impounded 'Save Ballina's Koalas' signs to be collected.

#### **Councillor comment**

A number of signs associated with the community campaign to save Ballina's nationally significant Koala population have been impounded by Council Rangers. In support of the campaign, it would be appreciated if these signs can be collected without the prescribed fees and charges being charged. Council has collected approximately 30 signs and with a \$29 fee applied to each sign it is not practical to ask a community based group to pay those fees.

3. That Council defer the removal of 'Save Ballina's Koalas' signs until a decision has been made by the NSW State Government in regards to the preferred Pacific Highway re-alignment.

#### **Councillor comment**

There are still a number of 'Save Ballina's Koalas' signs in place around the Shire. Where these signs do not pose a public safety risk, it is requested that Council show its support for the community campaign by not removing them until a decision about the highway is made.

It is intended to move these items as three separate motions.

**COUNCILLOR RECOMMENDATIONS**

1. That Council approve the installation of 'Save Ballina's Koalas' information signs at any vacant Council community events signage stations until a decision on the preferred Pacific Highway re-alignment is made by the NSW State Government.
2. That Council waives the fees associated with 'signage collection' to enable the impounded 'Save Ballina's Koalas' signs to be collected.
3. That Council defer the removal of 'Save Ballina's Koalas' signs until a decision has been made by the NSW State Government in regards to the preferred Pacific Highway re-alignment.

**Attachment(s)**

Nil

**13.6 Notice of Motion - Financial Assistance Grant - Federal Budget**

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**13.6 Notice of Motion - Financial Assistance Grant - Federal Budget**

**Councillor**

Cr Meehan

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I move

That Council write to NOROC, Local Government NSW and all relevant Ministers expressing Council's concerns in respect to the proposal to not apply indexation to the Federal Financial Assistance Grants for the next three financial years.

**Councillor Comment**

The Federal Government decision to freeze the Financial Assistance Grants to Local Government for a period of three years will have major negative impacts on Council service delivery right across Australia. In the case of Ballina Shire Council we are looking at reductions in our recurrent revenue of over \$300,000 per annum with those monies funding essential local services. This will result in less monies for roads and parks maintenance, footpaths, street lighting etc. It is imperative that councils unite to lobby the Federal Government to reverse this decision to ensure that service levels are maintained.

**COUNCILLOR RECOMMENDATION**

That Council write to NOROC, Local Government NSW and all relevant Ministers expressing Council's concerns in respect to the proposal to not apply indexation to the Federal Financial Assistance Grants for the next three financial years.

**Attachment(s)**

Nil



14. Advisory Committee Minutes

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**14. Advisory Committee Minutes**

Nil Items

## 15.1 Mayoral Meetings

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

#### 15.1 Mayoral Meetings

**Councillor** David Wright

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Activities since the April 2014 Ordinary meeting:

<u>Date</u>	<u>Function</u>
30/4/14	100 <sup>th</sup> Birthday Celebration – Thelma Sheather
1/5/14	Rotary Dinner Honouring Col Lee OAM
2/5/14	NOROC
3/5/14	Remembrance Wreath laying – RSL Memorial Park
5/5/14	Meeting Samantha Miller – Precinct B
6/5/14	Councillor Briefing – Coastal Protection Measures North Creek
6/5/14	Councillor Briefing Surf Schools
6/5/14	Alstonville/Wollongbar Chamber of Commerce
8/5/14	Reside Living Launch
8/5/14	Internal Audit Committee
8/5/14	Port Ballina Taskforce
8/5/14	'C' Ward Committee
10/5/14	Gallery Opening – Grace Cruise Exhibition
11/5/14	Lennox Head Markets – Outside of Hall viewing
12/5/14	Biggest Morning Tea - Tintenbar
13/5/14	'A' Ward Committee
14/5/14	Meeting Dr Leigh Sullivan RRCC – at SCU
14/5/14	Presentation on 'E' Zone Interim Report
14/5/15	Richmond River County Council Special Meeting
15/5/14	Councillor Briefing Ballina Shire Cultural Plan
16/5/14	Volunteer Week Celebration – Richmond Room
19/5/14	'B' Ward Committee
20/5/14	Ballina Futures Forum – RSL
21/5/14	Launch Ballina Coastal Country Music Festival – Sundowner Motel
21/5/14	Wollongbar TAFE Awards - RSL
22/5/14	Council Meeting

#### **RECOMMENDATION**

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

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

Nil

16. Questions Without Notice

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**16. Questions Without Notice**

**17. Confidential Session**

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

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

A brief summary of each of the reports recommended for consideration in confidential session is as follows.

17.1 Pimilico - Uralba Water Main - Legal Advice

The confidential aspects of this matter as per item 11.1 of this agenda.

17.2 EOI - Extracting Sand from North Creek - Commercial Aspects

The confidential aspects of this matter as per item 11.8 of this agenda.

17.3 Lease Terms - Shop 151 River Street, Ballina - Negotiation Details

The confidential aspects of this matter as per item 10.11 of this agenda.

17.4 Land Sale - Old Tintenbar Quarry - Sale Price

The confidential aspects of this matter as per item 10.12 of this agenda.

**RECOMMENDATION**

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

**17.1 Pimilico - Uralba Water Main - Legal Advice**

**Reason for Confidentiality**

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

- g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest The decision in this matter may be the subject of a court appeal..

**17.2 EOI - Extracting Sand from North Creek - Commercial Aspects**

**Reason for Confidentiality**

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

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as it will put Council at a disadvantage in providing a confidential response to the expression of interest process being conducted by the NSW State Government for a licence to extract sand from North Creek.

**17.3 Lease Terms - Shop 151 River Street, Ballina - Negotiation Details**

**Reason for Confidentiality**

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

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to financial information supplied.

**17.4 Land Sale - Old Tintenbar Quarry - Sale Price**

**Reason for Confidentiality**

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

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to negotiations on sale price.