



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 26 June 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.

At 11.30 am Debate the Change 2014 winners - Year 6 students from Alstonville Public School will present to Council on their thoughts on the environment.

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

The National Anthem will be performed by Ballina Public School.

2. Acknowledgement of Country

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

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

3. Apologies

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 22 May 2014 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 22 May 2014.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7.1 Mayoral Minute - Pacific Highway Upgrade

7. Mayoral Minutes

7.1 Mayoral Minute - Pacific Highway Upgrade

Councillor David Wright

I move

That Council write to all relevant State and Federal bodies and Ministers to confirm that in the consideration of alternative routes for the highway upgrade at Wardell due to representations already made concerning protection measures for the koala population, that the existing corridor along the present alignment of the Pacific Highway through Wardell not be considered.

Mayoral Comment

The Ballina Koala Habitat Study has identified the significant koala population west of the Wardell township and measures should be taken to protect this important colony. However, the welfare and safety of the Wardell population, particularly after community consultation over many years, is paramount and the new highway should deviate west or east of the village to protect the current and future inhabitants.

RECOMMENDATION

That Council write to all relevant State and Federal bodies and Ministers to confirm that in the consideration of alternative routes for the highway upgrade at Wardell due to representations already made concerning protection measures for the koala population, that the existing corridor along the present alignment of the Pacific Highway through Wardell not be considered.

Attachment(s)

Nil

8.1 DA 2013/473 - Two Dwelling House Pad Sites - 219 Sneesbys Lane

8. Development and Environmental Health Group Reports

8.1 DA 2013/473 - Two Dwelling House Pad Sites - 219 Sneesbys Lane

Applicant	Planners North
Property	Lots 1, 2 and Lot 3 DP 809785, No. 219 Sneesbys Lane, East Wardell
Proposal	To Establish Two Dwelling House Pad Sites with Associated Access and Asset Protection Zones as a Staged Development Application
Effect of Planning Instrument	Two LEPs apply to the subject land. The eastern portion of the subject land is part zoned 7 (f) Environmental Protection (Coastal Lands) and 1(a2) Rural (Coastal Lands Agriculture) under the provisions of the Ballina LEP 1987. The western portion of the subject land is zoned RU1 Primary Production under the provisions of the Ballina LEP 2012.
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

This application is for the establishment of two dwelling house pad sites, one on each of Lots 2 & 3 DP 809785, associated access and asset protection zones (APZs), as a staged development. A separate development application is to be lodged for a future dwelling house on each allotment. This application is presented to Council for determination as it seeks a variation to a development control contained in the Ballina Shire Development Control Plan 2012 (DCP) relating to the minimum 160m setback of a dwelling envelope from the dune front.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil (or state otherwise if this is not the case)

Public Exhibition

All adjoining land owners and occupants were notified of the proposed development and no submissions were received.

Applicable Planning Instruments

The western portion of the subject land is zoned RU 1 Primary Production under the provisions of Ballina Local Environmental Plan 2012 (BLEP 2012). The eastern portion of the subject land is part zoned 1(a2) Rural (Coastal

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Lands Agriculture) and part 7(f) Environmental Protection (Coastal Lands) Zone, under the provisions of Ballina Local Environmental Plan 1987(BLEP 1987).

The proposed dwelling house pad sites and the APZs are to be established on land zoned 7(f) Environmental Protection (Coastal Lands). The access road is to be located on land zoned 7(f) Environmental Protection (Coastal Lands) and RU1 Primary Production.

Report

The application has been assessed against the relevant heads of consideration under S. 79C of the EP&A Act 1979, with the following matters of particular relevance to Council in the determination of this application.

Details of Proposal

A staged development consent, in accordance with S.83B of the EP&A Act 1979, is sought for the establishment of one dwelling house pad site and associated APZ on each of Lots 2 & 3 DP 809785, 219 Sneesbys Lane, East Wardell and an access road over Lots 1, 2 & 3 DP 809785.

Section 83B of the EP&A Act 1979 provides that a Staged Development Application is a Development Application that “*sets out Concept Proposals for the development of a site and for which detailed proposals for separate parts of the site are to be the subject of subsequent Development Applications*”. In this instance, the concept plan is the current application (stage 1) for the establishment of the dwelling house pad sites, whilst the subsequent Development Application (stage 2) will seek consent for the construction of a dwelling on each of the dwelling house pad sites.

The dwelling house pad site on Lot 2 has an area of 2,000m² and includes a building envelope of 570m² and APZ. The dwelling house pad site is located 35 metres from its nearest point to the northern property boundary and 46 metres from and parallel to the eastern boundary. The building envelope is located 52 metres from and parallel to the eastern property boundary and approximately 100 metres from the dune front.

The dwelling house pad site on Lot 3 has an area of 1,800m² and includes a building envelope of 420m² and APZ. The dwelling house pad site is to be established to the northern property boundary and 43 metres from and parallel to the eastern boundary. The building envelope is located 13 metres from and parallel to the northern property boundary and 52 metres from and parallel to the eastern boundary and approximately 95 metres from the dune front.

One access track is to be provided from Sneesbys Lane to the dwelling house pad sites, through Lots 1, 2 & 3 DP 809785 in accordance with the requirements of the New South Wales Rural Fire Service (RFS). The fact that one access track is to be provided will require the creation of a Right of Carriageway over Lots 1 & 2 in favour of Lots 2 & 3.

APZs around the two sites are to be established in accordance with the requirements of the RFS.

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It is intended that the sites be fully self supporting with water captured from the roof being collected and stored for personal use and bushfire management.

Whilst the provision of an On Site Sewage Management system is not part of this application, details have been provided sufficient to indicate that such a system is capable of being provided.

The applicant proposes the sites adopt sustainable on-site arrangements for electricity supply and wireless communications. However, if it is realised that this cannot be achieved these facilities will be provided via underground mains.

The western section of the site is currently used as cane fields. The middle section of the site contains a mosaic of high conservation value vegetation communities, whilst the eastern section of the site is dominated by the noxious weed Bitou Bush, isolated occurrences of the common prickly pear and scattered coastal banksia.

The dwelling house pad sites are to be located within the eastern portion of the site, amongst stands of dense Bitou Bush where no native vegetation occurs.

The access track is required to be provided through the middle section of high conservation value vegetation communities. The track currently exists and will require upgrading to comply with the requirements of the RFS. It has been assessed that the upgrading of the track will not impact on any threatened plants. It should be noted that the proposed location of the dwelling house pad sites will not impact on any high conservation value vegetation communities, whereas if the dwelling house pad sites were to be located in accordance with the requirements of the DCP they would be located within or in close proximity to high conservation value vegetation communities.

The applicant has advised that a Bitou Bush removal and soil erosion management plan will be prepared, proposing that all the Bitou Bush will be gradually removed from the site, starting with the building site and spreading outwards eventually clearing an area of approximately 3.2 ha. The area will be cleared of Bitou Bush and replanted with endemic native vegetation. It is anticipated the bulk of the Bitou Bush removal and vegetation replanting will be undertaken gradually (4-7 years).

Plans of the proposed development are attached.

Local Environmental Plans

Under the BLEP 2012 part of the subject land is zoned RU1 Primary Production with the remainder of the subject land identified as a Deferred Matter. The dwelling house pad sites are to be located in that part of the subject land identified as a deferred matter.

Under the BLEP 1987 that portion of the subject land identified as a deferred matter is part zoned 1(a2) Rural (Coastal Lands Agriculture) and part 7(f) Environmental Protection (Coastal Lands) Zone. The dwelling house pad sites and APZs are located in the 7(f) zone whilst the access road is located on land zoned RU1 and 7(f).

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The objectives of the 7(f) Environmental Protection (Coastal Lands) Zone under the BLEP 1987 are:

A The primary objectives are:

- (a) to protect environmentally sensitive coastal lands, and*
- (b) to prevent development which would adversely affect or be adversely affected, in both the short and long term, by the coastal processes.*

B The secondary objectives are to enable the development of public works and recreation amenities where such development does not have significant detrimental effect on the habitat, landscape or scenic quality of the locality.

C The exceptions to these objectives are:

- (a) to permit the development of public works, outside the parameters outlined in the primary and secondary objectives, only in cases of demonstrated and overriding public need and subject to the impact on the coastal lands being minimised as is reasonably practical, and*
- (b) development of surf life saving, environmental education facilities and like facilities.*

Dwelling houses and associated works including establishing APZs and vehicular access are permitted with development consent on land zoned 7(f).

The proposed development is considered to be consistent with the objectives of the zone in that the location of the proposed dwelling house pad sites are well clear of significant native vegetation communities, as opposed to a site setback further from the dune front in accordance with the requirements of the DCP. Therefore the proposal will have less of an impact on the high conservation value vegetation communities of the subject site. Measures are also proposed to mitigate impacts of the development on fox baiting on the adjoining Crown Land and to progressively revegetate Bitou Bush infested coastal lands held in private ownership.

The building sites are sufficiently removed from the coast to not be affected by short and long term coastal processes.

Clause 32 of the BLEP 1987 – Development within Zone No. 7(f) states:

The council must not consent to the carrying out of development within Zone No 7 (f) for any purpose unless it has taken into consideration:

- (a) whether any environmental issues are involved in, or raised by, the proposed development, and*
- (b) if so, whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment, and*
- (c) whether the development complies with the objectives of Zone No 7 (f) as set out in the Table to clause 9.*

8.1 DA 2013/473 - Two Dwelling House Pad Sites - 219 Sneesbys Lane

The main environmental issue raised by this proposed development is the siting of the proposed dwelling house pad sites relative to the dune front. This is discussed in detail below in relation to the specific provisions of the Ballina Shire Development Control Plan that relate to South Ballina.

The proposed access road to service the dwelling house pad sites and future dwelling houses is permitted with consent in the RU1 Primary Production Zone of the BLEP 2012.

Ballina Shire Development Control Plan 2012 (DCP)

The proposed development has been assessed against the relevant provisions of the DCP and is generally consistent with these provisions. The following provisions of Chapter 7 – Rural Living and Activity of the DCP, specific to South Ballina, are of particular relevance in Council's determination of the application.

Chapter 7, Part 4.1 South Ballina, Subclause 4.1.3 Development Controls:

- ii *For the purpose of establishing a dwelling envelope (as opposed to the construction of a dwelling), the edge of the dwelling envelope shall be setback a minimum of 160m from the dune front as shown on the South Ballina Foreshore Land Map."*

The edge of the proposed building envelope on Lot 2 is approximately 100 metres from the dune front. The edge of the building envelope on Lot 3 is approximately 95 metres from the dune front.

The underlying objective of this 160 metre setback control is to minimise the impact of development on threatened shorebird species, including the Pied Oystercatcher. The predation by foxes is identified as a key threat and therefore the management approach adopted locally is to bait for foxes. The Pesticides Control Order under S. 38 of the Pesticides Act 1999 provides that 1080 fox baits must not be laid within 150 metres of habitation (includes a dwelling house), with some exceptions. The DCP explains that the 160 metre setback has been applied from the dune front to provide for flexibility in the application of fox baiting program (i.e. to enable bait stations to be moved north/south over time). A 160 metre setback has been selected to reflect the potential for the dune system to move landward over time.

The Pesticides Control Order, however, allows 1080 baits to be laid at distances less than 150 metres from a habitation, subject to conditions. The relevant conditions relate firstly to the undertaking of a risk assessment by the Authorised Officer to assess the likelihood of non-target species, such as domestic/working dogs, taking the bait. The second relevant condition is any adjoining owner must agree in writing to the use of 1080 baits at distances of less than 150 metres from habitation (dwelling house).

To meet these conditions of the Pesticides Order and to offer an alternative approach to meet the underlying objective of the 160 metre setback control in the DCP, the applicant has proposed to place a restriction on the title of the subject lands to the effect that the landowner and any future owners will not object to the use of 1080 baits within 150 metres of habitation, to prohibit certain breeds of dog to be kept on the property, and to propose that any

8.1 DA 2013/473 - Two Dwelling House Pad Sites - 219 Sneesbys Lane

dog/s kept on the property are to be kept within a fenced dog enclosure as required by Council's DCP.

To assist Council with its deliberations on the proposed variation to the DCP's 160m setback requirement, the application was referred to the relevant government agencies having an interest in the fox baiting program namely, NSW Trade and Investment (Crown Lands), NSW Office of Environment and Heritage and the Livestock Health and Pest Authority.

A response was only received from NSW Trade and Investment and is attached.

The application seeks a variation to this development control, as it is considered in this particular case that to comply with this development control in the development of the site would have a potentially significant impact on identified endangered ecological communities that are elsewhere on the subject site whereas establishing the dwelling house pad sites in the proposed location dominated by Bitou Bush would be preferable. The proposed restrictions to be placed on title of the subject lots are a reasonable alternate approach in the circumstances to meet the underlying objective of the 160 metre setback requirement. Should approval be granted, a condition would be applied requiring the final wording of the proposed restrictions to be submitted to Council prior to work commencing on-site.

- iii *Applications must outline arrangements with respect to pedestrian beach access. New access points must be located away from known Pied Oystercatcher nesting grounds.*

In relation to pedestrian beach access, NSW Trade and Investment (Crown Lands) advised (as per letter attached) "*there is a significant unauthorised access from Lot 3 through R10026 to the beach, referred to as an 'unsealed access road' on Plan 2.3 Site Analysis in the proposal's Statement of Environmental Effects by Planners North. Without authorisation, there is no legal basis for such access to cross Crown land. Crown Lands' position on this access road is the land occupied by this access over R10026 should be left to remediate to its natural state*".

In response to the letter from Crown Lands, the applicant has replied:

1. No approval is sought for any access across the crown reserve;
2. The track that has been established at the site has never been used by the owners to access the beach. It was established either by previous owners or by 4WD hoons who trespass on the subject land to gain access to the beach; and
3. It is envisaged that the establishment of dwellings at the land and the revegetation program proposed to be implemented with the development will halt this illegal use of the subject site and adjoining Crown land and be a major positive towards achieving the goals of protecting the Crown's strip.

- iv *All fencing within Zone E2 – Environmental Conservation must be constructed as follows:*

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- *Four strands;*
- *All strands must be of plain wire;*
- *The top strand of wire must be coated with white plastic;*
- *The fence must have a 40cm gap at the bottom and 40cm gap between the top two strands of wire;*
- *Within the dunal wetlands the fence height is to be sufficient to ensure the top wire is above water level at all times; Reflectors are to be placed at five metre intervals.*

The applicant raises no objection to complying with this requirement.

- v *Applications are to include details of any weed management or environmental protection works proposed as part of the development. All works are to be undertaken in accordance with the practices and methodologies documented in the Department of Land and Water Conservation document "Coastal Dune Management : A Manual of Coastal management and Rehabilitation Techniques" (2001) and the Bitou Bush TAP;*

The application proposes the implementation of a Bitou Bush Removal and Soil Erosion Management Plan for the removal of the Bitou Bush, over a 4-7 year program and replanting of endemic native vegetation. If Council is minded to grant approval, then a condition would be applied requiring a Bitou Bush Removal Plan, developed in accordance with best practice manuals as referenced in Council's DCP, be submitted to Council prior to works commencing on-site. The application does not address the limitations imposed on the aerial spraying of Bitou Bush on adjoining Crown land as a result of the proximity of the future dwellings to the eastern property boundaries. The condition requiring a Bitou Bush Removal Plan would also seek to encourage the applicant to extend the plan to cover the adjoining Crown land. This, however, would be subject to the Crown's acceptance of work being carried out on their land.

To ensure ongoing commitment and awareness of the Bitou Bush Removal Plan it is recommended that a condition be applied requiring the placement of a restriction on title informing all future owners of the commitments to carrying out the Bitou Bush Removal Plan.

- vi *All dwellings must comply with the provisions of the Coastal Design Guidelines for NSW relating to Isolated Coastal Dwellings;*

No dwelling houses are proposed within this stage of the application. A separate development application will be lodged for a dwelling house within each building envelope established as part of this application and at that time assessment against these guidelines will be necessary.

- vii Applications are to include details with respect to an appropriate fenced dog enclosure. The enclosure must be designed in accordance with the following:

- In reasonable proximity to the dwelling there shall be constructed and maintained a fenced enclosure which is designed and constructed so as to provide a secure enclosure for keeping dogs;

8.1 DA 2013/473 - Two Dwelling House Pad Sites - 219 Sneebys Lane

- Any gate forming part of the fenced enclosure shall be a self-closing gate;
- No gate to the fenced enclosure shall be propped open or otherwise kept open other than for the purpose of passing through; and

viii Where an applicant does propose to keep domestic dogs, the applicant must demonstrate that an appropriate location exists on the site for the provision of an enclosure that meets the above requirements”.

In relation to the need to provide a dog enclosure, the application proposes such enclosure and further a restriction on title that any dogs are to be kept in such enclosure and prohibit the keeping of certain breeds of dog.

Conclusion

The application complies with all relevant provisions of the BLEP 2012, BLEP 1987 and DCP with the exception of the requirement to establish a dwelling envelope not closer than 160m from the frontal dune system.

It is considered that the proposal to construct the dwelling house pad sites at the proposed location is, in the circumstances, better than a location complying with the 160m setback for the following reasons:

- The proposed application, with the inclusion of the restrictions on title, offers a reasonable alternate approach that will still enable the continuation of the fox baiting program on Crown lands and meet the underlying objective of the 160 metre setback control contained in the DCP;
- The proposed location requires the proposed dwelling house pad sites to be constructed in an area dominated by the noxious weed Bitou Bush, as opposed to a site complying with the 160m setback requirement which would see dwelling houses and APZs established in areas of high conservation value vegetation;
- The proposed dwelling house pad sites will have less impact on the scenic quality of the area, as the sites are located on the western edge of the sand dunes, whereas, if the sites were to be located in accordance with the requirements of the DCP, it would result in significant fill being imported and a mound protruding above the surrounding relatively flat, low lying portion of the site.

Options

- 1 That Council grant approval to the application as submitted, subject to applicable conditions of consent, including those referred to within the report; or
- 2 That Council maintain the requirements of its DCP and refuse the application as submitted, for the reason that the application does not comply with the requirements of DCP and therefore is likely to have an adverse environmental impact.

For the reasons outlined in this report, Option one is recommended.

RECOMMENDATION

That Staged Development Application 2013/473 for the establishment of two dwelling house pad sites and associated asset protection zones and access on Lots 1, 2 and 3 DP 809785, 219 Sneesbys Lane East Wardell, be **APPROVED** subject to applicable environmental planning conditions of consent including those referred to in the report.

Attachment(s)

1. Locality and layout plans for the proposed development
2. Correspondence from NSW Trade and Investment

8.2 DA 2010/962 - Highway Service Centre - Section 96 Amendment No.11

8.2 DA 2010/962 - Highway Service Centre - Section 96 Amendment No.11

Applicant	Planners North (on behalf of Ballina HSC Pty Ltd)
Property	Lot 11 DP 1011575 River Street (Old Pacific Highway) West Ballina
Proposal	Application under Section 96 (1A) of the EP&A Act to Modify Development Consent DA 2010/962 – Highway Service Centre
Effect of Planning Instrument	The land is zoned part RU2 under the provisions of the Ballina LEP 2012 and part 2(a) Living Area Zone under the provisions of the Ballina LEP 1987
Locality Plan	The subject land is depicted on the locality plan attached

Introduction

Council at its Ordinary Meeting of 23 June 2011, resolved to grant deferred commencement conditional consent to the Construction of a Highway Service Centre comprising Service Station, associated Fast Food Restaurants, Auto Repair Centre, associated Vehicular Accesses (including a round-about intersection on the existing Pacific Highway alignment), Car and Truck Parking, Infrastructure Works, Filling, Landscaping, Earthworks and Advertising Structures upon Lot 11 DP 1011575, Pacific Highway (now known as No. 565-589 River Street, West Ballina) and a Two Lot Subdivision (Lot 1 – Highway Service Centre & Lot 2 – Agricultural Residue).

Council has considered a number of amendments to the consent, the most recent being modification No. 10 that was reported to the meeting of 27 February 2014. This modification requested Council to consider a number of amendments to conditions relating to filling of the land and the reduction in the number of flood relief culverts under River Street (the old Pacific Highway) from ten to two. Council at this meeting resolved to support the requested amendments with the exception of the reduction in the number of flood relief culverts from ten to two. In this regard Council resolved to require the provision of four flood relief culverts.

This report seeks Council determination of an application under Section 96 (1A) of the Environmental Planning & Assessment Act 1979 (Amendment Application No 11) to amend Condition No 5.23 - Developer Contributions to have regard to the "material public benefit" provided by Ballina HSC Pty Ltd in relation to the provision of the additional two flood relief culverts (four in total) with respect to local flooding.

If supported, the proposed modification would have the effect of reducing the North & West Ballina Roads Contribution levy from \$629,169.00 to \$5,718.26 in recognition of the proponent's cost of \$623,450.74 for the provision of the additional culverts.

Council has determined a number of other applications under Section 96 (1A) of the *Environmental Planning and Assessment Act* 1979 in relation to the subject development consent.

8.2 DA 2010/962 - Highway Service Centre - Section 96 Amendment No.11

The following modification application, being modification No. 10 is of relevance to the current Section 96 modification that is before Council for determination.

Amendment No. 10 – Approved 27 February 2014 (Council)

Council resolved in the following terms:

That the Application under S96 (1A) of the Environmental Planning and Assessment Act to amend the provisions of Conditions 2.1, 2.9, 3.4, 4.28 & 4.29, 10.10, 10.11 & 10.12 of DA 2010/962 in relation to the land filling, the finished floor levels and the reduction in the number of flood culverts be **APPROVED** subject to compliance with the specified amended conditions as set out below and amended to provide for a minimum of four culverts in accordance with the documents outlined in the West Ballina Flood Relief Optimization Study.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Report

In determining this application to modify DA 2010/962 (Amendment No. 11), Council must assess the proposed modifications against the heads of consideration as contained in Sections 79C and 96 (1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) are of relevance to the application.

Council may grant consent to modify this consent under Section 96 (1A) if;

- (a) *it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).*

The original consent for DA 2010/962 granted approval for the Construction of a Highway Service Centre comprising Service Station, associated Fast Food Restaurants, Auto Repair Centre, associated Vehicular Accesses (including a round-about intersection on the existing Pacific Highway alignment), Car and Truck Parking, Infrastructure Works, Filling, Landscaping, Earthworks and Advertising Structures upon Lot 11 DP 1011575, Pacific Highway (now known as No. 565-589 River Street, West Ballina) and a Two (2) Lot Subdivision (Lot 1 – Highway Service Centre & Lot 2 – Agricultural Residue).

8.2 DA 2010/962 - Highway Service Centre - Section 96 Amendment No.11

The amendment under Section 96 (1A) of the Environmental Planning & Assessment Act 1979 (as amended) that is the subject of this report is to modify Condition No. 5.23 by reducing the Section 94 levy for the North & West Ballina Roads Contribution from \$629,169.00 to \$5,718.86 in recognition of the proponent's cost (\$623,450.74) for the provision of the additional two culverts (four in total).

Council's Civil Services Group has assessed the proposed modification and provided the following extensive comments:

In making this application to reduce section 94 contributions by the amounts described above, the applicant is requesting Council to consider whether or not there is material public benefit associated with the provision of floodway culverts.

The background for this request originates from the Council's determination of the Section 96 application described above where Council approved an amendment to the consent to reduce the number of culverts from ten to four. In making this decision, Council considered a report entitled "*The West Ballina Flood Relief Optimisation Study*".

This report, prepared by specialist consultants BMT WBM, provided advice that two culverts would sufficiently mitigate the impact of the development on the floodplain. A copy of that report is included as an attachment to this report.

The modelling in the report illustrated there was very limited hydraulic benefits from installing more than four culverts. In the opinion of Council, four culverts are preferred to two culverts as this provides the maximum flood mitigation and provided further reduction in regards to the uncertainty risks that exist within the limitations of the flood model. These limitations include predictions in respect of future changes in climate patterns and other factors that cannot be fully and reliably measured at this point in time. The applicant's position is two culverts are in addition to those required to mitigate the impacts of the development and they are therefore providing material public benefit.

The claim for material public benefit is made in respect of the contributions levied under the Council's Roads Contributions Plan. Clause 2.10 of this plan is reproduced below.

"Council, in proposing to impose a requirement for a contribution under this plan, will take into consideration any land, money or other material public benefit that the applicant has elsewhere dedicated or provided free of cost within the area (or any adjoining area) or previously paid to the consent authority, other than:

- *a benefit provided as a condition of the grant of development consent under the EP&A Act, or*
- *a benefit excluded from consideration by a planning agreement."*

8.2 DA 2010/962 - Highway Service Centre - Section 96 Amendment No.11

The Council has determined that four culverts is required to mitigate the impacts of the development itself and therefore the benefit provided is a condition of development consent. That is, the culverts are only required because of the impacts of the development. Furthermore, these works do not form part of the works schedule in the contributions plan.

Therefore, when considering material public benefit, the Council needs to be mindful of the impacts to the contribution plan. The works in the plan are scheduled because they are considered to be Council's priorities to reduce the impacts of development.

Any reduction in the contribution amount in effect is reallocating these funds from scheduled, prioritised works to the culvert works.

The proponent has suggested that the Ballina Flood Study Update 2008 reports requirements for culverts and a floodway link from Emigrant Creek to the Northern Flood Plain in response to the filling of the floodplain to the east of the Ballina Bypass and the construction of the proposed Ballina Western Arterial.

The proponent's position is their culverts will assist these developments and is therefore a benefit to Council. The model in the Flood Study was developed to take into account planned infrastructure and rezoned land to determine the total capacity of the floodplain and the required mitigation measures to support these likely future impacts. Therefore the study does not directly quantify the impacts of the proposed arterial, or other infrastructure, and these will still need to be assessed on their merits, including any mitigation requirements, at the appropriate time.

The western arterial project is not expected to be completed in the next ten years and therefore the final form and eventual status of the project is quite uncertain. With the highway development proposed to proceed now, this means there is no further information to assess whether or not the proposed culverts will provide any benefits to the public.

Having regard to the Council's assessment that the culverts are required to mitigate the impacts of this development and that the infrastructure will not provide any capacity for future development, it is considered reasonable in the circumstances to apply the condition in the consent.

At the time of imposing the condition to build the four culverts, the Council did not have cost information that has now been provided by the proponent.

If the Council has concerns about the extent of these costs, it is suggested that an amendment to reduce the number of culverts to two from four would be preferred as the application in regards to material public benefit is, for the reasons set out above, considered inconsistent with the provision of the Council's contribution plan.

This would require the Council to reassess the information from BMT-WBM and the Council's position in response in respect of the risks inherent in flood modelling.

Conclusion

Based on the Civil Services advice, the Section 96(1A) application currently before Council to amend condition 5.23 should **not** be supported.

RECOMMENDATION

That the application (Amendment No. 11) under S96 (1A) of the Environmental Planning and Assessment Act to amend the provisions of Condition 5.23 of DA 2010/962 in relation to reducing the Section 94 contribution for the North & West Ballina Roads levy be **REFUSED** for the following reasons:

1. The requirement for the additional two culverts has been imposed as a condition of consent and the cost of the culverts should not be deducted from the Ballina Shire Roads Contribution Plan 2010 in accordance with Clause 2.10 of the Plan;
 - a) as the works do not relate to the works schedule in the plan; and
 - b) Council remains of the opinion that four culverts is required to mitigate the direct impacts of DA 2010/962
2. The circumstances of the application are considered by Council not to be in the public interest.

Attachment(s)

1. West Ballina Flood Relief Optimisation Study

8.3 Part 5 Project - Ballina to Lennox Head Recreational Path

8.3 Part 5 Project - Ballina to Lennox Head Recreational Path

Applicant	Ballina Shire Council (in consultation with NSW Public Works).
Property	Including Crown Reserve 1010068 dedicated for Public Recreation and Coastal Environmental Protection comprising multiple parcels of Crown lands, unformed Crown and Council Public Roads as shown on Detailed Design Plan No.'s 2165/101 to 2165/121 Dated 1 May 2014 commencing from Chainage 0.000 immediately to the north of the existing underpass at Angels Beach and terminating at Chainage 6021.526 at Pat Morton Lookout.
Proposal	To Undertake the Construction of a 6 kilometre long formalised path predominantly for pedestrians from Angels Beach, East Ballina to Pat Morton Lookout, Lennox Head following the coastline. The path alignment would commence at the existing underpass under The Coast Road near Bayview Drive, East Ballina and terminate at the existing pathway/stairs located at Pat Morton Lookout. Refer to path alignment marked on the attached locality plan and within attached detailed design plan set.
Effect of Planning Instrument	<p>The lands are identified as a "Deferred Matter" under the provisions of the Ballina LEP 2012. Consequently, the BLEP 2012 does not apply and the provisions of the Ballina LEP 1987 continue to apply, pending the outcomes of the current review.</p> <p>Under the Ballina LEP 1987 all of the lands through which the path would pass are zoned 7(f) Environmental Protection – Coastal Lands.</p>
Locality Plan	The subject lands are depicted on the locality plan attached and form part of the Ballina Coastal Reserve

Introduction

Council has been working towards the development of an extensive network of shared paths and cycleways for a number of years.

In mid 2013, Council lodged documentation regarding the construction of various new sections of paths between Lennox Head and Ballina. These paths would build upon and link with the existing network of shared paths.

Recently, in conjunction and concurrently with the processing of the Coastal Recreational Path (CRP) project that is the subject of this report, Council's Development and Environmental Health Group have assessed and approved the following two paths:

8.3 Part 5 Project - Ballina to Lennox Head Recreational Path

1. Shared Pathway “West” (SPW) which under the provisions of the Environmental Planning and Assessment Act 1979 (the Act) comprised a Part 5 Project and Part 4 Development Application 2013/195. The majority of the SPW alignment was considered under Part 5 and approved via Delegated Authority on 13 December 2013, while approximately 425 metres of the path proposed through SEPP No. 14 – Coastal Wetlands on the northern side of Skennars Head Road was considered under Part 4 of the Act and accompanying Environmental Impact Statement and approved via Delegated Authority on 13 December 2013.

SPW is typically a 2.5 metre wide shared path for pedestrian and cycleway use (part asphalt or concrete hardstand construction) and runs from Silver Gull Drive, East Ballina to Amber Drive, Lennox Head (contained wholly within the existing Road and Public Reserves).

Councillors will note that construction on a southern section of this route has commenced.

2. Shared Pathway “East” (SPE) that also comprised both a Part 5 Project and Part 4 Development Application 2013/194 under the provisions of the Act. The majority of the SPE alignment was considered under Part 5 of the Act and approved via Delegated Authority on 20 March 2014, while approximately 615 metres of the path proposed through SEPP No. 26 – Littoral Rainforest core and buffer on the eastern side of The Coast Road was considered under Part 4 of the Act and accompanying Environmental Impact Assessment and approved under Delegated Authority on 20 March 2014.

SPE is typically a 2.5 metre wide shared path for pedestrian and cycleway use (part asphalt hardstand construction and 3 metre wide raised boardwalk) predominately along the eastern side of The Coast Road from Skennars Head Road, north to Pat Morton Lookout.

The CRP involves the construction of approximately six kilometres of path from Angels Beach, East Ballina in the south to Pat Morton Lookout, Lennox Head to the north following the coastline. The proposal is primarily upgrading and formalising existing paths immediately behind Angels Beach, Sharpes Beach, Boulder Beach, Skennars Head, and Lennox Head, and beside or on the headlands.

Some sections of the proposed route already exist and predominately will remain the same (other than for upgrading involving minor widening, surfacing and works such as signage or bollards). Other sections of the route will require new paths or boardwalks such as along the eastern edge of Flat Rock Tent Park, from Flat Rock Tent Park to Sharpes Beach carpark behind the dunal system of Sharpes and Flat Rock beaches, and across the wetland immediately behind Boulder Beach.

The CRP is proposed to contain a range of surfaces in the form of asphalt, concrete, consolidated gravel/grass (for low impact and aesthetic reasons on more elevated sections) and composite fibre boardwalks with recycled plastic decking. The CRP is proposed at varying widths dependent upon the topography and environmental sensitivities with a maximum width of 2.5 metres (although the raised boardwalks will have a further width to accommodate handrails and kickboards where required).

8.3 Part 5 Project - Ballina to Lennox Head Recreational Path

A series of finger paths and viewing platforms at strategic locations are also proposed (refer to the attached Detailed Design set of plans).

The CRP is not proposed entirely as a shared path standard as suitable grades and/or widths cannot be reasonably provided along its entire length without significant environmental impacts. Notwithstanding this, a significant proportion of the CRP is proposed to a shared path standard of a minimum 2.5 metre width and mostly with a suitable grade (i.e. maximum of 5% except at the identified localized pinch points illustrated in the long section plans). This will mean that, if approved, the CRP will still provide access for pedestrians, cyclists and less mobile people to and along the coastline at various locations.

Other infrastructure associated with the proposed CRP is:

- (a) Minor reconfiguration and changes to carpark layouts (Flat Rock Tent Park and Angels Beach) to provide direction and delineation of the CRP from vehicles.
- (b) Eight platform style lookouts/seating nodes (some with disabled access ramps).
- (c) Two sets of finger paths.
- (d) Signage.
- (e) Fencing and landscaping/rehabilitation.
- (f) Rock scour protection works immediately adjacent to the CRP at Boulders Beach.
- (g) Stormwater pipes/culverts.

Some of these works can be considered as “exempt” development and do not require approval under either Part 4 or Part 5 of the Act, however have still been considered in the Part 5 assessment for completeness.

Although having attended a number of project briefing sessions held about the project (with the most recent being 7 April 2014), Councillors should still familiarise themselves with the attached plan which illustrates the routes of all three pathways.

It is important to note that Councillors are only considering the CRP as part of this report (i.e. the route shown in red which traverses generally along and closest to the coastline) and must consider the proposal separately in its role as Reserve Trust Manager (refer to Plan of Management section of this report) and as a Determining Authority.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The CRP was placed on public exhibition (in conjunction with SPE and SPW) from 26 June 2013 until 26 July 2013.

8.3 Part 5 Project - Ballina to Lennox Head Recreational Path

Council received 48 objections and 64 letters/electronic mails of support to the CRP. A number of these submissions also provided opinions/suggestions about design elements of the CRP and particularly the standard of the pathway and/or questioned the need for the duplication of the SPE and SPW if the CRP was built to a better standard suitable for both pedestrians and cyclists. Copies of the submissions are attached to this report

The majority of the submissions objecting to the proposal were in relation to the impact of the path on the Flat Rock Tent Park, however they also noted that they were generally in support of the CRP in principle. The issues raised in the submissions can be summarised (in no particular order) as follows:

- (a) Adverse impact on Flat Rock Tent Park users/sites and potential loss of sites, i.e. the tent park should be bypassed so that a buffer is provided to campers for security, safety, and privacy reasons.

Refer to specific "Flat Rock Tent Park" section of this report for further comment.

- (b) To avoid duplication and expenditure on SPW and SPE, the CRP should be of a Shared Path standard (i.e. minimum of 2.5 metre width).

Council has concurrently proposed the SPW, SPE and CRP projects as separate, independent but associated projects. Although both the SPW and SPE shared paths run parallel to the CRP at certain sections, they are not duplications as they each serve different linkages and purposes within the overall network development.

The CRP is not proposed to achieve a shared path standard along its entire length. The relative timing and prioritising of expenditure to undertake construction of the paths or sections of the paths is not a specific consideration of this Part 5 assessment. If the CRP is approved, it will still be subject to funding and financial considerations separate to this assessment.

- (c) Existing rights to utilise and traverse along the road reserves as a consequence of the Public Road Reserve and Crown Land management principles.

Although a person may travel along a public road reserve, it should be noted that the CRP is not in the main proposed to be constructed within a public road reserve corridor. As demonstrated in the attached "Road Reserve Status" plan, the CRP route also falls within Coastal Reserve and Crown road reserves. The perceived existing rights under public road reserves and Crown management principles do not apply to the entire length of the route and this project does not impact upon the continuing legal status of the roads.

- (d) The CRP should be designed to be a minimum impact solution and blend with the sensitive environment.

The route chosen and as refined throughout this Part 5 assessment is considered to be of a suitably minimised environmental impact. The construction methodology and materials have also had suitable regard for the various environments that it is proposed to traverse. For further comment in this regard refer to the "Ecological" section of this report.

8.3 Part 5 Project - Ballina to Lennox Head Recreational Path

- (e) Increased use of the CRP by people with dogs which should be banned due to environmental sensitivities.

The ecological consultant engaged for the project has outlined that dogs should be kept on a leash at all times whilst on the CRP. Additionally, signage is proposed to be placed at certain locations indicating this requirement and where access is provided to beach and wetland areas further signage will highlight presence of nesting shorebirds.

- (f) Will bikes be banned from the CRP due to safety/conflict issues with pedestrians?

Bicycles will not have to be banned from the CRP having regard for the project design and description. Certain sections of the CRP meet relevant standards for shared bicycle and pedestrian use. Additionally, the CRP provides safe passing widths along the majority of its length other than at the southern end of Boulder Beach.

- (g) The SPE and SPW should be built first to see if the CRP is required to be upgraded (although some submissions suggested the opposite timing with the CRP to be built first).

Construction on a southern section of SPW approved via a separate Part 5 project commenced in early May 2014 with a further civil construction certificate for the Skennars Head portion including the SEPP 14 – Coastal Wetland section approved via DA 2013/195 also approved at the time of writing this report. Therefore the construction of SPW is now able to be advanced dependent upon the Council's prioritization of works.

The construction timing of SPE and SPW is not of direct relevance to the assessment of the CRP. If the CRP is approved, sections of all three projects will be able to be constructed as resources become available and as the Council sees fit.

All three projects can and have been assessed individually on their own merits, whilst the cumulative impact of all three projects combined has also been considered for the purposes of this report. Refer to Ecological Assessment and Cumulative Impact sections of this report for further comment.

- (h) Compensatory Habitat principles should be applied.

Compensatory habitat principles are being applied to mitigate direct and indirect impacts on the environment by the CRP. Refer to the "Ecological" section of this report for further comment.

- (i) The Macdonald anthropological report for the previous cycleway DA 2004/746 needs to be addressed.

Council previously engaged Dr Gaynor Macdonald from the Department of Anthropology at Sydney University to prepare an anthropological report relating to the planned cycleway network along the coast from East Ballina. The report dated May 2008 provided information and recommendations for Council to consider when developing the coastal pathways projects.

8.3 Part 5 Project - Ballina to Lennox Head Recreational Path

Specifically in relation to the CRP project, and the East Ballina Angels Beach locality now declared an Aboriginal Place, the Review of Environmental Factors (REF) accompanying the Part 5 project and particularly the Cultural Heritage Reports prepared by Converge and by Ian Fox and Associates align with the principal recommendations of the Macdonald report applicable to the route development and assessment. Various identified stakeholders were consulted in the preparation of the CRP route and this has been documented in the Converge report and in the REF.

Particularly, the CRP Part 5 project and REF followed OEH guidelines and have provided a comprehensive outline to enable interested local aboriginal community members to become conversant with all the information they would require to make decisions about the details of the project.

The project was specifically notified to the various groups and individuals that were identified as having an interest in the project. This consultation is proposed to continue during and post construction if the CRP is approved.

- (j) Any CRP must ensure that any member of the public can pass along the full length of the public road reserve at an appropriate shared path standard (2.5 metre width). Anything less would not be protecting the public interest or current entitlement over the land.

The assessment of the CRP project over the last 12 months has demonstrated that there are environmental sensitivities that need to be properly considered; particularly around the southern end of Boulder Beach.

These sensitivities have constrained the width of the CRP and have not allowed it to be proposed to meet a Shared Path standard in accordance with Austroads 2009 and Australian Standards 1428.1-2009 along its whole length.

This detailed assessment further emphasises the supporting and associated roles the separate SPW and SPE paths will have in providing a comprehensive shared pathway network for the coastal precincts.

- (k) Viewing platforms are unnecessary on the elevated sections of the CRP as outlooks are already available, are counter productive to the natural experience, and are expensive.

The proposed viewing platforms are considered to be complementary to the CRP in that they will allow people to briefly divert off the CRP at specific vantage points for rest breaks and/or to enjoy views. These designated and formalised points will reduce the current impact being caused by people trying to obtain particular vantage points and disturbing vegetation at various points along the coastline.

The viewing platforms are not particularly large or obtrusive and only two lower lying platforms, if approved, will be roofed for wet weather protection. The eight platforms and two finger paths proposed over the CRP length of 6 kilometres are considered reasonable and will have minimal environmental impact.

- (l) Potential area of construction disturbance is ambiguous and a disturbance corridor of up to 5 metres appears excessive and unnecessary.

8.3 Part 5 Project - Ballina to Lennox Head Recreational Path

Although the initial plans originally submitted with this Part 5 project were not as detailed as the plan set that has evolved and been refined throughout the assessment process (i.e. attached to this report), Council's assessment staff are satisfied that the planned construction disturbance and methodology of the CRP has been adequately described and is reasonable.

A construction disturbance of 5 metres has been assessed to provide a safeguard and to ensure the impact is reasonably assessed. The impact of the CRP will be minor and in some sections virtually non-existent, however this precautionary approach is considered to be an effective way to properly address particular environmental considerations.

(m) Failure to recognise potential contamination from sand mining.

A "Surface Gamma Radiation Survey" was requested and completed as part of the assessment of the CRP due to known previous sand mining operations along the coastline. The findings of the survey concluded that the radiation levels comply with the NSW EPA and National Health and Medical Research Council guideline for areas of intermediate occupancy. Refer to the "Potential Contamination" section of this report for further comment in this regard.

(n) Stormwater runoff issues and creation of erosion.

The proposed mitigation measures contained within the Review of Environmental Factors prepared by NSW Public Works are considered satisfactory and can be implemented using relatively conventional methods. These will be further refined in a Construction Environment Management Plan if the CRP is approved as recommended. For further comment in relation to stormwater refer to the "NSW Marine Parks Authority" section of this report.

Submissions were also received from various Government Agencies (copies attached) generally supporting the project subject to certain mitigation measures that will be applied if the CRP is approved as recommended.

These matters will be considered throughout the report.

Applicable Planning Instruments

State Environmental Planning Policy (Infrastructure) 2007 allows the proposed works to be undertaken as "development without consent" and therefore the CRP is a Part 5 project under the Act. It is not a Development Application for the purposes of Part 4 of the Act.

Notwithstanding this, Section 111 of the Act requires that the determining authority (i.e. Council in this case) take into account the fullest extent possible, all matters likely to impact on the environment due to the proposal. Any inconsistency between Council's local policies and state policy will mean that the state policy will prevail.

This report will have regard for relevant factors under Clause 228 of the Environmental Planning and Assessment Regulation 2000 to assess the significance of the project. Councillors will need to be satisfied that the environmental impact of the CRP is not significant and can be reasonably considered as a Part 5 project.

Report

Due to the nature of the proposal and assessment under Part 5 of the Act, only relevant matters of particular significance or those raised in submissions will be outlined in the report. A copy of the proposal, including the submitted Review of Environmental Factors and other associated assessments, can be examined by contacting the Development and Environmental Health Group prior to determination if required.

Having regard for the proposed impacts, it is considered that the Part 5 project can be supported subject to environmental management and the mitigative/ameliorative measures proposed (including compensatory plantings) as outlined in and attached to this report.

Ballina Local Environmental Plan 1987

The proposed works are not specifically defined under the provisions of the BLEP 1987, however the CRP could be considered as a "public utility undertaking" as it relates to road transport infrastructure proposed to be undertaken by Council.

The lands are zoned 7(f) – Environmental Protection (Coastal Lands) under the BLEP 1987.

"Roads" and "public utility undertakings" are permissible with development consent.

The objectives of the Zone are as follows:

The primary objectives are:

- (a) to protect environmentally sensitive coastal lands, and*
- (b) to prevent development which would adversely affect or be adversely affected, in both the short and long term, by the coastal processes.*

B The secondary objective is to enable the development of public works and recreation amenities where such development does not have significant detrimental effect on the habitat, landscape or scenic quality of the locality.

C The exceptions to these objectives are:

- (a) to permit the development of public works, outside the parameters outlined in the primary and secondary objectives, only in cases of demonstrated and overriding public need and subject to the impact on the coastal lands being minimised, as much as is reasonably practical, and*
- (b) development of surf life saving, environmental education facilities and like facilities.*

The proposed development, being public works facilitating recreational amenity, are expressly consistent with the objectives permissible with development consent in Zone No. 7(f) as there is an overriding public need and the impact on vegetation is being minimised to a reasonable level.

8.3 Part 5 Project - Ballina to Lennox Head Recreational Path

If there was any inconsistency between the works and the zone objectives, State Environmental Planning Policy (Infrastructure) 2007 which permits the works would prevail.

The proposed route selection and design has considered the sensitive nature of the locality and has utilised existing disturbed corridors for its alignment, where possible.

The offset plantings/rehabilitation for the required clearing works is considered to be satisfactory and would achieve the intent of the objectives of the 7(f) zone in relation to impact on coastal lands and fauna habitat values.

There will be net environmental and ecological gains/benefits which will be derived as a consequence of the proposed environmental management and rehabilitation measures (involving weed removal, on-going weed control and planting of native endemic plant species).

The submission of a more detailed Environmental Management Plan is recommended as part of the approval.

Impact Assessment

Aboriginal Cultural Heritage

The Cultural Heritage Assessment report accompanying the Part 5 project assessed the combined SPE, SPW and CRP projects and involved a consultation program undertaken with identified Traditional Custodians. The report also included a search of the Aboriginal Heritage Information Management System (AHIMS) database in order to determine the number, type and location of recorded Aboriginal cultural heritage items in the project areas.

There are numerous registered sites in proximity to the CRP alignment and the southern section is within the declared East Ballina Aboriginal Place. These sites reinforce that the area has been a significant cultural landscape and that it still retains cultural significance for the Traditional Custodians.

Specific site surveys identified ten aboriginal cultural heritage locations, the majority of which are culturally significant mythological story places. Four previously registered (AHIMS) sites located within the study area were not relocated during the survey. A post-contact Aboriginal contemporary camp site is also known to have been present in the vicinity of Sharpes Beach.

The sites have been evaluated by the Traditional Custodian representatives in the survey and through direct consultation by the project's consultants. These locations are outside of the CRP alignment and the CRP by its nature will be of low impact in the vicinity of these areas/sites. Council's Environmental Health Group has also directly notified the CRP to local Aboriginal Groups who at the time of preparing this report had not provided any objection to the CRP.

During the consultation process (and field survey), the Registered Stakeholders raised issues relevant to the cultural assessment and interpretive signage for the CRP.

The CRP, if approved, would generally involve the formalisation of existing paths (both formal and informal) that have previously been utilised as tracks for sand mining vehicles through or near identified areas/sites of significance.

The CRP could potentially impact upon these areas/sites; however the detailed design has been prepared in conjunction with a qualified archeologist and Registered Stakeholders and has avoided known sites (other than being generally located within the area of the declared Aboriginal Place).

If any potential direct impact is identified during construction sites can be readily avoided by local realignment of the CRP or protected by exclusion zones. If approved, a nominated Sites Officer will need to be present to monitor ground disturbance in the sensitive areas during construction activities.

Further to this, additional consultation and installation of interpretative signage telling cultural stories in an appropriate way may also assist in minimising any impacts.

The Cultural Heritage Assessment has made eight specific recommendations to mitigate any potential impacts on Aboriginal cultural heritage (including on-going consultation and interpretative signage) and these have been incorporated into the recommended mitigation/ameliorative measures for approval.

Consequently, the level of impact of the CRP has been assessed as being low to medium.

Ecological Assessment

Although the width and design of the path varies along its length, a disturbance corridor of up to 5 metres has been assessed for ecological impact which can be summarised as follows.

Vegetation

Vegetation communities in and around the area of direct impact were identified, mapped and described. Five Endangered Ecological Communities (EECs) under the Threatened Species Conservation Act 1995 are noted, all of which adjoin or are traversed by, the CRP.

In addition, some of the littoral rainforest adjoining or traversed by the paths also fits criteria for inclusion in the Endangered Ecological Community Littoral Rainforest and Coastal Vine Thickets of Eastern Australia (EPBC Act 1999).

Flora

The project's Ecological consultants, Blackwood, derived appropriate lists of threatened species for targeted searches from online databases.

The Blackwood report indicates that four threatened flora species and an additional ROTAP listed species are known from the area of direct impact of the proposal.

Fauna

The list of threatened fauna species considered by Blackwood of known or potential occurrence in the area to be directly impacted by the proposal, and the surrounds is considered comprehensive. Blackwood notes that the juxtaposition of a number of different habitat types in a small area has produced extensive lists of threatened and other fauna species from survey results, opportunistic observation and background information.

Ecological Impact of the Proposal

Flora and vegetation

Details of vegetation to be removed/trimmed have been subsequently provided. Several large native trees are proposed for removal as well as a large number of small stems. Many of the stems proposed for removal are components of Littoral Rainforest EEC and Coast Cypress EEC. Coast Banksia in all size classes are proposed for removal. Small areas of Themeda grassland EEC and Freshwater Wetlands EEC are also proposed for removal and/or disturbance.

Blackwood has also advised that translocation of Pandanus trees proposed for removal is no longer part of the proposal, and the loss of the trees is now considered as part of the impact.

Fauna

Several mature specimens of Coast Banksia, of possible foraging value for Common Blossom Bat, will be directly impacted. Notwithstanding this, the habitat is marginal and additional habitat is fairly widespread in the surrounds.

Other impacts on fauna habitat may accrue, including disturbance as human recreational use increases and dogs accompany path users. Blackwood makes particular mention of current and potential impacts of dogs on shorebirds.

Assessment of direct impacts on native vegetation

The direct impacts on native vegetation are overemphasized when considered in terms of number of stems with an estimated total of 457 stems counting all species and all size classes.

The relatively high total numbers reflect, in part, the diligent recording of smaller stems on the part of Blackwood. The stems are proposed for removal over the 6 kilometres of the CRP, plus finger paths and other structures and therefore when considered in this context; clearing is distributed sparsely along the coastal strip.

Small areas of Freshwater Wetland EEC (approx. 270 m²) and Themeda grassland EEC (potential indirect impacts) are also proposed for removal/disturbance.

8.3 Part 5 Project - Ballina to Lennox Head Recreational Path

For the purposes of this assessment each section of vegetation where clearing is proposed has been considered, having regard for its values and context in some detail.

Many stems proposed for removal are located along edges of existing paths or other edges which now require the clearing of expanding regrowth. Other clearing is proposed for disturbed early regrowth vegetation and also for small areas of planted coastal vegetation (in early stages of developing ecological values). The CRP traverses some areas of littoral rainforest in good condition, but clearing beyond edge trimming is minimal in such vegetation.

Areas of new clearing effectively reduce the potential for future development of coastal vegetation, committing the area for purposes that will not support vegetation in the future. Such areas of new clearing, are, however, small. The locations of the more substantial vegetation loss are summarised as follows:

Location	Chainage	Information supplied (summary)
Eastern edge of Coast Road	0-145	27 stems to be removed, mostly small trees and saplings but four medium trees. Trimming of White Laceflower (Vulnerable). Context: Roadside, adjacent to Littoral Rainforest EEC.
Existing asphalt path through littoral rainforest at Angels Beach	145-220	14 small trees and saplings to be removed, including some littoral rainforest species. Context: Existing track, some widening required.
Angels Beach carpark entrance	300-320	59 small trees/saplings, littoral rainforest species, to be removed. Context: small block of early regrowth with three exposed edges facing road and carpark, ~140m ² in area.
North of Angels Beach car park	725-1355	94 stems to be removed, mostly small trees/saplings, but several medium trees. 22 stems are Coast Cypress, many are littoral rainforest species. Context: Existing track but new clearing required to widen.
Flat Rock Tent Park	1355-1460	11 stems to remove, including one medium Coast Banksia and two medium Three-veined Laurels.
Parking area adjacent to Tent Park	1460-1540	11 small (planted) littoral rainforest stems to be removed, plus sections of Coastal Wattle.
Roadway from Tent Park to car parking area.	1520-1650	56 stems of littoral rainforest species to remove, including 2 medium Tuckeroos. Context: edge treatment but some new clearing.
Sharpes Creek	2040	Freshwater wetlands EEC – about 170 m ² to remove/disturb (calculation from map).
South end of Sharpes Beach	2060-2600	40 stems to remove, mostly small trees and saplings of littoral rainforest species, also one large Coast Banksia and patches of Coast Wattle. Context: new clearing through sparse and disturbed vegetation.
South of Iron Peg	3825-4020	26 stems to remove, all small trees/saplings, mostly littoral rainforest species, one Pandanus.
North from Iron Peg	4140-4185	9 small trees/saplings of Coast Banksia. Context: some new clearing of sparse vegetation mainly edge regrowth on existing tracks, opportunity to rationalize existing track braiding.
Boulders Beach south end	4185-4405	(Path now modified to avoid vegetation clearing.)
Boulders Beach	4405-4520	10 stems to remove, all small trees/saplings excepting a medium Pandanus.
Boulders Beach	4520-4950	27 small trees/saplings to remove (Coast Banksia, Coast Cypress and littoral rainforest) and patches of Coastal Acacia.
Boulders Beach wetland creek crossing	4840	Approx. 100m ² (includes open water), calculated from map.
Boulders Beach	4950-5035	Removal of 6 stems of Coast Banksia in small/medium and large size classes, one small Pandanus.
Boulders Beach to Pat Morton	5035-6020	<i>Plectranthus cremnus</i> present in footprint, potential for indirect impacts on Themeda Grassland EEC.

Indirect impacts

A number of possible indirect impacts are described (machinery damage to adjacent vegetation, creation of edge effects, introduction of weed species, pathogens and contaminants). Identified sections of the CRP about important coastal vegetation, including EECs.

The edge effects may be of high importance when soil/sand and vulnerable native vegetation is newly exposed to coastal influences.

Suitable measures to minimize impacts on vegetation, soil and water during construction have been outlined. In a number of sensitive locations, the supervision of an ecologist during some of the works is proposed.

Section 5A assessments

The findings of the seven part tests are that no significant impact on Threatened species or EEC's is expected from the proposal. Some statements made by Blackwood have been questioned but do not detract from the conclusion with regard to the likelihood of significant impact.

Blackwood's assessment of impacts on EEC's is necessarily generalized, having been undertaken at an early stage of project development. Having scrutinised the quantified vegetation removal details subsequently supplied, Council's Environmental Scientist has concurred with the Blackwood's conclusion that significant impact on EEC's is unlikely and is appropriate.

In reaching this conclusion, Council's Environmental Scientist has also noted that, while native vegetation of conservation significance is to be removed, proposed compensatory measures will employ well-tested weed management, bush regeneration, and planting techniques so that the positive aspects of the proposal will weigh effectively against the impacts.

Amelioration and compensation

The proposal requires some measures to protect and manage native vegetation adjacent to the proposed path.

If the CRP is approved, amelioration and compensation should therefore include:

- All measures set out by Blackwood to minimize and ameliorate impacts of the proposal (noting that Blackwood proposes that all dogs should be on a leash and signage erected to alert to the need to restrict disturbance to shorebirds).
- Where the shared path is proposed adjacent to high conservation value vegetation, especially EEC Littoral Rainforest and Coast Cypress EEC, vegetation removal and trimming should be strictly limited to the minimum extent necessary, as specified in the proposal and subsequent information provided. Viewing platforms at upper Sharpes Beach north (chainage 2940) and Boulders Beach wetland (chainage 4750) can and must be located to avoid impact on Pandanus and Coast Banksia respectively.

- Species selection for landscaping components of the proposal should be based on local native species appropriate to the planting situation, planting stock of local provenance and should not include horticultural selections. Final landscaping specifications should be approved by Council's Environmental Scientist.
- Vegetation Management Plans (VMP) to cover the areas affected by the proposal, possibly to be addressed in suitable sections or stages should be prepared and implemented, addressing protection and management of native vegetation during construction, and ongoing. Noxious weeds are to be managed as specified for their weed classes. In areas of high conservation value vegetation and threatened species habitat, the VMP(s) should address management of environmental weeds, enhancement of natural regeneration and plantings. The VMP should be prepared to the satisfaction of the Environmental Scientist prior to construction.

Blackwood proposes that compensation for direct and indirect impacts on the environment of the Shared Path should comprise planting and rehabilitation works to include weed management and encouragement of natural regeneration.

A staged program of compensatory rehabilitation and planting is proposed, and broadly satisfies compensation principles of like-for-like replacement of affected vegetation and location close to the impact sites (refer to attached replacement figure prepared by Blackwood attached).

The compensation package (or packages tied to the proposed staging of the project) should be developed and implemented, accompanied by a management plan, aiming to replace native vegetation removed or modified in a ratio 10:1 for EEC or threatened species habitat and 3:1 for other native vegetation. The ratios should be applied to stem numbers or areas of vegetation, as appropriate to the situation.

The difficulty of quantitatively comparing loss of trees measured by stem number with the results of proposed bush regeneration is acknowledged. For example, an estimate of the number of bush regeneration person days of effort to be committed would be of assistance.

Alternatively, the use of offsetting principles developed by OEH, possibly to include application of the BioBanking calculator that underpins the NSW Government Biodiversity Banking and Offsets Scheme is recommended. The Compensatory Management Plan should also be prepared to the satisfaction of Council's Environmental Scientist prior to construction.

Assessment staff have noted that the project presents an opportunity to formalise existing finger tracks, and to rehabilitate unmanaged informal beach access points and campsites at various locations. The informal beach access points and campsite issues may resolve themselves once regular human traffic along the CRP affects their privacy, thereby reducing their use and allowing regeneration to occur.

8.3 Part 5 Project - Ballina to Lennox Head Recreational Path

The incorporation of assessment, closure and rehabilitation of tracks and structures into vegetation management planning and compensatory actions should be considered to the best extent practical, and otherwise passed to appropriate land-managers as recommendations for future works.

Ecological Conclusion

Blackwood's revised assessment and responses to requests for further information have adequately identified and quantified the direct and indirect impacts of the proposed CRP.

Council's Environmental Scientist has concurred with the submitted assessments of the extent of the impacts, which are generally fairly small given there are currently considerable opportunities to use existing paths, and also the disturbed edge environments, proposed use of raised boardwalks, and passage through already cleared and disturbed vegetation.

Given the commitment to compensatory measures and the proposal to undertake works which can be predicted, with reasonable confidence, to be successful, Council's Environmental Scientist has confirmed that the proposal is not likely to have a significant effect on threatened biota (TSC Act 1995), that a Species Impact Statement is not required, and that the proposal can be reasonably supported subject to the amelioration and compensatory measures recommended by Blackwood and the additional recommendations outlined above.

Potential Contamination

The applicant was requested to provide additional information in relation to potential land contamination due to previous sand mining that occurred in the proximity of the proposed route of the CRP.

In response the applicant submitted a 'Surface Gamma Radiation Survey of Proposed Coastal Recreational Path from East Ballina to Lennox Head, NSW' prepared by Bartolo Safety Management Service.

The assessment was undertaken in accordance with the Clean Up and Disposal of Radioactive Residues for Commercial Operations involving Mineral Sands guidelines prepared by the National Health and Medical Research Council (NHMRC 1995) which are referred to by the NSW EPA.

The assessment has involved walking the pathway (as close as possible allowing for obstructions and impediments) while holding a counter monitor 1 metre above the ground surface.

The results were compared to the Action level criteria for roads, paths and areas of intermittent occupancy specified in the guidelines referred to above i.e. $2.5 \mu\text{Gyh}^{-4}$. All recorded values were well below this level with the highest recording being $0.83 \mu\text{Gyh}^{-4}$.

This result was obtained in the vicinity of Flat Rock campground, however, the author has clarified that this is not significant to occupants at the campground.

8.3 Part 5 Project - Ballina to Lennox Head Recreational Path

Therefore the report concludes that the radiation levels comply with the NSW EPA and NHMRC guideline for areas of intermediate occupancy such as pathways and no further assessment is required.

Council's Environmental Health Officers have concurred.

NSW Marine Parks Authority (MPA)

The MPA via submission of 15 July 2013 provided comments regarding the CRP. Council should note that only a small section of the CRP alignment at Pat Morton Lookout is located immediately adjacent to the Cape Byron Marine Park (CBMP). Based on contour mapping and the Detailed Design plan set, stormwater runoff from this section of the path will not directly enter the CBMP.

Additionally, it is considered that the majority of any local runoff would infiltrate into the grassed areas adjacent to the CRP and/or wetland areas.

Proposed mitigation measures are considered sufficient to minimise runoff from the CRP both during construction and operation of the path.

NSW Department of Primary Industries (Fisheries)

Fisheries via submission of 15 July 2013 suggested that the boardwalk design be reviewed and modified to minimise the impact on waterflow, to decrease the impact on hydrology and fish habitat and to achieve a height above natural water level that limits accumulation of vegetation and debris under the structure for areas behind Flat Rock and Boulder Beach.

The design drawings for the boardwalks prepared by Wagners indicate that the design satisfies the suggestions made by Fisheries.

NSW Office of Environment and Heritage (OEH)

Although OEH's response of 22 August 2013 is specifically in relation to the SEPP No. 14 – Coastal Wetlands and SEPP No. 26 – Littoral Rainforest areas which only related to DA 2013/195 and DA 2013/194 respectfully and not the CRP, the offset principles developed by OEH in formulating an appropriate offset strategy for required clearing works have been utilised by the project's ecological consultants and Council's Environmental Scientist.

For further comment in relation to compensatory offsets, refer to the Ecological section of this report.

The separate OEH response of 16 August 2013 is directly in relation to Cultural Heritage matters.

These matters have been considered in the Converge Heritage Assessment report dated March 2013 and further in the Ian Fox and Associates subsequent report. A Cultural Heritage Management Plan is being prepared by Ian Fox and Associates and will include the recommendations by OEH (and other matters). If the CRP is approved these recommendations will be included in the mitigation/ameliorative measures.

8.3 Part 5 Project - Ballina to Lennox Head Recreational Path

The newly identified Aboriginal sites have been endorsed by the registered Aboriginal parties, and Mr Fox has advised that documents were prepared for AHIMS submission in March 2014.

Since the preparation of the Detailed Design plan set in December 2013, Mr Fox has continued consultation with the local Aboriginal community, and in particular the registered Aboriginal parties.

For further comment in relation to Cultural Heritage, refer to the Aboriginal Cultural Heritage section of this report.

NSW Police Service

The NSW Police Service via letter of 26 August 2013 has focused predominately on the Shared Path west where it traverses through residential estates. This is not directly relevant to the CRP route.

The Police Service have also provided comments in relation to the Angels Beach car park design reorientation and suggest that the car park needs to have a clear unobstructed view from The Coast Road due to passive surveillance.

Although this is accepted, the impact of further clearing and disturbance in this area needs to be avoided where possible.

If the CRP is approved and formalised as proposed more people are likely to utilise the CRP and thereby people will provide passive surveillance of the carpark the Police Service are seeking.

Council will also be determining the placement of bollards and gates at certain points to deter illegitimate use of certain access points and location markers and reduced concealment areas as raised by the Police Service.

The CRP is proposed around the Flat Rock Tent Park and not through it as suggested by the Police Service. It also continues immediately north past the amenities block and along the existing path as suggested by the Police Service.

Consequently, the majority of the suggestions by the Police Service have been incorporated into the CRP Detailed Design plan set.

Flat Rock Tent Park

Further consultation between Council's Civil Services Group (as proponent) and Council's Commercial Services Group (as owner of the tent park) has taken place regarding the proposed location of the CRP in and around the tent park.

The agreed CRP route traversing along the eastern boundary of the park forms part of the attached Detailed Design set of plans.

Although the location of the CRP along the eastern edge of the park's tent sites is opposed by current management of the park and a number of guests, it is considered that this location is a compromise which is beneficial from an environmental perspective.

Council's Environmental Scientist has concurred that the vegetation immediately adjoining the eastern boundary of the tent park should be protected, particularly when the tent park sites along this boundary can be maintained, albeit reducing the size of some sites.

Ballina Shire Access Reference Group (BARG)

The CRP was previously presented to the BARG who were supportive of the proposal, however expressed a preference for the surface of the pathway to be constructed in materials that would be suitable for people in wheelchairs to traverse and have provided the following specific comments:

1. The preferred surfaces of the pathways are asphalt or concrete. The raised timber walkways are also acceptable.

As can be seen from the attached Detailed Design plan set, the majority of the CRP at lower gradients is asphalt or a raised boardwalk/bridge of composite fibre (recycled plastic) construction. The steeper gradients are proposed to be compacted gravel to reduce the visual impact along the coastline and to maintain some stability in wet weather conditions.

These steeper sections of the path will not be readily accessible to less mobile people without assistance although some finger paths running off the CRP will allow access to viewing opportunities at lesser grades.

The BARG have acknowledged the difficulties of creating a pathway that is fully accessible given the topography of the proposed route.

2. The proposed elevated timber pathways should maintain the 3 metres width between the protruding handrails.

The raised pathways, will maintain Pathway widths of 2.5m & 2.0m depending on the sections of the route involved. Not all bridges/elevated pathways need handrails. Kickboards and handrails, where needed, are proposed to be outside the clear pathway widths so as not to obstruct users.

The designed clearance width will meet reasonable minimum clearances required for a pathway of this nature.

3. In regards to the proposed viewing platforms, the recommendation is to replace the stairs with ramps.

The proponent has confirmed that the viewing platforms, where accessible via wheelchairs will be provided with ramps rather than stairs.

4. Signage should be erected that advise users of the gradient of the pathway ahead, e.g. a "steep gradient is ahead do not continue if you have a cardiac condition or using a motorised mobility device". Signage should also identify alternative routes for people with mobility issues.

8.3 Part 5 Project - Ballina to Lennox Head Recreational Path

Various signs will be provided along the CRP. The proponent has been advised of the request; however, signage will generally be erected in accordance with relevant standards, other than Aboriginal heritage advisings, to avoid a proliferation of signs.

5. Seating with backrests and armrests should be installed at various locations along the pathways. The seating should be covered with non-pervious roofing materials. The covered seating spaces should also include sufficient space for a person in a wheelchair to stop and park under cover.

The CRP is not proposing to provide seating along its route other than within some of the viewing platforms. Seating/rest opportunities are, however, proposed at other locations along the route (i.e. the separate Sharpes Beach Carpark Masterplan approved under DA 2012/32). This is considered satisfactory.

In relation to the covering of seating spaces, Council's Development and Environmental Health Group have suggested that the lower lying less visual seating platform at the southern end of Sharpes Beach (one thereof) and the Boulder Beach wetland area be provided with rooves (which will also assist in reducing future maintenance). If the CRP is supported such requirements will form part of the approval.

Ballina Coastal Reserve Plan of Management 2003 (PoM)

The Ballina Coastal Reserve (R1010068) is managed by the Ballina Coastal Reserve Trust (i.e. Council in its role as Reserve Trust Manager). Council in this role has been supportive of the CRP project.

The PoM specifically supports a pathway within the Ballina Coastal Reserve and is relevant to the CRP (and either directly or indirectly with the SPE and SPW projects).

Its Management Objectives and Strategies are to:

- *Provide a continuous cycleway/walkway from Ballina to Lennox Head.*
- *Construct shared cycleways/walkways in appropriate areas, sensitive to community needs and environmental constraints.*
- *Ensure, where possible, linkages of cycleways/walkways to established or planned beach accesses.*

Whilst the CRP project has not reconciled the strategic objective of "a continuous cycleway/walkway from Ballina to Lennox Head" in its entirety, the SPW and SPE projects (although not entirely located within the Ballina Coastal Reserve) have been designed to assist the Council to meet this strategic objective on a network basis.

A key consideration for the project is also its relationship to the existing Public Road Reserves associated with the Ballina Coastal Reserve between Sharpes Beach and Lennox Head particularly the coastal foreshore road.

The attached Road Status Plan demonstrates the status of the roads, road boundaries and their relationship with the CRP alignment.

8.3 Part 5 Project - Ballina to Lennox Head Recreational Path

From the Detailed Design plan set and the Road Status map it is evident that some sections of the CRP will be within Crown Road Reserves.

Consequently, if the CRP is approved, the Crown Road components would benefit from being either transferred to Council's control or formally closed and consolidated into the surrounding Coastal Reserve 1010068. This will be a recommended action for the Council to take prior to the commencement of construction within the Crown Road Reserve sections should specific Crown consent for construction on these lands not be forthcoming beforehand.

Cumulative Impact

As previously mentioned in this report, Council is undertaking a number of other infrastructure works/projects comprising linking shared paths that will add to the network that serves the Ballina to Lennox Head locality in the vicinity of the CRP.

Cumulative impacts between the construction of these other shared paths and the CRP (if approved) could occur in the form of traffic interruptions, restricted access to beaches and carparks, and to Flat Rock Tent Park.

Further to this is the cumulative impact of the vegetation clearing required for all three projects (if the CRP is approved). Compensatory packages have been proposed and conditioned as part of the SPE and SPW that integrate with those proposed for the CRP.

Packages may be developed for just for the relevant sections of the proposed paths (i.e. the SPE or SPW or CRP) as parts of the total package for all the approved paths.

These are required as the timing of construction of sections of the paths may not be concurrent, may be delayed, or may not even eventuate.

It is assessed that there will be minimal cumulative impacts created by the CRP route itself due to site constraints (i.e. the route cannot readily expand) and, as outlined in the Ecological assessment of this report, the overall compensatory package is considered to satisfactorily address the cumulative impact of all three projects.

Conclusions

The CRP is an important element in enhancing the future pedestrian connectivity between Ballina, Skennars Head and Lennox Head. This route will provide a scenic and less formal recreational alternative to the recently approved SPE and SPW for local walkers, tourists and surfers in the locality, whilst the SPE and SPW will provide a pathway more capable of providing an alternative transportation means between Ballina and Lennox Head.

The CRP will also assist in providing greater access to the coastline to a wider range of the community who may otherwise have access limitations. The three paths will complement each other and will not duplicate each other's primary functions.

8.3 Part 5 Project - Ballina to Lennox Head Recreational Path

A more formalised CRP path will also assist in ensuring that fewer people leave the path and damage sensitive vegetation by forging new informal accesses to the beach. The constructed pathway will provide great opportunities for people to enjoy the visual landscape of the coastline in scenic sections without the need to deviate from the facilities that will be provided.

There will be obvious loss of native vegetation if the CRP is approved and a potential to affect items/areas of Aboriginal cultural heritage significance, however the CRP is primarily utilising existing formal and informal tracks/trails to minimise these impacts.

It is considered that the CRP can be supported on the basis that the environmental impact is considered reasonable having regard for the implementation of the environmental management and mitigation measures proposed in the REF and that will be specifically outlined in the Construction Environmental Management Plan.

Therefore, having regard to the EP&A Act and Regulations there would not be a significant adverse environmental impact created by the CRP.

RECOMMENDATIONS

1. That Part 5 Project, No. 2013/0009, for the Coastal Recreational Pathway from from Angels Beach, East Ballina to Pat Morton Lookout, Lennox Head be **APPROVED** subject to the mitigation/ameliorative measures attached.
2. That Council meet in its role as Reserve Trust Manager of the Ballina Coastal Reserve (1010068) and request Crown Lands to either:
 - (i) Close any unformed Crown Road Reserves upon which the CRP will traverse and include these lands in R1010068 (Ballina Coastal Reserve); OR
 - (ii) Transfer the Crown Road Reserves to Council's control for continued management consistent with the Reserve Trust's plans.

Attachment(s)

1. Locality Plan
2. Plan Indicating All Three Pathway Projects
3. Detailed Design Drawings
4. Road Reserve Status
5. Compensatory Areas
6. Proposed Approval Mitigation Measures
7. Government Agency Letters
8. Submissions Received

8.4 Compliance Work Plan 2013/14 - Finalisation

8.4 Compliance Work Plan 2013/14 - Finalisation

Delivery Program Development Services

Objective To advise Council of the outcomes from the 2013/14 Compliance Work Plan.

Background

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

Key Issues

- Level of Compliance
- Results achieved

Information

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

These priority areas are:

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

In addition to these areas of identified priority, the Compliance Team respond to customer requests received from members of the general public as well as from Council employees and State and Federal Government Agencies. Further, following the half yearly report, one of the two Compliance staff ceased employment with Council and this position has not been replaced at this time, which has impacted on the overall delivery of the Work Plan.

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

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

Of the nominated priority areas within the Compliance Work Plan, Council is provided with the following updates.

8.4 Compliance Work Plan 2013/14 - Finalisation

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

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

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

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

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

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

Of the 89 major developments from 2007, all developments have been inspected for compliance with the terms and conditions of the development consent. As reported to Council at the June 2013 meeting, 86 of these 89 major developments were in compliance with the issued development consents.

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

Of the 77 major developments from 2008, all developments have been inspected for compliance with the terms and conditions of the development consent. As reported to Council at the January 2014 meeting, 67 of these 77 major developments were in compliance with the issued development consents.

8.4 Compliance Work Plan 2013/14 - Finalisation

Regarding the remaining 10 consents:

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

Of the 43 major developments from 2009, all developments have been inspected for compliance with the terms and conditions of the development consent. As reported to Council at the January 2014 meeting, 29 of these 43 major developments were in compliance with the issued development consents. Council is advised that since the January 2014 meeting, an additional two major developments were identified to be in compliance with the issued development consents.

Of the remaining 12 major developments:

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

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

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

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

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

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

8.4 Compliance Work Plan 2013/14 - Finalisation

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

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

Of the 131 identified developments from 2008, all developments have been inspected for compliance with the terms and conditions of the development consent. As reported to Council at the January 2014 meeting, 104 of these 131 identified developments were in compliance with the issued development consents. Council is advised that since the June 2013 meeting, an additional one identified development was identified to be in compliance with the issued development consents.

Regarding the remaining 26 consents:

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

Of the 99 identified developments from 2009, all developments have been inspected for compliance with the terms and conditions of the development consent. As reported to Council at the January 2014 meeting, 95 of these 99 major developments were in compliance with the issued development consents. Council is advised that since the January 2014 meeting, an additional one identified development was identified to be in compliance with the issued development consents.

Council is advised that since the January 2014 meeting:

- Three identified developments have been inspected and require further follow up inspections. This development has commenced however works on site have not been completed at the time of the last inspection.

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

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

Of the 507 identified development consents within the Southern Cross Industrial Estate, all developments have been inspected for compliance with the relevant issued development consent. As reported to Council at the January 2014 meeting, 438 of these 507 developments were in compliance with the issued development consents. Council is advised that the remaining 69 parcels have been inspected and actions have been commenced, where appropriate, to bring the developments into compliance with the issued development consents. Actions are also now underway to remove identified encroachments from the road reserve.

This program has now been completed. Any new issues to do with footpath encroachments or parking issues within the Southern Cross Industrial Estate will be referred to Council's Ranger Services to continue ongoing monitoring and enforcement where required.

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

Work was planned to commence during the current financial year on the completion of the audit of the Southern Cross Industrial Estate. Given the Southern Cross Industrial Audit has now been completed, this program will now commence within the upcoming financial year.

5. *Review of Arterial Road Signage.*

Work was planned to commence during the current financial year on the completion of the audit of the Southern Cross Industrial Estate. Given the Southern Cross Industrial Audit has now been completed, this program will now commence within the upcoming financial year.

Local Court Proceedings

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

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

1. Matter: Appeal of Penalty Infringement Notice for failure to comply with Prevention Notice. Original fine \$750.
Result: Defendant pleaded guilty and fine increased to \$5,000. Council was not liable for legal costs as this plea was entered at the first mention where Council was represented by NSW Police Prosecutors under contract to State Debt Recovery Office. Fine being paid off at \$500 per month under agreement from the Ballina Local Court
2. Matter: Council initiated prosecution for unauthorised land use (Waste Facility - Pimlico) without Council consent.
Result: Defendant found guilty and fined \$21,750 plus ordered to pay Council's legal costs \$1,600. Fine being paid off over 12 months under agreement from the Ballina Local Court.
3. Matter: Council initiated prosecution for unauthorised land use (Waste Facility - Alstonville) without Council consent.
Result: Defendant found guilty and fined \$5,800 plus ordered to pay Council's legal costs \$1,700. Fine being paid off over 12 months under agreement from the Ballina Local Court.

8.4 Compliance Work Plan 2013/14 - Finalisation

4. Matter: Council initiated prosecution for failure to comply with development consent and unauthorised waste transportation.

Result: Defendant found guilty and fined \$3,000 plus ordered to pay Council's legal costs \$2,500. Whilst no payment plan has been agreed to by the Court, the fine amount is within range to permit fine to be paid off over 12 months should application be made to the Ballina Local Court.

Total fines payable to Council - \$35,550

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

Council is also pursuing two other legal matters involving the non payment of quarry section 94 contributions to Council. These matters are currently with Council's solicitors for review prior to the commencement of any proceedings to recoup these funds.

Further, as Council would be aware, action is underway to enter onto private land to undertake Clean Up Action for a waste dumping matter that was reported to Council's May 2014 meeting.

Legal Notices

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

This current financial year, the Compliance Unit has:

- Issued 39 formal Notices for identified breaches and non-compliances
- Finalised 51 formal Notices, where the matter has been resolved to Council's satisfaction and
- 35 Outstanding Notices that require follow up and may result in formal Court proceedings.

Liquor Licensing Matters

In addition to the above matters, the Compliance Unit also accept, assess and make submissions to the Office of Liquor, Gaming and Racing on liquor licence applications lodged within the Ballina Shire in line with Council's adopted *Liquor Licence Application Policy*.

During the current financial year, the Compliance Unit has dealt with 36 liquor licence applications.

Sustainability Considerations

- **Environment**
Compliance with issued development consents enhances the protection of the built and natural environments.
- **Social**
Not applicable

8.4 Compliance Work Plan 2013/14 - Finalisation

- **Economic**
Compliance with development conditions results in a more level playing field for business operators.

Legal / Resource / Financial Implications

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

Consultation

This report has been provided for public information.

Options

This report has been prepared as a final update on the 2013/14 Compliance Work Plan therefore the recommendation is to note the contents of the report.

RECOMMENDATION

That Council notes the contents of this report on the outcomes from the Compliance Work Plan for the 2013/14 financial year.

Attachment(s)

Nil

8.5 Compliance Work Plan 2014/15 - Proposed Program

8.5 Compliance Work Plan 2014/15 - Proposed Program

Delivery Program Development Services

Objective To seek Council endorsement of the proposed Compliance Work Plan for 2014/15.

Background

Following on from the previous report in this agenda, this report identifies the major areas where it is recommended that Council apply its compliance resources for 2014/15.

Key Issues

- Proposed areas for investigation and review

Information

To provide Council with a forecast of how Council resources will be directed over the coming 2014/2015 financial year, a Compliance Work Plan has been developed. Whilst additional land use complaints will inevitably be received over the coming financial year, all complaints will be prioritised and actioned as appropriate, however it is intended that priority will be given to the items contained within the Compliance Work Plan.

The Compliance Work Plan has nominated the following areas as the priorities for the forthcoming financial year as they are considered the areas of highest risk or potentially lowest levels of compliance.

Programs:

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

It is intended to continue this program to complete the audit of all 2006, 2007, 2008 and 2009 Major Development consents and commence the audit of all 2010 Major Development consents.

2. Audit of Identified Development Consents (Ongoing Program)

It is intended to continue this program and complete the audit of the 2006, 2007, 2008 and 2009 Identified Development Consents and commence the audit of the 2010 Identified Development Consents.

3. Review of all Development Consent approvals issued within the Russellton Industrial Estate.

This is a carry over program from the 2013/2014 Compliance Work Plan and will follow the work undertaken within the Southern Cross Industrial Estate which has been completed. It is intended to:

- identify, record and map all industrial sites and land uses within the area of Russellton Industrial Estate

8.5 Compliance Work Plan 2014/15 - Proposed Program

- review of all industrial sites for current development consents to undertake business activities
- inspection of industrial sites for compliance with the issued Development Consent or other approval
- enforcement action as required for any identified areas of non-compliance with the issued development consent or other approvals
- identify the distribution of land-uses by type within the estate for Strategic Planning purposes.

5. *Review of Arterial Road Signage*

This is a carry over program from the Compliance Work Plan for 2013/2014. It is proposed that Council match the current data that identifies signage along the main roads of the Shire with the Council's approval records, identify unapproved signage and determine what, if any, action should be taken in each case, and follow through unapproved signage with a view to bringing arterial road signs into a consistent compliance framework.

Sustainability Considerations

- **Environment**
Compliance with issued development consents enhances the protection of the built and natural environments.
- **Social**
Not applicable
- **Economic**
Not applicable

Legal / Resource / Financial Implications

This program is based on utilising existing resources.

Consultation

This report has been provided for public information.

Options

The options are to support the proposed work plan or amend it to other areas where Council believes there may be a higher priority. The recommendation is to endorse the plan.

RECOMMENDATION

That Council endorses the proposed annual Compliance Work Plan for 2014/15 as detailed within this report.

Attachment(s)

Nil

8.6 Development Applications - Works in Progress - June 2014

8.6 Development Applications - Works in Progress - June 2014

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

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

DA No.	Date Rec'd	Applicant	Proposal	Status
2011/515	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	Being Assessed
2012/291	23/07/2012	Newton Denny Chapelle	To undertake a staged 47 Lot Community Title residential subdivision with lots ranging in size from 303m ² to 773m ² , associated road, earth and infrastructure servicing works, creation of a public road and one 6.4 hectare Torrens Title residue lot - 565-589 River Street, West Ballina	Being Assessed
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	Being Assessed

8.6 Development Applications - Works in Progress - June 2014

DA No.	Date Rec'd	Applicant	Proposal	Status
			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	
2014/19	24/01/2014	Visionstream Pty Ltd	To erect a telecommunication (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 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	Referred to Government Departments

8.6 Development Applications - Works in Progress - June 2014

DA No.	Date Rec'd	Applicant	Proposal	Status
			approval for nine residential lots and one public reserve lot - 78 Hutley Drive & Henderson Lane, Lennox Head	
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	Application placed on hold by applicant
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
2014/199	06/05/2014	GJ Barr	Strata Title Subdivision of an Existing Residential Flat Building - 30 Sunrise Crescent, Lennox Head	Being Assessed
2014/218	14/05/2014	Newton Denny Chapelle	Proposed Four Lot Residential Subdivision and Associated Works including Demolition of Existing Dwelling House, Civil Works and	Being Assessed

8.6 Development Applications - Works in Progress - June 2014

DA No.	Date Rec'd	Applicant	Proposal	Status
			Vegetation Removal - 170 North Creek Road, Lennox Head	
2014/219	15/05/2014	Newton Denny Chapelle	Alterations and Additions to Wigmore Arcase and Landscape and Civil Works in and around Winton Lane and the Tamar Street Public Car Park - 80-84 Tamar St & 135-155 River St, Ballina	Awaiting Additional Information
2014/226	20/05/2014	Ballina Shire Council	Alterations and additions to the Ballina Public Library - 6-8 River Street, Ballina	Being Assessed
2014/229	21/05/2014	Tony Hart	Subdivision by way of minor boundary adjustment to create 1 x 41ha and 1 x 50.7ha allotments and the erection of a dwelling house on each proposed allotment - Friday Hut Road & Jorgensens Lane, Brooklet	Referred to Government Departments
2014/239	26/05/2014	D Fryer	Erection of Self Storage Units - 33 Smith Drive, West Ballina	Awaiting Additional Information
2014/244	28/05/2014	Caroline Klose	Vegetation management works comprising the removal of one tree - 1 Sunway Place, Ballina	Being Assessed
2014/246	29/05/2014	G Denning	Vegetation management	Being Assessed

8.6 Development Applications - Works in Progress - June 2014

DA No.	Date Rec'd	Applicant	Proposal	Status
			works comprising the removal of trees - 79 Fosters Lane, Rous Mill	
2014/254	03/06/2014	Ballina Shire Council	Alterations and Additions to the Alstonville Community Centre - 42-46 Commercial Road, Alstonville	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
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

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 June 2014.

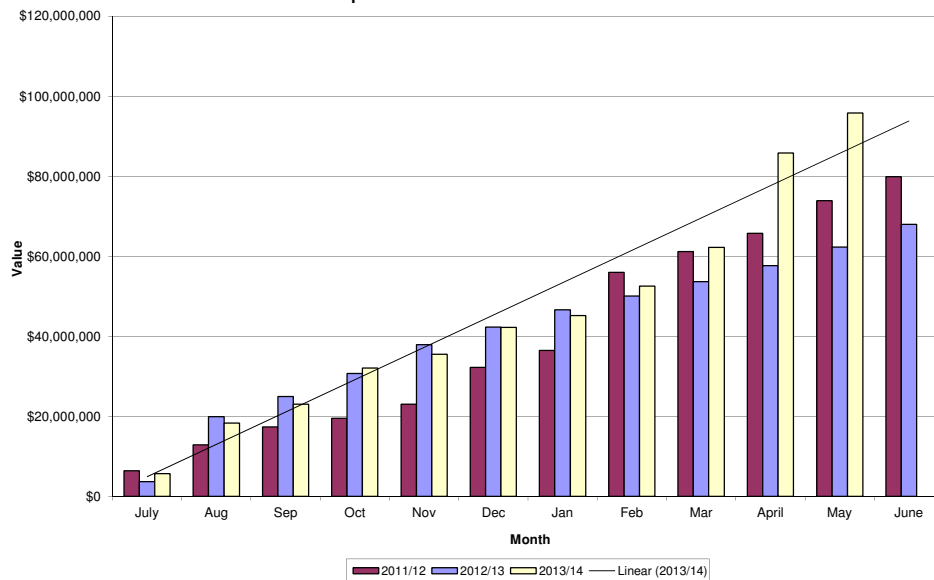
8.7 Development Consent Statistics - May 2014

8.7 Development Consent Statistics - May 2014

During the period of 1 May 2014 to 31 May 2014 the Development and Environmental Health Group issued Development Consent comprising of:

Number of Applications	Value of Work
40 Other Building Related	\$ 1,848,000
25 Dwelling/Duplexes/Residential Flat Buildings	\$ 8,115,000
4 General Developments	\$ 0
Total Value	\$ 9,963,000

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 May 2014 to 31 May 2014.

Attachment(s)

Nil

9.1 Department of Planning and Environment - E Zone Review

9. Strategic and Community Facilities Group Reports

9.1 Department of Planning and Environment - E Zone Review

Delivery Program Strategic Planning

Objective To provide an overview of the outcomes of the State Government's review of environmental protection zones within local planning instruments on the Far North Coast and to seek direction from the Council with respect to lodgement of a submission on the matter with the NSW Department of Planning and Environment.

Background

The Council resolved to endorse the draft Standard Instrument Local Environmental Plan for Ballina Shire and forward it to the Department of Planning and Environment for implementation in December 2011. In September 2012, prior to the Department finalising Council's LEP, the (then) Minister for Planning used his authority to initiate a review of environmental protection zones as applied by five councils on the Far North Coast.

The Department of Planning and Environment engaged consultants Parsons Brinkerhoff to undertake the 'E' zone review on its behalf in late 2012. The review was originally scheduled to be completed in around March 2013.

Parsons Brinkerhoff provided its report to the Department in September 2013. In May this year, the Department released the report, known as the "Northern Councils E Zone Interim Report", for exhibition over a three week period concluding on 5 June 2014. The exhibition material also included an interim response document, prepared by the Department, addressing the recommendations made by Parsons Brinkerhoff.

Council staff notified our intention to provide a submission to the Department and requested an extension of time to enable the submission to be reported for the Council's consideration via the Ordinary Meeting cycle. The Department agreed to accept a submission from Council by the end of June on the basis that a draft submission would be provided in advance of Council's consideration of the matter at this meeting.

The draft submission that has been provided to the Department is contained in Attachment One. Although the submission has been forwarded to the Department, it remains open to the Council to amend the content in finalizing its response to the E zone review.

Notably, on 11 June, Councillors also received a briefing from the Department of Planning and Environment and Parsons Brinkerhoff representatives in relation to the reporting.

A review of the exhibition documentation, as well as information provided at the Councillor briefing forms the basis of the draft submission contained in Attachment One.

9.1 Department of Planning and Environment - E Zone Review

The purpose of this report is to seek the Council's direction regarding the content and lodgment of a submission with the Department in relation to the information exhibited with respect to the E zone review.

Key Issues

- Recognition of environmental attributes in Ballina Shire within the Ballina Local Environmental Plan
- Content and recommendations of the E zone review reporting
- Accurate representation of Council's Standard Instrument Local Environmental Plan program

Information

As identified in the draft submission contained in Attachment One, staff have identified a number of areas of concern with the content of the E zone reporting and the interim recommendations made by Parsons Brinkerhoff and the Department of Planning and Environment.

In summary, the recommendations made by Parsons Brinkerhoff in association with the Department's response change the way that environmental protection zoning can be applied. In particular, the approach advocated suggests that Council will not be able to identify key environmental attributes in the shire (including coastal land, scenic amenity areas, drinking water catchments and urban buffers) by way of land use zoning. This is counter to the historic planning framework in Ballina Shire and the outcomes of the LEP renewal program which were founded in extensive community engagement and open and transparent process.

The E zone review was initiated by the Minister out of concern for implications of E zones on agricultural production. Notably, there is no clear evidence provided in the exhibited reporting that shows how agricultural production has been adversely impacted by the historic or proposed application of environmental protection zones in Ballina Shire. Conversely, the reporting is limited in its recognition of the range of environmental values considered to be important to the community of Ballina Shire.

The key issues of concern are identified and outlined in greater detail in the draft submission.

Sustainability Considerations

- **Environment**
Council has sought to apply the Standard Instrument Local Environmental Plan with legitimate regard for environmental, social and economic considerations. The draft submission seeks to reflect the Council's approach to the preparation of the LEP.
- **Social**
As above.
- **Economic**
As above.

Legal / Resource / Financial Implications

No significant legal, resource or financial implications have been identified in relation to the making of a submission on the E zone review.

However, Council will likely be required to complete its Standard Instrument LEP once the E zone review is completed and the Minister has determined a future course of action. This will potentially have significant resource implications in terms of time and financial cost. The draft submission seeks State funding to complete the E zone process.

Consultation

The Department of Planning and Environment is seeking submissions on the Parsons Brinkerhoff report.

Options

The Council may make a submission to the Department of Planning and Environment, or alternatively, may elect not to do so.

Given the nature of the issues identified in the draft submission contained in Attachment One, it is recommended that the Council make a submission to the Department. In resolving to make a submission, it is open to the Council to amend the draft submission contained in Attachment One or make a different submission.

RECOMMENDATIONS

1. That Council endorses the submission relating to the review of environmental zones on the Far North Coast contained in Attachment One for lodgment with the Department of Planning and Environment.
2. That a copy of the Council's endorsed submission be forwarded to the State Member for Ballina and Local Government NSW for their information.

Attachment(s)

1. Ballina Shire Council - Submission to Department of Planning and Environment - E Zone Review

9.2 LEP Amendment Requests and Planning Proposals - Update

9.2 LEP Amendment Requests and Planning Proposals - Update

Delivery Program Strategic Planning

Objective To advise the Council of the status of the LEP amendment requests and planning proposals that are currently being processed.

Background

It is important that the Council remains informed in respect to requests to amend the Ballina Local Environmental Plan (LEP) and planning proposals that are currently under assessment. This report provides an update on those matters for the information of Councillors and the community.

Key Issues

- Status of the various rezoning LEP amendment requests.

Information

Table 1 provides an overview of the LEP amendment requests and planning proposals currently being considered and processed by Council.

With respect to terminology used in this report, the term planning proposal refers to the documentation prepared to describe a request to amend the Ballina Local Environmental Plan.

Requests are typically referred to as planning proposals once Council has prepared the required planning proposal documentation and the amendment request has been endorsed as a matter that may progress to public exhibition through the NSW State Government's Gateway determination process.

Table 1: Status of LEP amendment requests and planning proposals

Item	Name and Status	Summary and Notes	Completion Due
Amdt 090	Stewart Farm. Complete	Proposal for the rezoning of land immediately south of the existing Headlands Estate at Skennars Head for urban purposes. The rezoning includes 35 ha of residential zoned land and a small neighbourhood scale commercial centre. The Northern Region Joint Regional Planning Panel (JRPP), at its meeting held on 3 October 2013, recommended that this matter be finalised. The land was rezoned under Amendment No8 to the Ballina LEP 2012 on 11 April 2014.	Complete

9.2 LEP Amendment Requests and Planning Proposals - Update

Item	Name and Status	Summary and Notes	Completion Due
Amdt 105	Cumalum Precinct A. Complete	<p>Proposal for the rezoning of Cumalum Precinct A (northward of the existing Ballina Heights Estate) for urban purposes. Also includes open space and environmental protection outcomes.</p> <p>The Council resolved to proceed to finalise the planning proposal subject to the proponents agreeing to allow a suitable period of time for Council's s94 plans and DCP to be updated to reflect the expected infrastructure and design outcomes for the area.</p> <p>The land was rezoned under Amendment No.9 to the Ballina LEP 2012 on 23 May 2014.</p>	Complete
Amdt 105	Cumalum Precinct B. Complete	<p>Proposal for the rezoning of Cumalum Precinct B (southward of Ross Lane) for urban purposes. Proposal includes a village centre (commercial area), open space and environmental protection outcomes in addition to a substantial residential area.</p> <p>The Council resolved to proceed to request finalisation of this amendment by the Department of Planning and Environment (DP&E) once the voluntary planning agreement applicable to the proposal was registered to the titles of the relevant land parcels.</p> <p>The land was rezoned under Amendment No.9 to the Ballina LEP 2012 on 23 May 2014.</p>	Complete
12/006	Special Events (Exempt Development) (Stage 4)	<p>Proposal for the inclusion of provisions in the LEP to enable special events to be carried out as exempt development in certain circumstances (i.e. no development consent required).</p> <p>Council has prepared material to address concerns raised by the NSW Rural Fire Service in relation to bushfire management and the RFS has now agreed that the matter may proceed to public exhibition.</p> <p>Exhibition documentation is being compiled.</p>	22/09/2014
13/003	Tara Downs, Lennox Head. Complete	<p>Proposal for the application of a residential zone over two allotments in Tara Downs Estate. Proposal also seeks to enable subdivision of the subject land parcels.</p> <p>The land was rezoned under Amendment No.11 to the Ballina LEP 2012 on 30 May 2014.</p>	Complete

9.2 LEP Amendment Requests and Planning Proposals - Update

Item	Name and Status	Summary and Notes	Completion Due
13/004	Crane Street (Fire Brigade property), Ballina. Complete	Proposal for the application of a commercial zone to a thin strip of land within the Ballina Fire Brigade property to rectify a zoning anomaly. The land was rezoned under Amendment No.7 to the Ballina LEP 2012 on 7 March 2014.	Complete
13/005	Southern Cross Industrial Estate Expansion, Ballina. (Stage 4)	Proposal for the rezoning of land northward of the existing Southern Cross Industrial Estate to enable a mixture of business and industrial land uses. The proponent (Council) is currently preparing technical material for assessment. Council has sought an extension to the timeframe for completion of the amendment from the DP&E.	30/07/2014
13/006	Mt Moriah Subdivision, Plateau Drive, Wollongbar. Complete	Proposal for the rezoning of land to apply a low density residential zone to match the intended housing outcomes associated with an approved subdivision. The land was rezoned under Amendment No.10 to the Ballina LEP 2012 on 11 April 2014.	Complete
13/007	Bagotville Quarry – Land Reclassification. (Stage 7)	Proposal to reclassify the Council-owned Bagotville quarry as operational land for the purpose of the Local Government Act. Council has requested that the DP&E proceed to finalise the amendment.	13/06/2014
13/008	Reclassification – Council Owned Waterways. (Stage 7)	Proposal to reclassify the Banyanda Lake and Ballina Quays Canals as operational land for the purpose of the Local Government Act. Council has requested that the DP&E proceed to finalise the amendment.	13/06/2014
13/009	General Amendments 1. (Stage 7)	Amendment to reinforce Council's intent in relation to DCP and exempt development provisions, correct a minor mapping error and update flood mapping. Council has resolved to proceed to finalise the amendment under delegation, directly with Parliamentary Counsel.	08/08/2014
13/010	Building Height Allowance Provision. Complete	Amendment to reinforce Council's intent in relation to the application of building height standards. Revised building height allowance provisions implemented under Amendment No.13 to the Ballina LEP 2012 on 23 May 2014.	Complete
13/011	Ballina Heights Stage 7a. (Stage 7)	Proposal for the rezoning of land to apply a low density residential zone to match the intended housing outcomes associated with an approved subdivision. Council has resolved to proceed to finalise the amendment under delegation, directly with Parliamentary Counsel.	19/09/2014

9.2 LEP Amendment Requests and Planning Proposals - Update

Item	Name and Status	Summary and Notes	Completion Due
14/001	Teven Road, West Ballina. (Stage 4)	Proposal to enable the establishment of freight transport facilities adjacent to Teven Road on the western side of the Ballina Bypass. Gateway determination allowing LEP amendment to proceed to detailed technical assessment and exhibition received. Council is now awaiting submission of technical assessment material by the proponent.	05/02/2015
14/002	Reservoir Hill Site, Lennox Head. (Stage 4)	Proposal for the rezoning of land to apply a residential zone to the land known as the Reservoir Hill site in Lennox Head. Gateway determination allowing LEP amendment to proceed to detailed technical assessment and exhibition received. Council is preparing to engage a third party to assist in the review and processing of the LEP amendment.	21/04/2015
14/003	Aspects Estate Dual Occupancy Lots, Lennox Head. (Stage 6)	Proposal for the rezoning of two lots of land to R3 Medium Density to enable dual occupancy development, to be consistent with the approved subdivision plan for the Aspects Estate. This matter is the subject of a separate report elsewhere in this business agenda.	14/10/2014
14/004	Tara Downs (No 16), Lennox Head. (Stage 4)	Proposal for the rezoning of land immediately east of the existing Tara Downs Estate for residential purposes. Gateway determination allowing LEP amendment to proceed to detailed technical assessment and exhibition received. Council is now awaiting submission of technical assessment material by the proponent.	20/02/2015
#	Blue Seas Parade (No 44-52), Lennox Head. (Stage 2)	Proposal for the rezoning of land at the eastern end of Blue Seas Parade for residential purposes. The Council has recently resolved to prepare a planning proposal for the rezoning. The proposal is in preparation.	#
#	Wollongbar Open Space. (Stage 2)	Proposal to change the distribution of open space and residential land use zones over Council-owned land in the Wollongbar Urban Expansion Area. This matter is the subject of a separate report elsewhere in this business agenda.	#
#	Bletchingly Street, Wollongbar. (Stage 2)	Proposal for the rezoning of land to apply a medium density residential zone to an existing low density zoned area at the eastern end of Bletchingly Street in Wollongbar. Additional information has been requested from the proponent.	#

9.2 LEP Amendment Requests and Planning Proposals - Update

Item	Name and Status	Summary and Notes	Completion Due
#	Burns Point Ferry Road, West Ballina (Ballina Waterways). (Stage 2)	Proposal for the rezoning of land adjacent to Burns Point Ferry Road and River Street to enable a mixture of employment and residential land uses. The proposal includes implementation of a biobanking scheme over part of the land. The Council resolved to progress the assessment of this proposal in January 2014. Council is reviewing additional information regarding biobanking, site ecology and environmental zone application with respect to preparation of a planning proposal.	#
#	Camden Lane, Ballina. (Stage 2)	Proposal to amend the LEP to extend the application of the R2 Low Density Residential zone over areas currently zoned W1 Natural Waterways. Councillor briefing held in April 2014. This matter is the subject of a separate report elsewhere in this business agenda.	#
#	Reclassification – Compton Drive, Ballina. (Stage 2).	Proposal to reclassify land opposite Shaws Bay on Compton Drive as operational land for the purpose of the Local Government Act. Pending action. Intent is to combine with another reclassification for resource efficiency, given the requirement for a public hearing as part of reclassification matters.	#
#	Ballina Heights General Amendments. (Stage 1)	Proposal to adjust the mix of R2 Low Density and R3 Medium Density residential zoning over undeveloped (but urban zoned) land at Ballina Heights. Background information is being compiled and liaison with the landholder is ongoing.	#

9.2 LEP Amendment Requests and Planning Proposals - Update

Item	Name and Status	Summary and Notes	Completion Due
LEP Amendment Request/Planning Proposal Processing Stages			
<ol style="list-style-type: none">1. Initial Concept - Proponent submits initial amendment concept for review and reporting to the Council.2. Planning Proposal - Preparation of a planning proposal for Council's consideration (if the initial concept is supported by the Council).3. Gateway Determination - DP&E determination as to whether the planning proposal may proceed (if the Council resolves to submit the planning proposal for determination).4. Study Preparation - Relevant technical information to enable complete assessment compiled and considered. This step may also involve pre-exhibition public authority consultation.5. Community Consultation - Planning proposal and associated technical assessment material exhibited for public comment.5a. Public Hearing - Public Hearing held, where required.6. Submissions Assessment and Council Decision - Reporting of community consultation outcomes and Council decision regarding finalisation of the planning proposal.7. Finalisation - DP&I finalisation (or Council finalisation under delegation) of the LEP amendment based on the planning proposal. Note: the Minister for Planning and Environment may finalise, alter or terminate the amendment.			
<p># Denotes proposal number and due date subject to Gateway determination.</p> <p>The completion due date is a date for completion determined by the Department of Planning and Environment.</p>			

Sustainability Considerations

- **Environment**
Environmental, social and economic considerations form part of the assessment of all planning proposals and LEP amendments.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

The work program is being undertaken within existing resources or on a fee for service basis for specific proposals.

Consultation

This report is provided for the information of the community.

Options

For noting only.

RECOMMENDATION

That Council notes the contents of this report concerning the status and approach regarding the current Local Environmental Plan amendment requests and planning proposals that are being processed.

Attachment(s)

Nil

9.3 LEP Amendment Request - North Creek Foreshore, Ballina

9.3 LEP Amendment Request - North Creek Foreshore, Ballina

Delivery Program Strategic Planning

Objective To seek direction from the Council concerning the progress of a proposed LEP amendment involving land on the foreshore of North Creek adjacent to Camden Street, Camden Lane and Skinner Street, Ballina.

Background

At its Ordinary Meeting held on 27 March 2014, the Council considered a report in relation to a request to amend the *Ballina Local Environmental Plan 2012* (BLEP 2012) as it applies to land on the foreshore of North Creek adjacent to Camden Street, Camden Lane and Skinner Street, Ballina. The subject land is shown on the locality map contained in Attachment One.

In considering the matter, the Council resolved (Minute No. 270314/15) to “*defer this matter until after a Councillor briefing is held on coastal protection measures in North Creek*”.

A briefing was held with Councillors on 6 May 2014 where the various issues relating to the proposal were discussed, as well as options available to address the proposal. The proponents were also given the opportunity to address Councillors present at the briefing.

The purpose of this report is to provide the Council with details of the various options available in relation to the proposed LEP amendment.

Key Issues

- Application of appropriate land use zones to the subject sites.
- Enabling permissibility of coastal protection works.
- Preserving the public amenity of the North Creek foreshore.

Information

Several of the options open to the Council in responding to the request from the owners of the subject lots were detailed in the report considered at the 27 March 2014 Ordinary Meeting. These options were further discussed at the Councillor briefing held on 6 May 2014.

In the report submitted to the March 2014 Ordinary Meeting, staff recommended the preparation of a planning proposal to adjust the current R2 Low Density Residential and W1 Natural Waterway zone boundary on the subject lots. The adjusted boundary would move the R2 zone towards the North Creek water body to approximately the top of the bank of North Creek (as existing).

Under this approach, the waterway and intertidal zone would remain in the W1 zone while the dry land areas comprising the yard areas of the subject lots

would be zoned R2. This would have the effect of enabling coastal protection works to provide an engineered structure to protect the existing land within the properties, as desired by the landowners. There is a concern, however, that the application of the R2 zone would also enable other, and perhaps more intensive, forms of residential and ancillary development which is considered undesirable in this prominent foreshore location.

Having regard for the above, an alternative approach to the use of the R2 zone has been further examined. The alternative involves an enabling clause in the BLEP 2012 which would allow development on the land for the purpose of coastal protection works while retaining the existing zoning configuration. This would mean that the existing land use controls contained in the BLEP 2012 applicable to the subject sites would remain with a new special provision added to Schedule 1 of the BLEP 2012 enabling coastal protection works on the land.

It is a requirement that any development proposal must be considered with regard to the objectives of the applicable land use zone. While the alternative above would provide for coastal protection works within the W1 zone on the subject sites, consideration must be given to the compatibility of this development with the objectives of the W1 zone.

The objectives for the W1 zone as contained in the BLEP 2012 are:

- To protect the ecological and scenic values of natural waterways.
- To prevent development that would have an adverse effect on the natural values of waterways in this zone.
- To provide for sustainable fishing industries and recreational fishing.
- To ensure that development maintains and enhances the integrity of aquatic ecosystems and biodiversity.

If coastal protection works are made permissible, with consent, in the W1 zone, it may be difficult to demonstrate or conclude that such development is compatible with the zone objectives. Given this uncertainty, this alternative is not recommended.

Sustainability Considerations

- **Environment**

The submitted LEP amendment proposal seeks to rezone part of the subject land currently zoned W1 Natural Waterway. The proponents have indicated the main reason for this request is to enable the permissibility of coastal protection works on the land.

Any future coastal protection works on the land may result in adverse impacts on what is an environmentally sensitive site. It should be noted that while an LEP amendment might enable coastal protection works, these works will still require development consent under the *Environmental Planning and Assessment Act 1979*. This will require the submission of a development application that addresses the environmental impacts of the proposed works and, if approved, the works would likely be subject to conditions of consent imposed by both Council and other relevant regulatory bodies to mitigate environmental impacts.

- **Social**

Amending the BLEP 2012 to enable coastal protection works on the subject sites has the potential to result in indirect social impacts arising from changes to the existing natural foreshore processes in the vicinity. These works may result in minor impacts to the public amenity of the foreshore area. Such impacts would be the subject of consideration as part of the assessment of a development application for coastal protection works on the land.

- **Economic**

The proposed amendment to the BLEP is not expected to result in any significant economic impacts for the community. Positive economic benefits in the long term can be expected by the owners of the subject properties through the protection of their land from the effects of coastal processes.

Legal / Resource / Financial Implications

Should the Council resolve to endorse the proposal to amend the BLEP 2012 to rezone the subject land and/or enable coastal protection works, it will be assessed and considered subject to the adopted fee structure for planning proposals, as specified in Council's adopted Schedule of Fees and Charges.

If the proposed amendment proceeds to the planning proposal stage, it will be accommodated within the work program of the Strategic and Community Facilities Group.

Consultation

No public consultation has been undertaken in relation to the proposed amendment. As stated above, the proponents were given the opportunity to address the Council at the Councillor briefing held on 6 May 2014.

If the Council resolves to endorse the draft planning proposal for the LEP amendment, it will be forwarded to the Department of Planning and Environment for Gateway determination. Following a favourable Gateway determination, the planning proposal will be subsequently publicly exhibited in accordance with the requirements specified in the Gateway determination.

Options

1. Decline to support the LEP amendment.

The Council has the option to decline the request to amend the LEP as it applies to the subject land. This would mean the existing zone provisions would remain and coastal protection works would remain prohibited development in the W1 zoned area of the subject land.

It is considered reasonable in the circumstances to take steps to enable the permissibility of coastal protection works on the subject land. For this reason, this option is not recommended.

2. Endorse the LEP amendment as requested.

The Council has the option to consider the application of the R2 Low Density Residential zone to the entire area of the subject land as proposed

in the LEP amendment request. While this would enable coastal protection works on the subject land, it would also enable other development permissible in the R2 zone on the entirety of the sites, including the area currently comprising the bed of North Creek.

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

3. Endorse a planning proposal to adjust the R2/W1 zone boundary.

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

The current R2/W1 zone boundary can be adjusted to follow either the current North Creek shoreline or a more defined and fixed zone boundary landward of the shoreline. It is considered desirable in this case to place the boundary slightly to the landward side of the current beach profile aligned with the top of the bank of North Creek. This will provide a balance between protection of private property and maintaining public amenity.

This option also provides for a zone line generally consistent with the character of the North Creek shoreline to the north and south of the subject sites and consistent with the historic accretion of land enjoyed by the properties. This is the recommended approach, consistent with the reporting to the Council's March 2014 Ordinary Meeting. As such, this approach is detailed further in the draft planning proposal document contained in Attachment Two. Additional background to this option is also provided within the planning proposal.

This scenario would see the beach area and creek bed retained within the W1 zone while applying the R2 zone to the majority of the dry land within the subject lots. This would also allow the landowners to seek development consent for coastal protection works that are set back from the beach profile and within the R2 zone.

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

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

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

In addition, a further minor adjustment to round off the zoning boundary would be incorporated at the southern end of the proposal area within the extension of the Camden Street road reserve.

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

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

Progression of a planning proposal providing for the realignment of the R2/W1 zone boundary as outlined above is the recommended approach.

4. Endorse the alternative proposal to provide an enabling clause.

Council has the option to amend the BLEP 2012 to include special provisions that enable coastal protection works on the subject land while retaining the existing zone configuration. This option would require the addition of a clause to Schedule 1 of the BLEP which provides for additional permitted uses. While this is not the recommended option, it is an alternative option for Council to consider where it wishes to enable coastal protection works without altering the current zoning configuration of the land.

As detailed above, this alternative raises potential issues with providing for development that is permissible but may be interpreted as being incompatible and/or inconsistent with the objectives of the zone.

Whilst not favoured from staff's perspective, if the Council prefers this approach, it is suggested that it resolve as follows:

1. That the Council submit a planning proposal to amend Schedule 1 of the *Ballina Local Environmental Plan 2012* and insert 'coastal protection works' as an additional permitted use (with consent) for Lot 10 DP 1126929, Lot 1 DP 1119099, Lot 3 DP 1079380 and Lot 33 DP 872966 (Camden Street, Camden Lane and Skinner Street, Ballina) to the Department of Planning and Environment for review and Gateway determination.
2. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal, including public exhibition, be undertaken.
3. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.

Where the Council proceeds to submit a planning proposal for Gateway determination, it has the option of requesting delegation of certain plan

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making functions from the Department of Planning and Environment. Under these delegations, Council would perform some of the plan making functions that are otherwise completed by the Department. In this case, it is likely the Department will grant Council delegation of these functions.

There are occasions where the application of the delegations is of benefit to Council. However, typically the exercise of the delegation shifts tasks to Council, shifts risk in the plan making process to Council and removes a Departmental review point (which historically has been beneficial in the LEP amendment process).

In this instance it is suggested that Council receive the delegation but with a view to determining whether to exercise the delegation post exhibition of the planning proposal (the delegated functions are only applicable to tasks that form part of the finalisation of an amendment, so Council is able to wait until the end of the process when deciding on use of the delegation).

RECOMMENDATIONS

1. That the Council submit a planning proposal (as contained in Attachment Two) for the adjustment of the R2 Low Density zone and W1 Natural Waterway zone under the provisions of the *Ballina Local Environmental Plan 2012* for Lot 10 DP 1126929, Lot 1 DP 1119099, Lot 3 DP 1079380 and Lot 33 DP 872966 (Camden Street, Camden Lane and Skinner Street, Ballina) to the Department of Planning and Environment for review and Gateway determination.
2. The adjusted zone boundary referred to under (1) is to approximate the top of the current bank of North Creek that traverses the subject sites as detailed in the planning proposal contained in Attachment Two.
3. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal, including public exhibition, be undertaken.
4. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.

Attachment(s)

1. Locality Map
2. Planning Proposal - North Creek Foreshore Ballina (Gateway)

9.4 LEP Amendment Request - Rifle Range Road and Plateau Drive

9.4 LEP Amendment Request - Rifle Range Road and Plateau Drive

Delivery Program Strategic Planning

Objective To invite the Council to consider progressing a planning proposal to realign the zone boundaries of the RE1 Public Recreation Zone and R3 Medium Density Residential Zone in relation to Lots 5 and 6 DP 1161720, Rifle Range Road Wollongbar.

Background

Council's Commercial Services Committee initially considered options for the development of Lots 5 and 6 DP 1161720 (Lots 5 and 6) at its meeting held on 26 March 2013. At that meeting the Committee recommended that a planning proposal be initiated to adjust the configuration of residential and open space zoned land on these lots through a rezoning.

The above recommendation was adopted by the Council at its Ordinary Meeting held on 28 March 2013 (Minute No. 280313/33).

Council's Commercial Services Committee again considered issues relating to the Master Plan for Stage 3 of Council's Wollongbar Residential Estate at its meeting held on 9 December 2013. At that time development opportunities for a childcare facility were being considered. The Committee recommended that the submission of a planning proposal be authorised which proposed that an area of land referred to as Option A be zoned R3 – Medium Density for use as a childcare facility.

The plan below is an extract from the plan endorsed by the Commercial Services Committee at its meeting held on 9 December 2013 which shows the location of Option A.



The above recommendation was adopted by the Council at its Ordinary Meeting held on 19 December 2013 (Minute No. 191213/26).

9.4 LEP Amendment Request - Rifle Range Road and Plateau Drive

In response to the above, consultants Newton Denny Chappelle submitted additional information on behalf of Council's Commercial Services Section on 25 March 2014 (Attachment One). Based on this information the Strategic and Community Facilities Group has prepared a planning proposal for Council's consideration (Attachment Two).

The Ballina Local Environmental Plan 2012 (BLEP 2012) applies the following zones to the subject site as indicated in Attachment Three:

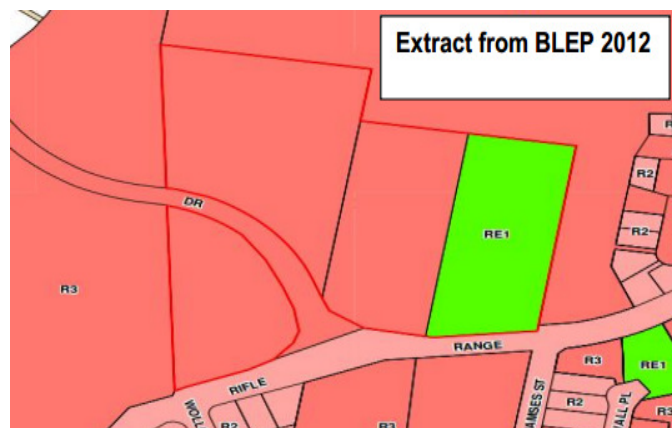
- Lot 5 DP 1161720 - R3 Medium Density Residential zone. Total area of 4.201 hectares.
- Lot 6 DP 1161720 – part R3 Medium Density Residential zone and part RE1 Public Recreation zone. Total area of 3.779 hectares.

This land was originally purchased by Council between 1995 and 1996 for investment purposes. As such it is classified as *operational land* under the provisions of the *Local Government Act 1993*. Council as the land owner agreed to part of the land being zoned for open space purposes on the condition that it would be compensated for any foregone development opportunity.

During the preparation phase of BLEP 2012 a degree of uncertainty existed regarding the extent and configuration of the open space required within Lots 5 and 6 to support the open space requirements of the Wollongbar Urban Expansion Area (WUEA). This was because of Council's purchase of additional land for sporting fields and courts located to the east of Ramses Street and Hellyar Drive, Wollongbar. Council purchased an additional 9.37 hectares of land in October 2011, for the sports field project, bringing its total land holding to 13.85 hectares.

BLEP 2012 provides for 1.81 hectares of RE1 Public Recreation zoned land located within Lot 6. This land has a rectangular shape extending from the extension of Avalon Avenue in the north to Rifle Range Road in the south.

The plan below shows the zones as they currently apply to Lots 5 and 6 and surrounding properties.



The 2008 Ballina Shire Open Space Strategy (BSOSS) envisaged that a 2 hectare district park would be established within the WUEA on the former

9.4 LEP Amendment Request - Rifle Range Road and Plateau Drive

drive-in site. This district park was proposed to be co-located with netball courts (1 hectare) and community buildings (5000m²). The BSOSS also recommended that the applicable provision rate for district parks should be based on 0.5ha per 1000 persons with a minimum area of 1 hectare. On this basis a demand for approximately 1.25ha of land would exist within the WUEA for district park purposes.

The Ballina Shire Contributions Plan 2008 (BSCP 2008) locates the district park primarily upon the former Wollongbar drive-in site – Lot 6 DP 1161720. The district park was proposed to be co-located with a netball court complex containing six netball courts, a club house and associated facilities. In addition to this community facilities, such as meeting rooms and child care facilities, were also proposed to be located on this land.

The BSCP 2008 made provision for 4.5ha of land to be acquired for playing fields and courts of which one hectare was proposed to be located on the former drive-in site (designated for netball courts). The remainder of the drive-in site being designated for community facilities and the district park. The funding strategy contained within the BSCP 2008 was designed to ensure that Council was compensated for the provision of this land.

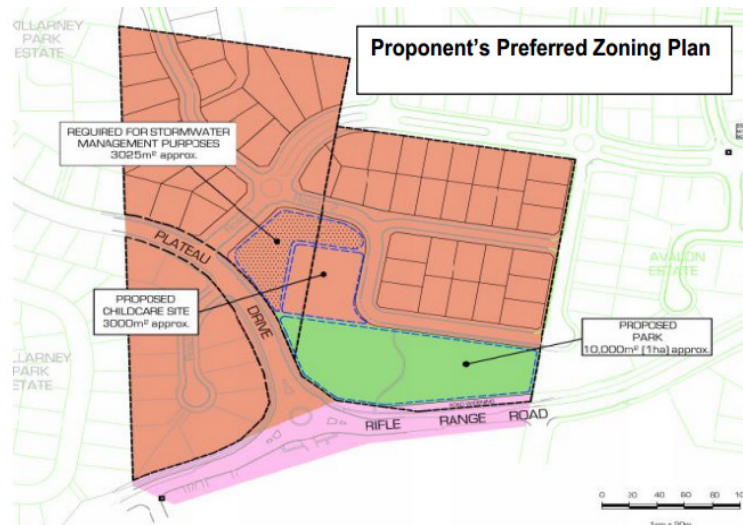
The netball courts have now been relocated to the much larger Wollongbar Sports Field (WSF) site whereas a private child care facility is proposed on part of the former drive-in site, together with a park having an area of approximately one hectare. Play equipment and a small skate park have been nominated as facilities proposed to be integrated into the overall embellishment of this precinct.

Given Council's acquisition of the WSF site the major objective of the proposed LEP amendment is to reconfigure the shape of the RE1 Public Recreation zone upon Lots 5 and 6 and reduce its area from 1.81 hectares to approximately 1 hectare.

Support for the LEP amendment will also result in an area of approximately 3000m² retaining its current R3 zoning and potentially being developed as a child care centre. In addition to this an area of approximately 3025m² is required for stormwater management purposes and it is the proponent's preference that this area also retains its current R3 zoning.

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An extract from the proponent's preferred zoning plan – Option 2, appears below:



Key Issues

- Consistency with strategic planning intent.
- Implications for Ballina Shire Contributions Plan 2008.
- Site compatibility issues related to proposed skate park use.

Information

Council's Commercial Services Section, through its consultants Newton Denny Chapelle, has submitted a rezoning request to reconfigure the boundaries of the RE1 – Public Recreation zone and the R3 – Medium Density Residential zone as they affect Lots 5 and 6.

The request also seeks a change to the zoning applicable to a small section of road widening land contained within Lot 6. This road widening land is proposed to be rezoned R2 – Low Density Residential from RE1 – Public Recreation zoned land. The proposed R2 zone is supported for this land as it would remove what otherwise would be a zoning inconsistency.

The proposed zone boundaries are shown on the plan at Attachment Four and in the above plan extract.

The proponent's submission (Attachment One) contains plans which provide for two options with respect to the zones proposed for Lot 41 on the Subdivision Master Plan. Lot 41 is that land located to the south of the internal link road having frontage to Plateau Drive and Rifle Range Road. Option 1 provides for a RE1 zone over the land required for stormwater management purposes whereas option 2 provides for a R3 zone on this land.

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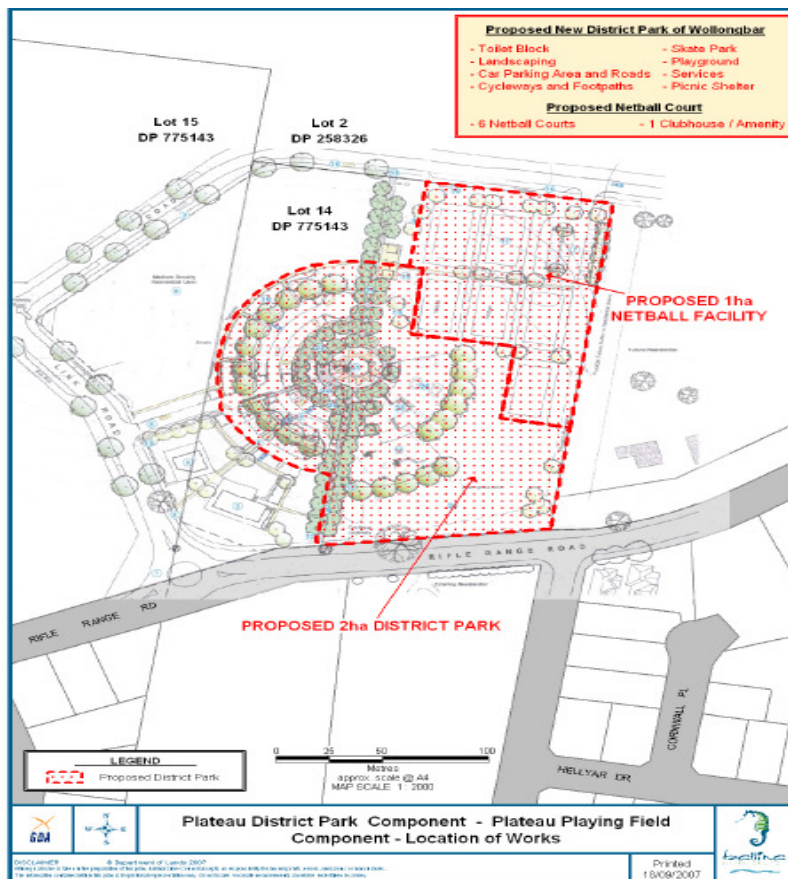
Option 1 is generally consistent with the option endorsed at the Commercial Services Committee meeting on 9 December 2013 with regard to proposed zones. The land required for stormwater management purposes has, however, increased from 2075m² to approximately 3025m² due to engineering approval requirements related to the 15 lot subdivision located on the western side of Plateau Drive.

Option 2, which proposes an R3 zone over the land required for stormwater management purposes, has been developed by the proponent as it provides increased flexibility. Given that the exact boundaries, between the child care centre site and the stormwater management land, have not yet been determined a zoning arrangement which provides increased flexibility is considered to have merit.

The public recreation land proposed in option 2 has a generally rectangular shape and is located at the intersection of Plateau Drive and Rifle Range Road. It has a maximum depth of approximately 70 metres and width of approximately 200 metres. The proponent has indicated that it could accommodate facilities such as playground equipment and a small skate park.

History relating to skate park facility within the Wollongbar Urban Expansion Area

The BSCP 2008 nominated a skate park for inclusion with facilities proposed to be located within a 3.8 hectare community and district park precinct proposed for the former drive-in site. No specific location within the district park was nominated. The diagram below is an extract from the BSCP 2008:



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More recently Council, at its Ordinary Meeting held on 27 March 2014 considered a report which examined locations for a skate park at Alstonville. A number of potential sites were considered and Council resolved [Minute No. 270314/8] as follows:

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

It should be noted that this planning proposal may be progressed without considering further issues related to a proposed skate park facility within the reconfigured and reduced proposed public recreation land. This report, however, addresses site constraint issues associated with the proposed skate park site so that consideration may be given to some of the options available to mitigate potential impacts.

The size and shape of the proposed public recreation land within the former drive-in site has changed significantly since 2008 when a skate facility was first proposed. The original proposed public recreation area was approximately 3.8 hectares, subsequently reduced to approximately 2 hectares, and now approximately 1 hectare. This reduction in area, together with a change in site configuration, from north - south to east - west, gives rise to potential for greater impacts on proposed nearby residential lots.

The siting of a skate park within the proposed public recreation area now presents a number of challenges primarily related to the separation distances that would be available between the skate park and future dwellings.

Information contained within *The Skate Facility Guide* issues by Sport and Recreation Victoria suggests that a minimum 100 metre (desirably 200 metres) separation distance between a skate facility and a dwelling be provided from a noise reduction viewpoint. The proposed site provides separation distances of approximately half the minimum recommended and therefore noise reduction issues may pose particular challenges.

A recently constructed skate park located within the Bangalow Sports Field site, at Bangalow within Byron Shire, was inspected from the viewpoint of determining whether a similarly sized facility would fit within the available area at Wollongbar. This park was chosen as it is regarded as small by some in the skating community. It was concluded that a facility of a similar size, albeit modified design, would fit within the proposed Wollongbar site.

The Bangalow skate park is located approximately 150 metres from the nearest dwelling houses. Noise from this facility, generated by one skater, was clearly audible at a distance of approximately 120 metres. This observation heightened noise and amenity related concerns for the proposed Wollongbar site given separation distances are anticipated to be approximately a third of that provided at Bangalow.

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An additional challenge to the siting of a skate park relates to the potential requirements associated with noise barriers. Noise barriers have been required to be constructed along Rifle Range Road, to the east and west of proposed lot 41, and a section of Plateau Drive to protect proposed dwellings from road noise. An acoustic assessment will likely be required to determine whether such barriers would be required within the proposed public recreation area as part of this development site. If required they may conflict with the requirement for passive surveillance of the skate park.

The proponent's submission indicates that a detailed site layout for lot 41 will be developed through an integrated landscape plan. Such plan would then nominate the skate park location.

A subsequent submission by the proponent's consultant indicates that they have a number of significant concerns relating to the size of the skate park proposed for the proposed public recreation area. The concerns nominated are as follows:

- *Given the location of the open space area at the eastern end of Plateau Drive, the park is intended to be embellished such that it will present an attractive and welcoming "entrance" to the WUEA. It has been our client's intention that the open space area would comprise a substantial local park with a range of passive recreational opportunities suitable for use by a wide cross section of the community.*
- *Whilst a modest skate facility may be able to be incorporated into the future design of the park, a larger skate facility to service the Alstonville Plateau (including both Alstonville and Wollongbar) has the potential to dominate the future use of the park in a manner detrimental to other recreational activities on the site. Furthermore, we note that a larger skate facility will require substantial mounding to achieve suitable bowls and ramps for use, which will further encroach into the available open space area;*
- *Whilst no acoustic assessments have been completed for a future skate facility, there is a likelihood that noise associated with a large facility will impact on future residential allotments in the area. Provision of constructed measures to mitigate such noise will impact on the presentation of the park as well as limiting passive surveillance of the area. (Related to this, we note that given the proposed location of the park, future dwellings will be set back a substantial distance from Rifle Range Road (25m – 40m). Accordingly, it is not expected that noise wall treatments will be required adjacent to Rifle Range Road in this locality. Detailed assessment at DA stage is required to confirm this conclusion); and*
- *Given perceptions within sectors of the community regarding behavioural issues associated with skate facilities, our clients are of the view that a large skate facility in this location has the potential to adversely impact on the capacity to market and sell allotments within the subdivision. Other developers within the WUEA may also share this concern.*

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- *Given the above, it is our client's view that the subject land is not suitable for a skate park suitable to service the communities of Alstonville and Wollongbar. We note, however, that the Wollongbar Sports Fields site is a substantial parcel of land and may provide a more suitable location for the provision of a large skate park facility (subject to detailed investigation and design).*

In terms of what size skate facility is preferred, no design or community consultation process has been undertaken. It is noted, however, that the size of the facility should in some measure relate to the anticipated user population base. In this respect the Alstonville, Wollongbar and Mcleans Ridge census districts within Ballina Shire contained a total of 1,492 persons aged from 5 to 19 years in 2011. This compares with 2,875 persons in the same age group within the Ballina Island, East, West and North Ballina census districts. Lennox Head and Skenners Head had 1,657 persons within this age category in 2011.

Census information related to Bangalow for 2006, available on the Byron Shire Council web site, indicates that there were 303 persons aged between 5 and 18 years living there in 2006.

On the basis of population only, it would appear that a facility at least of the size located at Bangalow would be warranted.

In terms of locating a skate facility within the WSF site this option was examined in the report on skate facility options considered by the Council at its Ordinary Meeting held on 27 March 2014. A preliminary review of this site found that it was isolated with limited surveillance and that available space was also limited due existing planned facilities and site levels. A more detailed investigation of the feasibility of locating a skate facility within this site may however be warranted. Attachment Five contains an extract from the currently undetermined s96 amended plans for the WSF site which shows the location of planned facilities.

Consistency of planning proposal with strategic policy

The proposal is generally consistent with the strategic policy intent of the State Government's Far North Coast Regional Strategy (FNCRS) as well as the Ballina Shire Growth Management Strategy (GMS). A summary of the key policy documents, as they relate to the subject proposal, is contained in Table 1 below.

Table 1: Summary of Key Strategic Planning Policy Requirements

Planning Policy	Summary in relation to Lots 5 and 6 DP 1161720
Far North Coast Regional Strategy (FNCRS)	The proposed zone boundary reconfiguration is generally consistent with the nominated policy responses contained within the Regional Strategy. Specifically, the proposal is consistent with relevant settlement and housing actions as well as neighbourhood design principles.
Ballina Shire Growth Management Strategy (GMS)	The proposal at a zoning level is generally consistent with the Growth Management Principles related to desired identity, character and amenity, avoidance and mitigation of potential for land use conflicts, integration of urban development with key infrastructure facilities, and recognition of diverse land uses in urban areas.

9.4 LEP Amendment Request - Rifle Range Road and Plateau Drive

Planning Policy	Summary in relation to Lots 5 and 6 DP 1161720
2008 Ballina Shire Open Space Strategy (BSOSS)	<p>The proposal satisfies the minimum 1ha district park area recommendation contained within the BSOSS. It does not satisfy the minimum area recommended to be provided for the WUEA based on the recommended provision rate of 0.5ha per 1000 people, which would require approximately 1.25ha of land to be provided.</p> <p>This small shortfall in area is considered to be justifiable on the basis of the land area within the WSF site. It is also justifiable on the basis that an additional area of 3025m² is proposed to be provided for stormwater management purposes given that such facilities are also typically found within district level parks.</p>
Ballina Shire Contribution Plan 2008 (BSCP 2008)	<p>The proposal is inconsistent with the 3ha of land identified to be provided on the former Wollongbar drive - in site for district park (2ha) and netball court (1ha) purposes.</p> <p>The proposal is also inconsistent with the area nominated for acquisition for community facilities (2500m²).</p> <p>The BSCP 2008 is however in need of revision given Council's land purchases associated with the WSF site and the fact that this facility will contain both regional and district level facilities.</p> <p>The WSF site has an area of 13.85ha, well in excess of the 4.5ha nominated for playing fields and courts within the BSCP 2008.</p> <p>The BSCP 2008 is currently under review.</p>

Table 2 provides a summary of the various land acquisition obligations contained within the BSCP 2008 for the Plateau District.

Table 2 - Land acquisition obligations contained within BSCP2008 for Plateau District

Facility	Land Area to be acquired	Comments
Playing Fields - courts	1ha	Designated as an area for courts within the WUEA and part of the total identified demand of 4.5ha for playing fields/courts. Proposed location is on the Wollongbar former drive-in site. Construction of club house and 6 courts also proposed.
Playing Fields	3.5ha	Site not nominated. Construction of 3 playing fields, amenities and club house proposed.
District Park	2ha	Indicated that 1.33ha of the 2ha is to be funded by development contributions. Location nominated was within the Wollongbar former drive-in site. Facilities proposed to be included were skate park, playground, picnic shelter, cycleway and footpath, landscaping and a toilet block.
Community Facilities	2,500m ²	A community centre with hall, containing meeting rooms, child care facilities etc nominated for construction within WUEA. Building proposed to have an area of 250m ² . Location proposed being within a community precinct located on the corner of Plateau Drive and Rifle Range Road predominately within the former drive-in site.

9.4 LEP Amendment Request - Rifle Range Road and Plateau Drive

Council's purchase of the 13.85ha WSF site, and its current development for 3 ovals, 6 tennis courts and four netball courts as well as associated amenities, clubhouse and car parking facilities, creates a need to review the BSCP 2008. Such review is currently underway.

Specific issues which will require consideration within the review of BSCP 2008 as they relate to the WUEA include the following:

- The degree to which the purchase and development of land for the WSF project has negated the need to provide district park facilities elsewhere within Wollongbar.
- The implications arising from the sale or lease of land for a child care centre within part of a site which was previously designated to contain community facilities.

The original strategic planning objective for Lots 5 and 6 was that such lots be utilised to provide land for housing, district park, netball courts and community facilities. These various strategic objectives are still able to be realised within the policy framework established by the BSOS and the BSCP 2008 within the subject site and the broader WUEA should Council support the LEP amendment that is proposed.

Reconsideration of district level open space within Lots 5 and 6

An option also available to Council, in the context of its land purchases and development plans for the WSF site, is to reconsider how much or if any district level open space should be provided within Lots 5 and 6. Not providing any district level park facilities within Lots 5 and 6 may then result in an increase in the residential lot yields from this land.

Public recreation facilities have already been reduced within Lots 5 and 6 by the relocation of the netball courts to the WSF site. The current proposed size and shape of the proposed public recreation land presents further challenges for the location of district level park facilities, such as a skate park, upon this land.

Whilst the approved development plans for the WSF site provide only limited district park facilities, and no provision for community facilities, it would be open to Council to give further consideration to locating such facilities on this site. If this were to be done then the need for district park and community facilities on the former drive-in theatre site could be further reviewed. Open space land retained would then function as a local park and as an estate entry point.

An amendment of the planning proposal would be required in circumstances where the quantum of proposed open space zoned land is proposed to be further reduced and the amount of residential zoned land increased. Council would then again be requested to consider and endorse the planning proposal prior to its submission for Gateway determination.

It would also be open to Council to investigate further the potential acoustic issues that may arise as a consequence of the proposed location of the skate park. In order for this to occur a preliminary design would need to be prepared. At this stage the design details required would be basic and limited to size and shape considerations as well as an indication of proposed skate facilities. In this respect a design based on the Bangalow facility may be suitable for comparison purposes.

Once the options available to mitigate the proposed skate park's likely acoustic impacts are known then the issue of its preferred location could be further considered. The location of the proposed skate park is not one that impacts directly upon this planning proposal unless it is proposed to give further consideration to the configuration of open space or residential land within lots 5 and 6.

Sustainability Considerations

- **Environment**

The land is considered to be of overall low environmental significance being the site of the former Wollongbar drive-in theatre and adjoining farm land. Having regard for the site's history, and to address land contamination issues required to be addressed as part of the subdivision process, the proponent has commissioned a Preliminary Contamination Site Investigation and has undertaken soil sample testing.

The preliminary investigation has been reviewed and does not suggest any issue with land contamination that would preclude the site from being rezoned for residential use. More detailed reporting will however be required at the DA stage.

- **Social**

The designation of land for an expansion of the adjacent housing estates, a child care centre and for public recreation will have net positive social benefits. These components are all consistent with the Council's strategic vision for this part of the Wollongbar township.

- **Economic**

The economic impact of the reconfigured public recreation land and the nature of facilities it is proposed to contain on adjacent proposed residential lots should be considered. Information is not currently available which quantifies the nature of such impacts. That said, staff is of the view that this issue can be adequately assessed as part of the future planning processes.

Legal / Resource / Financial Implications

BLEP 2012 has already altered the size and location of the land originally designated for open space and community facilities, as provided for under Council's contributions plan. What is now proposed is a further reduction in area designated as RE1 – Public Recreation zoned land from 1.81ha to approximately 1ha. However, this reduction is considered quite justifiable in the context of land uses proposed within the precinct (child care, stormwater management and recreation facilities) as well as the significant land purchases and proposed development of the WSF site.

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

Consultation

It is envisaged that following referral to the Department of Planning and Environment for Gateway determination, the planning proposal, if allowed to advance, will be placed on public exhibition.

Options

1. That Council submit the planning proposal for zone boundary reconfiguration as indicated in the proponent's option 2 plan (stormwater management land to be zoned R3, and rezoning of land subject to road widening), for Gateway determination to the Department of Planning and Environment (DoP&E); or
2. That Council amend the planning proposal to further adjust the amount of proposed RE1 – Public Recreation zoned land within the site prior to its submission to DoP&E for Gateway determination.
3. That Council delay the submission of the planning proposal for zone boundary reconfiguration as indicated in the proponent's option 2 plan (stormwater management land to be zoned R3, and rezoning of land subject to road widening), for Gateway determination to the Department of Planning and Environment (DoP&E), until a preliminary skate park plan has been prepared and such plan has been evaluated from an acoustic impact perspective; or
4. That Council not submit the planning proposal for Gateway determination and thereby take no further steps in connection with the proposed rezoning.

Option one is the preferred course of action. The reconfigured public recreation land is still of a size and shape to be able to accommodate many district level park facilities. The design challenges associated with locating a skate park facility within the reconfigured district park are not matters that are required to be resolved at this stage of the process although it is suggested that some additional work be undertaken in this regard by the proponent to assist Council in its consideration of the planning proposal.

The Council will also have further opportunities to consider skate park issues if the proponent completes a landscape master plan for the open space area and when a development application for the open space area is submitted, should the Council continue to pursue a skate park on the land.

Option two is considered to be justifiable from a strategic planning perspective having regard to the quantum of land purchased for the WSF development. This option would however require a revisiting of the facilities located within the WSF site to incorporate additional district level and community type facilities. Given the fact that development consent has already been granted for the WSF development and construction work is well underway, it may not be desirable to introduce additional facilities or change the nature of facilities at this late stage. Council has also previously resolved in December 2013 to proceed with a zoning footprint consistent with option 1 (Minute No. 191213/26).

9.4 LEP Amendment Request - Rifle Range Road and Plateau Drive

Option three may significantly delay this planning proposal and also result in changes to the size and configuration of the proposed open space land or adjoining residential land. It is considered that if a skate park proves not to be feasible within the proposed open space land then other options should be explored which do not impact further on the proposed zoning configurations and subdivision design.

Option four which relates to not proceeding with the planning proposal is not considered desirable. This is because the location of the existing RE1 zoned land within Lot 6 is such that it does not relate well to the subdivision layout adopted for the adjoining Avalon Estate or the layout contained within the Subdivision Master plan for Council's land. In order for the adopted road patterns to proceed links with existing roads would result in the existing RE1 zoned land being split into three sections. The utility of each section would then be questionable from a district park perspective.

Summary of Skate Park Considerations

The provision of a skate park within the proposed open space area has the potential to impact on proposed residential properties in relation to noise and amenity more generally. This may in turn impact on the potential value of the residential land. It may be possible to suitably mitigate these impacts through design and other works (such as noise mitigation structures). However the extent to which this is possible is unknown and of concern given the limited separation distances available.

To provide for greater separation distances, Council could seek to increase the available area of open space and thereby reduce the extent of residential zoned land. Alternatively, Council could give further consideration to the locating of the skate park facility within the Wollongbar Sports Field site.

Given that the areas of active open space available to service the Wollongbar locality substantially exceed the minimum area requirements under the Council's adopted contributions plan, adjustment to the zoning proposed on the subject land to provide more open space is not recommended.

It is, however, recommended that Council maintain its options in respect to the skate park and as such, require the proponents to investigate providing such a facility within the subject land and nominate this within the planning proposal documentation for transparency. This would include consideration of design parameters and mitigation strategies.

The suitability of the site for a skate park can then be further considered and confirmed as the planning proposal progresses. In the meantime, Council could also seek further assessment of the Wollongbar Sports Field site as a "back up" option. In this way, the planning proposal is able to be progressed and can be completed with or without provision of the skate park having regard for additional information obtained through the LEP amendment process.

If the Council proceeds to progress the planning proposal as recommended below, it is suggested that it would be beneficial to hold a Councillor briefing on the skate park relative to the planning proposal once the proponent has examined the issue further.

Delegation of Plan Making Functions

Where the Council proceeds to submit a planning proposal for Gateway determination, it has the option of requesting delegation of certain plan making functions from DoP&E. Under these delegations, Council would perform some of the plan making functions that are otherwise completed by the Department.

Although there may be occasion where the application of the delegations is of benefit to Council, typically the exercise of the delegation shifts tasks to Council, shifts risk in the plan making process to Council and removes a Departmental review point (which has historically been beneficial in the LEP amendment process). Submission of a request to the Department to allow Council to exercise the delegations is not recommended in this instance for the above reasons, and also because Council is the property owner.

RECOMMENDATIONS

1. That the Council submit the planning proposal (Attachment Two) addressing the following changes to the Ballina Local Environmental Plan 2012 to the Department of Planning and Environment for review and Gateway determination:
 - Reconfiguration of the boundaries of the RE1 – Public Recreation and R3 – Medium Density Residential zones, as they affect Lots 5 and 6 DP 1161720, Rifle Range Road and Plateau Drive, Wollongbar, and
 - Rezoning of the road widening affecting Lot 6 DP 1161720 to R2 Low Density Residential.
2. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal, including public exhibition, be undertaken.
3. That the feasibility of siting a skate park within the proposed public recreation land within Lots 5 and 6 be further investigated through a requirement for the preparation of a preliminary design concept plan and an acoustic impact evaluation by the proponent.
4. That following completion of the skate park feasibility investigation as part of the planning proposal, and prior to public exhibition of the planning proposal, a Councillor briefing be held.
5. That a further report be presented to the Council in relation to the planning proposal following mandatory community consultation.

Attachment(s)

1. Attachment One - Submission from Newton Denny and Chapelle
2. Attachment Two - Planning proposal
3. Attachment Three - Existing Zone Boundary Map
4. Attachment Four - Proposed Zone Boundary Map
5. Attachment Five - WSF s96 plan extract

9.5 Planning Proposal (BSCPP14/003) - Dual Occupancy Lots, Lennox Head

9.5 Planning Proposal (BSCPP14/003) - Dual Occupancy Lots, Lennox Head

Delivery Program Strategic Planning

Objective To provide an overview of the outcomes of the public exhibition of Planning Proposal BSCPP 14/003 - Aspects Estate Dual Occupancy Lots, Lennox Head, and to seek direction from the Council concerning the finalisation of the LEP amendment.

Background

At its Ordinary Meeting held on 24 March 2014, the Council considered the rezoning of two residential allotments within the Aspects Estate at Lennox Head from R2 Low Density Residential to R3 Medium Density Residential under the provisions of the *Ballina Local Environmental Plan 2012* (BLEP 2012). In consideration of the proposed rezoning, the Council resolved as follows (Minute No. 270314/17):

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

The reason for the proposed rezoning is to enable dual occupancy development on the subject sites. Under the current R2 zoning applied, dual occupancy developments are prohibited. A copy of the planning proposal is contained in Attachment One.

The planning proposal seeks to acknowledge the consent granted by Council for the subdivision of the land by applying residential zonings commensurate with the approval relating to the land and consistent with the approach taken in other residential areas of Ballina Shire.

In terms of residential land uses, the R2 Low Density Residential zone will permit only dwellings and secondary dwellings on the land, with prior development consent. The proposed R3 Medium Density Residential zone permits a broader range of residential land uses including dual occupancies.

In consideration of the above proposal, the resolution of the Council at its Ordinary Meeting held on 24 March 2014 was implemented.

9.5 Planning Proposal (BSCPP14/003) - Dual Occupancy Lots, Lennox Head

Following the Council's resolution, the (then) Department of Planning & Infrastructure (DP&I) issued a Gateway determination allowing the planning proposal to proceed. A copy of the determination is provided in Appendix Two of the attached planning proposal.

The planning proposal was publicly exhibited from 7 May 2014 to 23 May 2014 in accordance with the Gateway determination (a minimum of 14 days). Two submissions were received, the details of which are further addressed below.

In addition, the Gateway determination required the proposal to be referred to the NSW Rural Fire Service for comment due to the proximity of one of the subject sites to bush fire prone land. The proposal was referred to the Rural Fire Service on 17 April 2014.

The purpose of this report is to outline the outcomes of the agency engagement and public exhibition and to seek direction with respect to the progression of the subject planning proposal.

Key Issues

- Application of appropriate residential zoning.
- Consistency of zoning with strategic planning and development approval intent.

Information

The planning proposal seeks to acknowledge the existing development consent for the subdivision of the land, by the application of appropriate residential zoning.

The proposal seeks to apply the R3 Medium Density Residential zone to two of the lots within the Aspects Estate that were approved by Council in Development Application 2006/815 and identified as being suitable for duplex (dual occupancy) development.

Under the provisions of the BLEP 2012, the subject lots are zoned R2 Low Density Residential. This zone enables dwellings and secondary dwellings as development permissible with consent. The BLEP 2012 does not permit dual occupancy developments in the R2 zone. As such, it is proposed to apply the R3 Medium Density Residential zone to each of the lots to enable dual occupancy development.

In associated with the application of the R3 zone, it is also proposed to change the minimum lot size for subdivision of the land from 600m² to 800m² consistent with the lot size applicable to R3 zoned land parcels in existing urban areas.

The Gateway determination directed Council to consult with the NSW Rural Fire Service (RFS), prior to public exhibition. The proposal was referred to the RFS on 17 April 2014. The RFS issued a response on 29 May 2014 advising that it has no objections to the planning proposal. A copy of the RFS response is included in Attachment Two.

9.5 Planning Proposal (BSCPP14/003) - Dual Occupancy Lots, Lennox Head

Two responses were received from adjoining landowners following the public exhibition of the planning proposal. These responses are included in Attachment Three.

Both submissions address essentially the same issues which relate to the additional intensity of development (beyond dual occupancies) that the application of the R3 zone allows. The submissions acknowledge and do not object to the development of the subject sites for dual occupancy development, based on an expectation that the intensity of the development on the sites remains low.

It is stated in the submissions that the additional land uses permitted under the R3 zone (such as, for example, multi-dwelling housing, residential flat buildings, hotel or motel accommodation etc.) would not be acceptable on the subject sites. They state there is no community expectation for the use of these sites for this type of development.

It is further observed that under the BLEP, there are no floor space ratio (FSR) provisions applicable to the site for development other than dwellings and dual occupancies. This means that other permitted developments, such as multi-dwelling housing, for example, do not have a specified FSR under the BLEP.

Council's development control plan (DCP) is designed to limit the intensity of development on the land to that which is compatible with the site characteristics. However, it is important to recognise that the provisions of the *Environmental Planning and Assessment Act 1979* place limitations on the authority of DCPs to regulate development where a DCP seeks to prevent or unreasonably restrict development.

Of note in relation to the consideration of land use permissibility is that the *Ballina Local Environmental Plan 1987* also enabled a variety of land uses and residential types in residential zones, with the DCP providing further direction.

One submission suggests an alternative means to address the permissibility of dual occupancies on the subject lots by utilising the option to apply a specific additional permitted use within the BLEP 2012. This would have the effect of allowing the R2 zone to remain while specifically providing for dual occupancies on the subject lots as an additional permitted use. It would require the addition of a reference in Schedule 1 of the BLEP 2012.

The concerns raised in the submissions are acknowledged. It should be noted, however, that there are similar circumstances in many other residential areas of the shire where the R3 Medium Density Residential zone has been applied to lots within low density residential areas to facilitate dual occupancy developments under the Standard Instrument LEP. The application of the R3 zone in the circumstances is consistent with the approach taken by Council in other residential areas across the shire where a specific allowance for dual occupancy development on certain lots has been desirable.

9.5 Planning Proposal (BSCPP14/003) - Dual Occupancy Lots, Lennox Head

The Council has the option to continue with this approach in enabling specific dual occupancy sites in new and establishing residential areas by way of an R3 Medium Density residential zone. The alternative is to allow specific additional permitted use provisions in the BLEP 2012 as suggested in the second submission. To remain consistent with the Council's previous approach to enabling specific dual occupancy allotments, the rezoning of the subject lots as provided in the planning proposal is the recommended approach.

Sustainability Considerations

- **Environment**

The rezoning of the land from low density residential to medium density residential is, in the circumstances, a minor matter and as such it is not likely to have any significant implications from an environmental, social or economic perspective.

The rezoning is consistent with the Council's strategic planning intent, and with the development consent that the Council has previously granted over the land. It should be noted however, as raised in the public submissions in response to this proposal, the application of this zone to the subject sites also enables a range of other potentially more intensive residential development outcomes for the subject sites compared to the current R2 Low Density Residential zone.

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

The approach recommended in this report is consistent with Council's legal responsibilities as a local planning authority. The matters arising from this report have been attended to within existing resources.

Consultation

The planning proposal was exhibited for community comment for a minimum period of 14 days from 7 May 2014 to 23 May 2014. Two submissions were received as detailed above.

Comment was sought from the NSW Rural Fire Service (RFS), in accordance with the Gateway determination. As detailed above, a response from the RFS was received advising it has no objections to the proposal.

Options

As detailed above, the Council has several options that will enable the development of the subject lots for dual occupancy development. These options are detailed as follows.

9.5 Planning Proposal (BSCPP14/003) - Dual Occupancy Lots, Lennox Head

1. Finalise the Planning Proposal Applying an R3 Medium Density Residential Zone

This is the recommended option which is consistent with planning context and development history of the land. This option is also consistent with Council's approach to enabling dual occupancy development in residential areas across the shire.

This approach also includes changing the minimum lot size for subdivision of the land from 600m² to 800m² consistent with the lot size applicable to R3 zoned land parcels in existing urban areas.

Essentially, the rezoning constitutes "housekeeping" to ensure consistency with previous decisions of the Council in relation to the subdivision of the subject land, and with community expectations. A copy of the planning proposal prepared in accordance with this option is contained in Attachment One.

Due to the relatively minor nature of the proposal and its consistency with the planning context of the land, it is recommended that the planning proposal be finalised. The primary disadvantage of the planning proposal not proceeding is the continuation of the inconsistency in zoning with the approved subdivision.

Under the Department of Planning and Environment's Gateway determination provisions, Council has been delegated the authority to finalise this planning proposal. In this instance, it is recommended that Council exercise this delegation to complete the LEP amendment.

2. Seek to Apply "Additional Permitted Use" Provisions

It is open to the Council to amend the planning proposal to address the issue via "additional permitted uses" provisions in the BLEP 2012 rather than by rezoning. This would have the effect of eliminating the issues raised in the submissions while still facilitating dual occupancy development on the subject sites. This option is not recommended as it is inconsistent with Council's previous approach to enabling dual occupancy development in residential areas.

If it is resolved to proceed with this option, the planning proposal would need to be amended and resubmitted to the Department of Planning and Infrastructure for endorsement. This would likely result in the Gateway determination being reviewed and reissued and the requirement that the proposal be re-exhibited.

3. Discontinue the Planning Proposal

The option to discontinue the proposal is also open to the Council. This option is not recommended as it does not address the issue of the current zoning for the subject land being inconsistent with Council's previous endorsement of the subject sites being suitable for dual occupancy development.

RECOMMENDATIONS

1. That the Council endorses the amendment of the Ballina Local Environmental Plan 2012 to apply the R3 Medium Density Residential zone and an 800m² minimum lot size standard for subdivision to Lots 29 and 31 in DP 1121058 as documented within Planning Proposal BSCPP 14/003.
2. That the Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP 14/003 directly in liaison with Parliamentary Counsel.

Attachment(s)

1. Planning Proposal BSCPP 14/003 (Final)
2. Rural Fire Service Response
3. Submissions

9.6 Ballina Shire Development Control Plan 2012 - Amendment No 3

9.6 Ballina Shire Development Control Plan 2012 - Amendment No 3

Delivery Program Strategic Planning

Objective To inform the Council of the outcomes of the public exhibition of Draft Amendment No. 3 to the Ballina Shire Development Control Plan 2012 and seek direction in relation to the adoption of the recommended amendments.

Background

Draft Amendment No. 3 to the Ballina Shire Development Control Plan 2012 (the DCP) was considered by the Council at its Ordinary Meeting held on 27 March 2013. At that meeting it was resolved to publicly exhibit Draft Amendment No. 3 [Minute No. 270314/7].

In accordance with the above resolution, Draft Amendment No. 3 was placed on public exhibition from 16 April until 23 May 2014. During this period two public submissions were received, one of which directly related to proposed DCP amendments. The other submission from the Alstonville - Wollongbar Chamber of Commerce, which related more directly to the exhibited Draft Ballina Shire Car Parking Contributions Plan, has also been referenced in this report.

A number of issues have also been raised by staff during the exhibition period and these matters are addressed within this report.

The purpose of this report is to inform the Council of the issues raised in the submissions and to seek direction on the adoption of Draft Amendment No. 3 to the DCP.

Key Issues

- Ensuring the DCP provides for intended and consistent planning outcomes
- Addressing matters raised in submissions

Information

The details of Draft Amendment No. 3 to the DCP were reported to the Council at its Ordinary Meeting held on 27 March 2014. Full details of the proposed amendments which were placed on exhibition in accordance with Council's resolution are contained within Attachment One.

Table 1 below contains details of some of the more significant proposed amendments to the DCP and provides an indication as to whether any submissions concerning the amendment have been received.

Full details of matters raised in submissions and the proposed responses are contained in the *Consultation* section of this report.

Table 1 - Details of Significant Amendments

DCP Chapter	Clause	Details of Proposed Amendment
2	3.19.3	<p>Car Parking Rate for Food and Drink Premises</p> <p>Car Parking requirements for food and drink premises located in commercial centres outside of Ballina and Lennox Head are currently based on a rate of 1 space per 3 seats or 15 spaces per 100m² GFA, whichever is the greater. The amendment proposes that this be changed (reduced) to 1 space per 25m² of GFA for ground floor areas and 1 space per 40m² GFA for first floor areas. These rates are the rates applicable to food and drink premises within the Ballina CBD.</p> <p>The 1 space per 3 seats or 15 spaces per 100m² GFA rate is proposed to be retained for food and drink premises on stand alone sites outside of commercial centres.</p> <p>Submissions</p> <p>No specific public submissions. A submission from the Alstonville – Wollongbar Chamber of Commerce indirectly supports what is proposed.</p> <p>A staff submission sought clarification as to whether existing applicable parking rates would continue to apply to food and drink premises located outside of commercial centres.</p>
4	3.1.3	<p>Maximum Area Excluded from Gross Floor Space Definition</p> <p>The amount of area excluded from the definition of <i>gross floor space</i> due to its use for garage and parking purposes associated with residential and tourist development is not currently specified. The amendment specifies a maximum of 44m² that will be excluded from the <i>gross floor space</i> calculation if devoted to garage and car parking purposes.</p> <p>Submissions</p> <p>No submission received.</p>
4	3.1.3	<p>Adaptable Housing Provisions</p> <p>The current control requires that a minimum of 10% of dwellings in an attached dwelling, residential flat building or multi dwelling housing development (or at least 1 dwelling unit whichever is the greater) must be designed to meet the adaptable housing standard.</p> <p>The amendment proposes that at least 10% of all dwellings in developments containing 10 or more housing units be adaptable housing. Rounding down provisions will result in one adaptable dwelling in developments containing between 10 and 15 dwellings and two adaptable units in developments containing between 16 and 25 dwellings.</p> <p>Submissions</p> <p>No submission received.</p>
4	Various	<p>Cut and Fill Requirements for Residential Development</p> <p>The proposed amendments generally seek to align the DCP cut and fill requirements with those contained in the <i>General Housing and Rural Housing Code</i> under the provisions of <i>State Environmental Planning Policy (Exempt and complying Development Codes) 2008</i>.</p> <p>Where the DCP provides greater flexibility, the DCP controls are proposed to be retained. The Coastal Grove Estate at Lennox Head will not be affected by the proposed amendments as the applicable cut and fill requirements were developed based on specific geotechnical engineering advice.</p> <p>Submissions</p> <p>No submission received.</p>
4 - Residential and Tourist Development and 2b – Flood Plain Management	3.1.1	<p>Secondary Dwelling Requirements</p> <p>The proposed amendment seeks to generally exclude secondary dwellings from the general controls related to residential accommodation. Secondary dwellings are proposed to be assessed under the complying development controls contained within the Affordable Housing SEPP. Floor space ratio controls will be retained as they are a statutory control within Ballina LEP 2012.</p> <p>Submissions</p> <p>Two submissions relating to secondary dwelling controls have been received. One submission seeks to retain DCP setback controls which are viewed as more generous than the SEPP. A second submission relates to matters raised by staff which seeks to exclude secondary</p>

9.6 Ballina Shire Development Control Plan 2012 - Amendment No 3

DCP Chapter	Clause	Details of Proposed Amendment				
		dwellings from the land filling requirements contained within Chapter 2b.				
4 – Residential and Tourist Development	3.1.3	<p>Building Height</p> <p>The proposed amendment seeks to limit the third storeys within residential development to lofts containing no more than two rooms and a bathroom within a design that does not have the external appearance of a storey, and having a maximum roof pitch of 35 degrees.</p> <p>The current controls do not impose any restrictions on a third storey. A third storey is achievable within the 8.5 metre maximum height limit if the roof design consists of a low rise skillion or by utilising the architectural roof features provisions contained within clause 5.6 of Ballina LEP 2012.</p> <p>Submissions</p> <p>One submission has been received which raises concerns related to the proposed requirement that the design must ensure that the loft does not have the external appearance of a storey.</p>				
6a – Commercial Development Ballina Town Centre	Part 5 Table 6a.9	<p>Car parking for Health Consulting Room and Medical Centre Uses</p> <p>The proposed amendment seeks to insert car parking rates for medical centre and health consulting rooms within the DCP chapter that specifically relates to Ballina Town Centre. The rates proposed were as follows:</p> <table border="1" data-bbox="753 779 1373 1152"> <tr> <td data-bbox="753 779 1143 909"><i>Health consulting room</i> means premises comprising one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals at any one time.</td> <td data-bbox="1143 779 1373 909">3 spaces per surgery</td> </tr> <tr> <td data-bbox="753 909 1143 1152"><i>Medical centre</i> means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.</td> <td data-bbox="1143 909 1373 1152">1 space per 25m² gross floor area</td> </tr> </table> <p>Car parking requirements for health consulting rooms and medical centre uses within Ballina Town Centre are currently based on the rates specified within Chapter 2 of the DCP. The requirements are 3 spaces per consulting room plus 1 space per 2 employees plus any dwelling requirements.</p> <p>Prior to the above DCP 2012 requirements the rates applicable to professional consulting rooms within Ballina Town Centre were those specified for retail and commercial development. This was 1 space per 25m² of ground floor gross floor area or 1 space per 40m² of first floor gross floor area.</p> <p>In the case of health care centres (>3 consulting rooms) the rates were based upon analysis of comparable sites and RTA guidelines. Relevant RTA guidelines indicated a mean peak parking demand of about one car space per 25m² of gross floor area.</p> <p>In areas outside of Ballina Town Centre the previously applicable parking rate for professional consulting rooms was 3 spaces per surgery or consulting room.</p> <p>Submissions</p> <p>A staff submission indicates that consideration should be given to setting uniform rates applicable to all commercial centres within the shire as opposed to a specific rate for Ballina. In addition it is suggested that the reference to 3 spaces per surgery should be changed to 3 spaces per surgery or consulting room. It is also suggested that consideration be given to introducing a higher parking rate for medical centres which contain more than 3 surgeries or consulting rooms.</p>	<i>Health consulting room</i> means premises comprising one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals at any one time.	3 spaces per surgery	<i>Medical centre</i> means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.	1 space per 25m ² gross floor area
<i>Health consulting room</i> means premises comprising one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals at any one time.	3 spaces per surgery					
<i>Medical centre</i> means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.	1 space per 25m ² gross floor area					

Sustainability Considerations

- **Environment**

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

- **Social**

As above.

- **Economic**

As above.

Legal / Resource / Financial Implications

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

Clause 21(1) of the *Environmental Planning and Assessment Regulation 2000* sets out the process applicable once Council has considered submissions. Clause 21(1) is reproduced below:

21 Approval of development control plans

(1) *After considering any submissions about the draft development control plan that have been duly made, the council:*

- (a) *may approve the plan in the form in which it was publicly exhibited, or*
- (b) *may approve the plan with such alterations as the council thinks fit, or*
- (c) *may decide not to proceed with the plan.*

A number of submissions have been made which do not directly relate to the current proposed DCP amendments but to other existing provisions. The approach has been taken that where a submission proposes to introduce new or amended development controls, which were not specifically nominated for review, then these are considered but not nominated for adoption as part of the current process. Such provisions will, however, be scheduled for further considered in the next general review of the DCP.

An exception to the above approach relates to the incorporation of notes or diagrams within the DCP which serve to clarify existing provisions, as opposed to inserting new or amended provisions.

To incorporate new development control provisions which have not been subject to the exhibition process in relation to the items raised is considered beyond the scope of clause 21(1) of the *Environmental Planning and Assessment Regulation 2000*.

Consultation

Draft Amendment No. 3 to the DCP was publicly exhibited between 16 April and 23 May 2014 in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*. Details of the proposed amendments were posted on Council's web site and made available at library community access points and at Council's Customer Service Centre. An advertisement also appeared in the Ballina Advocate on 16 April 2014.

In response, two public submissions were received. These submissions are summarised below .

Submission 1 – Alstonville – Wollongbar Chamber of Commerce

Raises the issue of flat rate car parking requirements, which do not relate to type of premises but size of premises, as being the preferred means of requiring car parking. Attachment Two contains a copy of the Chamber's submission.

The issue raised was subsequently discussed with the Chamber's Vice President, Mr Richard Lutze who was advised that a change proposed to the car parking rates, and applicable to Alstonville and Wollongbar, related to food and drink premises. The rate currently applicable is 1 space per 3 seats or 15 spaces per 100m² GFA whichever is the greater.

The DCP amendment proposes 1 space per 25m² at ground floor or 1 space per 40 m² at first floor level for food and drink premises located within commercial centres.

Mr Lutz indicated that he was satisfied with the changes proposed and explanation provided. The applicable car parking rates within commercial areas are, for most uses, already substantially related to size of premises as opposed to being use-specific i.e. related to type of shop or office.

No further action is considered to be required in respect to the issue raised by the Alstonville – Wollongbar Chamber of Commerce.

Submission 2 – Peter Turner and Associates – Building Designers

Raises issues related to setbacks from side and rear boundaries proposed for secondary dwellings. Concerns were also raised relating to proposed third storey controls applicable to residential development subject to an 8.5 metre height limit.

Attachment Three contains a copy of the submission.

In respect to the side and rear setback controls applicable to secondary dwellings, the submission indicates that the setbacks contained within the SEPP - Affordable Rental Housing were more onerous than the setbacks currently applicable under the DCP.

The table below provides a comparison of setbacks applicable, for selected building heights under both controls, for lots with an area from 450m² to 900m².

Table 2 – Setback Comparisons

Building Height	Boundary	SEPP Setback ¹	DCP setback ^{1&2}
3.8m	side	900mm	2m
3.8m	rear	3m	2m
8m	side	1.95m	6.2m
8m	rear	8m	6.2m
<p>Note:</p> <p>1 Setbacks are not uniform distances for all parts of the building but are related to building height at a given point. For example the SEPP requires a minimum side boundary setback of 900mm which increases by one quarter of the buildings height above 3.8 metres. The DCP requires that a building be contained within a 45° building height plane commencing from a point 1.8m above the side or rear boundary with the minimum applicable setback being 900mm.</p> <p>2 The DCP also contains certain encroachment concessions for walls along part of the northern and eastern elevations.</p>			

The objective of the proposed secondary dwelling DCP amendments was to create a common set of controls irrespective of whether the secondary dwellings were proposed as complying development or as development requiring consent. Notwithstanding this objective, it was not intended that the proposed controls result in more onerous requirements.

It is proposed that this issue be resolved by specifying that the building envelope and height plane controls contained in clause 3.1.2 of Chapter 4 be applied to secondary dwellings as a discretionary alternative to the SEPP controls where they create greater design flexibility.

This approach essentially allows some choice in the design of secondary dwellings, depending on individual circumstances.

In terms of the proposed third storey controls, the DCP amendments provide 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.*
 - c) *The maximum roof pitch is not to exceed 35 degrees; and*
 - d) *Compliance with building envelope controls.*

The submission indicates that controls (a) (c) and (d) are supported and control (b) is seen as a retrograde step as it is a reversion to 1960s Cape Cod designs with projecting dormer windows.

The objective of the roof pitch control was to restrict Cape Cod style roofs which typically have roof pitches of 45° degrees, not the lower 35° degrees proposed.

In considering the proposed provisions, Council should note as well that the adoption of the proposed third storey controls will significantly restrict the incorporation of third storeys within residential development subject to the 8.5 metre maximum building height limit. Therefore the following note contained within the *Building Envelopes* element of Chapter 4 is also proposed to be deleted should this amendment be adopted:

This DCP does not limit the number of storeys or levels within a dwelling.

Staff Submissions

During the exhibition of the DCP amendments staff have raised a number of issues that relate to the proposed amendments, which sought to better clarify related existing provisions or which relate to new provisions.

The table below lists the matters raised by staff. It also contains comment on whether these suggested amendments can be accommodated within the current DCP review process.

Table 3 – Summary of Issues Raised by Staff

DCP Reference	Issue	Comment
Chapter 2 – c3.19.3 Control E – Car Parking Requirements	Parking rate for food and drink premises located out of commercial centres should retain existing 1 space 3 seats or 15 spaces per 100m ² of GFA whichever is the greater car parking ate.	The proposed amendment to food and drink premises car parking rates was intended to apply only to food and drink premises located within commercial centres. The rate for food and drink premises located outside of commercial centres is proposed to reflect the current requirements. This matter was clarified in the exhibited DCP amendments and therefore no further action is required.
Chapter 2 – c3.19.3 Control E – Car Parking Requirements	All applicable car parking rates should be consolidated in chapter 2 instead of Town Centre specific chapters such as 6a Ballina Town Centre.	This suggestion may have merit and will be scheduled for further consideration in the next general DCP review due to the number of drafting changes potentially required.
Chapter 6a Ballina Town Centre	The submission proposes that consideration be given to setting uniform rates applicable to all commercial centres within the shire as opposed to a specific rate for Ballina Town Centre. In addition it is suggested that the reference to 3 spaces per surgery should be changed to 3 spaces per surgery or consulting room. It is also suggested that consideration be given to introducing a higher parking rate for medical centres which contain more than 3 consulting rooms.	<p>The parking rate currently applicable to medical centres and health consulting rooms, within the shire, is 3 spaces per consulting room plus 1 space per 2 employees plus any dwelling requirement.</p> <p>The rate previously applicable within Ballina Town Centre only was 1 space per 25m² of gross floor area at ground level and 1 space per 40m² of gross floor area at first floor level.</p> <p>Elsewhere in the shire the applicable rate for professional consulting rooms (up to 3 consulting rooms) was 3 spaces per surgery or consulting room.</p> <p>Health care centres (> 3 consulting rooms) were assessed as per RTA Guidelines and analysis of comparable centres.</p> <p>The car parking rate proposed for medical centres (1 space per 25m² of gross floor area) is the rate previously applicable to ground floor professional consulting rooms. This rate also reflects the mean parking generation rate nominated in the Traffic Authority Guidelines.</p> <p>The car parking rate proposed for health consulting rooms is 3 spaces per surgery which was previously the rate applicable to professional consulting rooms outside of the Ballina Town Centre. The Health consulting room definition has replaced the previous professional consulting room</p>

DCP Reference	Issue	Comment
		<p>definition under Ballina LEP 1987. In both cases it relates to rooms within, or within the curtilage of a dwelling house used by up to 3 health care professionals. Whereas medical centres are not restricted to dwelling houses or limited to up to 3 healthcare professionals.</p> <p>At this stage the proposed changes are confined to Ballina Town Centre due to historical reasons. It may be appropriate in future DCP amendments to consider broadening the applicability of the lower rates to all commercial centres within the shire.</p> <p>The suggestion that the reference to 3 spaces per surgery be replaced with 3 spaces per surgery or consulting room has merit and is recommended for inclusion in the DCP.</p> <p>In respect to nominating a higher rate for larger medical centres, no evidence is currently available upon which to support such a change. The next review of the DCP will further consider parking rates for medical uses throughout the shire.</p>
<p>Stormwater controls – Chapter 2 - c3 .9</p>	<p>The existing provisions may not be sufficiently clear to indicate that standard plans are available for smaller developments on Council's web site. Request that existing provisions be replaced with a new clause.</p> <p>These provisions do not apply to dwelling houses and secondary dwellings.</p>	<p>The existing stormwater management plan controls provide as follows:</p> <p>C Stormwater Management Plans</p> <ol style="list-style-type: none"> i. Applications for typical residential, commercial and industrial developments on lots with an area of less than 2000 square metres are to be supported by a stormwater management plan. ii. Stormwater management plans are to be designed in accordance with the minimum requirements as specified on Council's website. iii. Stormwater management for industrial and commercial development must be designed in accordance with Council's standard stormwater management plans and drawings. iv. Applications for proposals that do not comply with the minimum stormwater management plan requirements are to be supported by detailed modelling and design information that complies with all other requirements of section 3.9. <p>The submission indicates that the above provisions should be replaced with the following to provide greater clarity.</p> <p>C Stormwater Management Plans</p> <ol style="list-style-type: none"> i. All residential, commercial and industrial developments are to be supported by a stormwater management plan. ii. Standard stormwater management plans for typical residential, commercial and industrial developments on lots with an area of less than 2000 square metres are available on Council's website. Site specific stormwater management plans developed in accordance with these plans shall automatically satisfy the requirements of section 3.9. Proposals that do not comply with the standard plan requirements are to be supported by detailed modelling and design information that complies with all other requirements of section 3.9. iii. Applications for lots with an area of greater than 2000 square metres must provide a stormwater management plan that is supported by detailed modelling and design information that complies with all other requirements of section 3.9.

9.6 Ballina Shire Development Control Plan 2012 - Amendment No 3

DCP Reference	Issue	Comment
		The proposed changes, whilst adding clarity to the existing DCP provisions, were not public exhibited as part of the current DCP review process. It is therefore considered that they are beyond the scope of this review to implement and will be scheduled for inclusion in the next DCP review. A note is however proposed to be added after section C which indicates that stormwater management plans are available on council's web site and a web site link provided.
Chapter 2 – c3.7.3	Request the inclusion of a reference to the soon to be finalised Ballina Shire Council – Policy for Waste Management in Multi Unit Developments within the Waste Management Development Controls.	A specific development control relating to compliance with a policy which was not referenced in the current DCP review is considered beyond the scope of this review. It would however be possible at this stage to incorporate an advisory note which references the proposed policy. The following note is proposed to be included within Chapter 2 of the DCP. <i>Design of waste management facilities and their conformity with the requirements of this DCP will be considered having regard for Council's Policy for Waste Management in Multi Unit Developments (in preparation as at June 2014).</i>
Chapter 4 – Figure 4.2 Building Envelope Variations, Figure 4.3 Articulation Zones, Figure 4.4 Articulation Zone Elevation View	Concern was raised that the existing figures which support interpretation of DCP provisions relating to articulation zones and building envelope variations are unclear and should be revised.	The subject figures were not part of the Amendment No 3 DCP review. However these figures do not introduce controls but are similar to explanatory notes albeit in a graphical form. From this perspective the subject figures have been reviewed and alternative figures produced which provide greater clarity. It is proposed that the amended figures contained in Attachment Four be endorsed for inclusion within Chapter 4 to replace existing referenced figures.
Chapter 4 – Residential and Tourist Development – 3.1.3 Element E – Building Lines	Proposed Amendment 18 – refer Attachment One, relates to balcony encroachments within the building line. Request relates to balcony encroachments being permitted to extend 300mm past the 1.5 metre articulation zone.	The proposed control amendment prevents the permitted 1.8 metre balcony encroachment extending past the 1.5 metre wide articulation zone. Permitting balcony encroachments to extend 300mm past the 1.5 metre articulation zone is in accordance with current practice. The proposed amendment, as indicated in italics below currently provides as follows: <ul style="list-style-type: none"> - The balcony has a maximum projection of 1.8 metres <i>and is not located forward of the 1.5 metre articulation zone.</i> It is proposed that the proposed amendment be modified as indicated in italics below: <ul style="list-style-type: none"> - The balcony has a maximum projection of 1.8 metres <i>and is not located more than 300mm forward of the 1.5 metre articulation zone.</i>
Chapter 4 – Residential and Tourist Development – 3.1.3 Element P – Earthworks and Slope Sensitive Design Controls	Proposed Amendment 30 – Refer attachment One, details requirements applicable to cut and fill. An existing requirement specifies that cut and fill be retained by a masonry structure designed and certified by a suitably qualified structural engineer. The submission indicates that design and certification by a structural engineer should only be required where the wall height exceeds 1 metre.	The submission clarifies current practice of not requiring a structural engineer to design retaining wall having a height of 1 metre or less. Retaining walls having a height of 600mm or less are classified as exempt development in many circumstances. Therefore there may be merit in confirming that a structural design is not required for retaining walls having a height of up to 1 metre. However, adjustment to this provision requires further consideration and justification before proceeding. As such, this item will be considered as part of the next review of the DCP. In the meantime, variations to the requirement can be considered by assessment officers in the context of the applicable objectives under the DCP.
Chapter 2 – c3.19.3	Request the inclusion of a	Clause 3.19.3 (iv) currently provides as follows:

9.6 Ballina Shire Development Control Plan 2012 - Amendment No 3

DCP Reference	Issue	Comment
Parking Layout Standards	requirement to provide covered parking space (s) for persons with a disability within new public car parks.	<p><i>Parking spaces for people with disabilities shall be covered by a waterproof roof or awning structure in new development comprising commercial, industrial or tourist and visitor accommodation uses (or any combination thereof) and that has an aggregated floor area greater than 500m².</i></p> <p>There may be merit in new public car parks containing 20 or more spaces providing covered parking for persons with a disability on the same basis as the requirements are applied to commercial, industrial or tourist and visitor accommodation uses.</p> <p>The proposed control was not part of the Amendment No 3 DCP review and therefore is beyond the scope of this amendment to introduce at this stage. Council could however adopt such a proposal as a matter of policy and be applied by Council's assessment officers pending its incorporation in the next scheduled review of the DCP.</p>
Chapter 2b – Floodplain Management	Clarification of site filling requirements, contained in clause 3.3, and its applicability to secondary dwellings is requested. The submission indicates that the clause should clarify that site filling is not required for secondary dwellings in certain circumstances.	<p>The proposed DCP amendments sought to align the development controls contained within the Affordable Rental Housing SEPP with those contained within the DCP. The issue of site filling for secondary dwellings was not specifically addressed in the proposed amendments. The amendments relating to secondary dwellings (Proposed Amendment No 12 – Attachment One) endeavoured to create a uniform set of controls applicable to secondary dwellings, irrespective of whether they were undertaken as complying development under the SEPP or as development requiring consent.</p> <p>Complying development undertaken in accordance with the SEPP is not subject to site filling requirements. Therefore it is considered that scope exists for the current DCP amendment process to clarify whether site filling should or should not be required for secondary dwellings which require consent.</p> <p>Council's staff currently exercise discretion when considering site filling for secondary dwellings located within the flood plain. In the interests of greater transparency it is considered reasonable that the matters considered by staff when exercising discretion be incorporated within Chapter 2b.</p> <p>The amendments proposed to be made to clauses 3.3 and 3.4 of Chapter 2b are highlighted in yellow in Attachment Five.</p> <p>Site filling is not proposed to be required for detached secondary dwelling proposals which are located within the R2 Low Density Residential Zone and which have a maximum floor area of 60m².</p> <p>In cases where the secondary dwelling exceeds the 60m² requirement, the need for filling will be based on a merit based assessment which will take into account existing site levels and the relationship of the proposed dwelling with existing site improvements.</p> <p>In all cases however, the minimum floor level for detached secondary dwellings will be required to be at the 100year ARI flood level plus 0.5 metres freeboard.</p> <p>The filling and floor level requirements for attached secondary dwellings are proposed to be determined on merit applying the same provisions as currently exist for alterations and additions to existing buildings.</p>

Options

1. Adopt and implement DCP Amendment No. 3

It is recommended that the Council adopt Draft Amendment No. 3 to the DCP 2012 as exhibited, or with changes.

This approach would involve the adoption of Draft Amendment No.3 as exhibited, with the following additional changes:

- Retention of existing building envelope and height plane controls contained within Chapter 4 Element C – Building Envelopes, for secondary dwellings on a discretionary alternative basis to the setback controls contained in State Environmental Planning Policy (Affordable Rental Housing) 2009. This can be achieved by including the text *optional for secondary dwellings* following in control i. after the words Residential accommodation.
- Inclusion of an advisory note within Chapter 2, following clause 3.9, relating to the availability of standard stormwater management plans on Council's web site.
- Inclusion of an advisory note within Chapter 2, following clause 3.7.3, relating to the Policy for Waste Management in Multi Unit Developments.
- Clarify that the parking rate for Health Consulting Rooms within Ballina Town Centre is 3 spaces per consulting room or surgery.
- Amendment of Chapter 2b – Floodplain Management, clauses 3.3 and 3.4, as detailed in Attachment Five so as to clarify the site filling requirements applicable to secondary dwelling development within the flood plain.
- Amendment of Chapter 4 – Residential and Tourist Development by replacing Figure 4.2 Building Envelope Variations, Figure 4.3 Articulation Zones, and Figure 4.4 Articulation Zone Elevation View with the revised figures contained within Attachment Four.
- Amendment of Chapter 4 – Residential and Tourist Development clause 3.1.3 – Element E – Building Lines by permitting balconies to project up to 300mm forward of the articulation zone.

This is the recommended course of action and will support the provision of intended and consistent land use planning outcomes in the shire. The concept of regularly monitoring the DCP and adapting its provisions to changing circumstances, particularly with input from building designers and our assessment officers, is one that the Council has successfully applied over a considerable period, and it is suggested this process should continue.

If this is the approach adopted by the Council, it is proposed that the amendment will take effect from 16 July 2014. Public notice is required to given of the amendments adoption within 28 days of Council's decision.

2. Decline the adoption of DCP Amendment No. 3

The Council may resolve to decline to adopt Draft Amendment No. 3 to the DCP in whole or part. This is not the recommended course of action as it will result in the identified changes, corrections and interpretive improvements not being incorporated into the DCP which will impact on its efficiency in providing intended and consistent land use planning outcomes.

3. Defer adoption of DCP Amendment No. 3

The Council may resolve to defer the adoption of Draft Amendment No. 3 to the DCP and seek additional information and/or further consideration of the identified issues, including those raised in the submissions.

As detailed in this report, it is the intent of Draft Amendment No. 3 to provide better function and clarity to the DCP and as such, this option is not recommended. Further, the matters raised in submissions that are not specifically related to Amendment No.3 will be scheduled for further consideration during the next programmed review of the DCP.

It is also noted that the work program for Council's Strategic and Community Facilities Group includes the monitoring of Council's key strategic land use planning documents, and their regular reporting to the Council. This assists in ensuring that the DCP remains relevant in achieving the desired development outcomes in the shire.

RECOMMENDATIONS

1. That the Council adopt Draft Amendment No.3 to the Ballina Shire Development Control Plan 2012 as exhibited for public comment, inclusive of the following additional changes:
 - Inclusion of the following words in control i. 'optional for secondary dwellings' after the words Residential accommodation where they appear in Control i., Chapter 4, Element C – Building Envelopes.
 - Inclusion of an advisory note within Chapter 2, following clause 3.9, relating to the availability of standard stormwater management plans on Council's web site.
 - Inclusion of an advisory note within Chapter 2, following clause 3.7.3, relating to the Policy for Waste Management in Multi Unit Developments.
 - Clarify that the parking rate for Health Consulting Rooms within Ballina Town Centre is 3 spaces per consulting room or surgery.
 - Amendment of Chapter 2b – Floodplain Management, clauses 3.3 and 3.4, as detailed in Attachment Five so as to clarify the site filling requirements applicable to secondary dwelling development within the flood plain.
 - Amendment of Chapter 4 – Residential and Tourist Development by replacing Figure 4.2 Building Envelope Variations, Figure 4.3 Articulation Zones, and Figure 4.4 Articulation Zone Elevation View with the revised figures contained within Attachment Four.

9.6 Ballina Shire Development Control Plan 2012 - Amendment No 3

- Amendment of Chapter 4 – Residential and Tourist Development clause 3.1.3 – Element E – Building Lines by permitting balconies to project up to 300mm forward of the articulation zone.
2. That public notice of the adoption of Ballina Shire Development Control Plan Amendment No. 3 be given, with the amendment DCP taking effect on 16 July 2014.

Attachment(s)

1. Schedule of Exhibited DCP Amendments
2. Submission from Alstonville - Wollongbar Chamber of Commerce
3. Submission from Peter Turner and Associates
4. Amended Figures for Chapter 4
5. Amended Clause 3.3 and 3.4 for Chapter 2b - Floodplain Management

9.7 Clark Street Precinct Structure Plan and Land Use Review

9.7 Clark Street Precinct Structure Plan and Land Use Review

Delivery Program Strategic Planning

Objective To present to the Council outcomes of a strategic land use assessment of the Clark Street Precinct in Ballina.

Background

The Clark Street Industrial Estate was the first industrial estate in Ballina Shire, being developed in the early 1970s. Over time the locality in which the estate (and adjoining vacant land) is located has undergone considerable change, including the development of the adjacent Kerr Street Retail Precinct and construction of Angels Beach Drive. As a consequence, it is considered pertinent for Council to consider the potential future of the precinct within this changing context.

Clark Street Precinct

For planning purposes, the Clark Street Precinct includes the existing Clark Street light industrial estate, land adjacent to North Creek Canal, Little Fishery Creek, areas of public reserve and a number of Crown land parcels. A map identifying the extent of the study area is provided in Attachment One to this report (distributed to Councillors under separate cover). The precinct comprises the following distinct parts:

- The existing Clark Street light industry estate.
- The former Council depot site, located between the industrial estate and the canal.
- Vegetated open space either side of the Clark Street entrance along the Bangalow Road frontage.
- Vegetated land (mangroves) in the north-east and east of the precinct, much of which was created as compensatory planting associated with the construction of Angels Beach Drive.
- A vacant grassed piece of land located immediately east of the Bangalow Road roundabout.

The precinct is located close to the Kerr Street retail precinct, which contains the Ballina Fair, Ballina Central and Coles/K Mart shopping centres. It is bounded by Bangalow Road and Tamarind Drive to the south and Angels Beach Drive to the east.

Two important intersections are located on the boundaries of the site; the signalised Kerr Street/ Bangalow Road/ Tamarind Drive intersection and the Angels Beach Drive/ Bangalow Road roundabout, which also provides access into the Ballina Central Shopping Centre.

Clark Street provides the primary access into the precinct, being the only access into the existing light industrial estate. A driveway crossing off Tamarind Drive currently services the former Council depot site.

9.7 Clark Street Precinct Structure Plan and Land Use Review

A State Emergency Services (SES) office/ depot is located on the eastern edge of the precinct, with direct access to Angels Beach Drive. It is the only property within the precinct with direct access to Angels Beach Drive.

Importantly, a large portion of the study area is Crown Land that is not managed by Council. This includes most of the area to the north west of the existing industrial estate adjacent to the former Council depot site.

Purpose of the Clark Street Structure Plan and Land Use Review

Council's Ballina Shire Growth Management Strategy 2012 identifies the following actions with respect to the Clark Street Precinct:

- Investigate the potential of the Clark Street Industrial Estate for development as a business incubator; and
- Investigate the appropriate land uses for land adjacent to the Clark Street Industrial Estate (Old Depot).

Following from the Growth Management Strategy, this project is identified for completion in Council's 2013/14 Delivery Program and Operational Plan (PE2.11a).

In response to the above, Council engaged local consultancy firm GeoLINK to undertake an assessment of the Clark Street Precinct, involving the following:

- Assess the potential development of the area as a 'business incubator', 'innovation centre' or the like, including (but not limited to) a SWOT analysis (of Strengths, Weaknesses, Opportunities and Threats) of the site for this purpose.
- Consider a range of potential future land uses, including offices, light industrial, warehousing, transportation, recreation, creative arts, civic uses, environmental education and service industries, and make recommendations for Council's consideration in relation to the zoning and planning provisions applicable to the land.
- Respond to the environmental character of the land, including the (potential) presence of land contamination and ecological values.
- Have regard to the potential implications of predicted sea level rise associated with climate change on the future use of the land.
- Support the management of potential land use conflicts within the study area as well as with the adjoining interface areas.
- Provide recommendations for future land use options that are consistent with the shire's land use planning framework, including the Ballina Shire Growth Management Strategy, the Ballina Local Environmental Plan 2012 and the Ballina Shire Development Control Plan 2012.

The study area boundary was drawn to encompass an area broader than the industrial estate and old Council depot in order to address boundary and environmental issues relating to the potential development of the land.

The preparation of the structure plan and land use review has involved initial consultation with existing landholders within the area, including Crown Lands.

9.7 Clark Street Precinct Structure Plan and Land Use Review

The purpose of this report is to advise Council on the outcomes of the structure plan and land use review and seek direction on the public exhibition of the documentation that has been prepared.

Key Issues

- Strategic land use assessment.
- Access and transport.
- Land contamination.
- Environmental values.
- Economic development.

Information

The 'Clark Street Precinct Structure Plan and Land Use Review' prepared by GeoLINK on Council's behalf has been distributed to Councillors under separate cover. The plan has been prepared having regard for a range of factors including biophysical values, environmental constraints, infrastructure capacity and commercial demand/supply and economic considerations.

The plan outlines four possible options for the future of the locality, which are described as follows:

- Option 1 – No Change
- Option 2 – The Path of Lease Resistance
- Option 3 – Adaptive Reuse
- Option 4 – A Transformative Approach

Detailed information regarding the above options is provided in the plan.

The report identifies part of the site for possible 'development' land uses, on the basis of an assessment of the environmental characteristics of the land including environmental constraints and biodiversity values. The options canvassed in the plan propose a range of possible land uses, including light industrial, business incubator, storage, residential, rehabilitation and wetland education and recreation and open space. The arrangements of these possible land uses, canvassed in the options, have been determined on the basis of a preliminary assessment of land use suitability and land use conflict, economic viability considerations and the business intentions of existing businesses within the Clark Street industrial estate.

In the short term, the report recommends that Council not pursue a change to the zoning of the land, noting that the economic assessments have demonstrated that there is already more than sufficient suitably zoned land to meet Ballina's anticipated future demand for commercial and industrial development in the short to medium term. Further, the report notes the following:

"In the interim, the current IN1 zoning will continue to allow business to come to the estate, so it will not have any detrimental impact on the existing businesses. It will, however, allow time for existing demand/ supply issues to evolve, as available land is taken up and as market issues like new technologies and housing type/ need change in the next 5-10 years.

9.7 Clark Street Precinct Structure Plan and Land Use Review

Based on this, it is recommended that Council revisit the situation in five years, with a view to implementing potential changes in around 10 years' time (subject to market changes)."

In the longer-term, the report presents Option 4 ('A Transformative Approach') as the preferred approach to the future development of the precinct. In relation to this longer term vision, the report notes the following:

"In the longer-term, high technology industries/ businesses are likely to grow in Ballina and in the region. The precinct is well-placed to be able to attract such business. By their nature, their spatial needs will be different to conventional light industrial models. In particular, the ability to live and work in a shared space will become more valued.

Option 4, therefore, will provide the most flexibility for businesses like these, while also allowing a wider range of uses within the precinct. The introduction of medium density residential development, if well-designed, will allow future residents to take advantage of the central location and proximity to retail/ services. It will also provide land to meet a housing demand that is currently not being well met in Ballina."

It is noted, however, that options 2 to 4 are contingent on the resolution of a number of key matters including:

- Confirmation of land tenure arrangements over the former Council Depot site (currently being progressed through negotiation between Council staff and Crown Lands);
- Demonstrated demand for commercial land uses proposed, sufficient to support a business case justifying the work necessary to investigate, rezone and develop the land;
- Detailed consideration of environmental hazards including flood hazard and fill impacts and land contamination issues associated with historic use of the Council depot site for night soil disposal and land fill;
- Consideration of land use conflict issues associated with several of the proposed potential land uses, in particular residential uses; and
- Resolution of traffic access issues including the need for a fourth 'leg' on the Kerr Street/Tamarind Drive/Bangalow Road intersection to be provided in association with intensification or expansion of development.

It is noted that the above matters could be considered in association with a planning proposal for the rezoning of the land, should there be sufficient commercial justification for such a proposal being put forward. However, the approach recommended by GeoLINK is one that provides time to resolve some of the key issues relevant to the land as well as monitor market conditions and trends before taking action. This is on the basis that there is no pressing need for change identified at present.

Council is invited to publicly exhibit the plan to seek feedback from landholders and the broader community prior to determining whether to adopt the approach recommended in the GeoLINK report. Should the Council pursue this option, it is proposed that the options outlined in the plan would be subject of further consideration via a subsequent Council report to be presented post-exhibition.

Sustainability Considerations

- **Environment**

The development options presented in the plan have been prepared having regard for the environmental characteristics of the land. The pursuit of any of the options, through the statutory planning proposal process, would involve further detailed consideration of environmental constraints and biodiversity values.

- **Social**

The development of the land for a range of commercial, industrial, residential and/or open space purposes could have social benefits associated with the provision of services and facilities and with increased employment. The pursuit of any of the options presented in the plan, through the statutory planning proposal process, would involve further consideration of social matters.

- **Economic**

The development of the land would have economic consequences including employment and potential commercial competition for other existing and proposed developments in Ballina. The pursuit of any of the options presented in the plan, through the statutory planning proposal process, would involve further consideration of economic consequences of the development.

Legal / Resource / Financial Implications

The public exhibition and reporting of the plan can be accommodated within existing resources.

No specific legal issues associated with the progression of this matter have been identified.

Consultation

The Clark Street Structure Plan and Land Use Review is a non-statutory planning assessment report. Consequently, there are not mandatory consultation arrangements associated with the Council's consideration of the plan. Notwithstanding, the public exhibition of the plan is considered good practice. Should the Council endorse the public exhibition of the plan, an exhibition period of 28 days is proposed.

Preliminary stakeholder engagement was undertaken with the existing landholders within the study area, involving letter correspondence and assessment of responses followed by a workshop between interested parties and Council's consultants and staff.

Council also sought specific feedback from Crown Lands given its substantial land holdings in the study area. Outcomes from the engagement program are documented in section 1.3 of the Structure Plan and Land Use Review report (distributed to Councillors under separate cover). The feedback given informed the preparation of the report prepared by GeoLINK.

Options

1. Council could receive and note the Clark Street Structure Plan and Land Use Review.

The plan, the subject of this report, provides a sound basis for consideration of future options for the potential development of the land.

On this basis, this option is not recommended in favour of a process that provides for the ultimate endorsement of the outcomes of the project to inform Council's strategic planning for the locality.

2. Council could resolve to adopt the Clark Street Structure Plan and Land Use Review, as a basis for further consideration of the development options relating to the land, should such a proposal be put forward by the relevant landholder/s.

It is considered appropriate that landholders within the study area, and members of the broader community, be given an opportunity to review and comment on the plan prior to its adoption. On this basis, this option is not recommended.

3. Council could resolve to publicly exhibit the Clark Street Structure Plan and Land Use Review. Following exhibition, further consideration of the options presented in the plan and an assessment of submissions received during the exhibition would form the basis of a further report to the elected Council.

For the reasons outlined above, this option is recommended. In progressing this option it is recommended that the public exhibition occur over a period of four weeks.

Importantly, adoption of a planning framework for the Clark Street area (either now or post exhibition of the review document) does not commit Council to taking further action itself. Rather, the framework would identify Council's preferred land use outcomes and provide parameters for consideration of a planning proposal that may seek to rezone land or alter the provisions of the Ballina Local Environmental Plan. Such a planning proposal could be initiated by Council or landholders (or a developer interest in the land) and would involve further and more detailed investigations.

If desirable to the Council, a briefing on the project and the GeoLINK report could be held either before or during a public exhibition period. If the Council is inclined to seek a briefing, it is recommended that such a briefing be held towards the end of (or just after) public exhibition of the documentation so that feedback received can be considered in such a forum.

RECOMMENDATIONS

1. That the Council notes the contents of this report concerning the preparation of the Structure Plan and Land Use Review relating to the Clark Street Precinct in Ballina.
2. That the Council authorises the General Manager to exhibit this document for public comment for a minimum period of four weeks. Following the public exhibition, a report is to be presented to the Council for its further consideration.

Attachment(s)

1. Clark Street Precinct Structure Plan & Land Use Review (Under separate cover)

9.8 Classification of Land - Bolwarra Circuit, Wollongbar

9.8 Classification of Land - Bolwarra Circuit, Wollongbar

Delivery Program Strategic Planning

Objective To determine the classification of two parcels of land recently acquired by Council, under the provisions of the Local Government Act 1993.

Background

Two new allotments of land located in the Wollongbar Urban Expansion Area have been recently registered and dedicated to the public (Council) as drainage reserves. These parcels of land are identified as Lots 62 and 63 in DP 1190477 (Nos. 4 and 10 Bolwarra Circuit) and are shown on the locality map in Attachment 1.

The lots comprise part of the stormwater management system in place for the estate which was approved by Council in Development Application No. 2009/664 and authorised for registration by Council in Subdivision Certificate No. 49/2013 on 9 January 2014.

The purpose of this report is to determine the classification of the allotments under the terms of the *Local Government Act* 1993 (LG Act). Part 2 of Chapter 6 of the LG Act regulates the management of public land.

Specifically, sections 26 and 27 of the LG Act require public land to be classified as either “community” or “operational” land in accordance with its intended use.

Key Issues

- Classification of the land under the terms of the LG Act.
- Nature and use of the land.

Information

As detailed above, the subject lots have been dedicated to Council as drainage reserves and contain stormwater management infrastructure provided as part of the residential development of the adjoining land.

As the lots have been created to contain stormwater management infrastructure and will not function as open space for public recreation it is recommended that they be classified as operational land in accordance with the provisions of the LG Act.

Section 34 of the LG Act requires that public notice of a proposed resolution to classify land must be given and that a period of not less than 28 days to receive submissions must be provided. A public notice of the proposal to classify the subject land as operational land was conveyed in the Ballina Shire Advocate on 16 April 2014 in accordance with section 34 of the Act, with submissions invited until 16 May 2014. No submissions were received in response to the notification.

Given that the land has been dedicated to Council and the required public notification has been completed, it is now necessary for Council to confirm whether or not the land is to be classified as operational land under the terms of the LG Act.

Sustainability Considerations

- **Environment**
The classification of the subject sites is not expected to result in any negative environmental outcomes.
- **Social**
The classification of the subject sites as operational land will support positive social outcomes, having regard for the ongoing management and maintenance of the land for stormwater infrastructure.
- **Economic**
The classification of the subject sites as operational land will support positive economic outcomes, having regard for their ongoing management and future use.

Legal / Resource / Financial Implications

The classification of Lots 62 and 63 in DP 1190477 as operational land is a legal mechanism under the LG Act that provides Council with flexibility in the management and maintenance of the land for stormwater infrastructure. The proposed classification will not directly result in adverse resource or financial implications but will enable the efficient management and maintenance of the land for its intended purpose in the long term.

Consultation

Public notification of the proposal to classify the land as operational land has been made in accordance with the requirements of section 34 of the *Local Government Act 1993*. Public submissions were invited with the closing date being 16 May 2014. No submissions in response to the notification were received.

Options

1. The Council may resolve to classify one or both of the properties as operational land.

Under this option, the proposed classification of either or both of the properties as operational would take effect immediately upon the resolution of the Council.

2. The Council may resolve to classify one or both of the properties as community land.

9.8 Classification of Land - Bolwarra Circuit, Wollongbar

Where land is classified as community land, Council would be obliged to manage the land for community purposes and make provisions for its categorisation and incorporation into a plan of management. Given the intended use of the land is for stormwater management, classifying the land as community land is inappropriate and not recommended.

The classification of both parcels as operational land as per option one is the recommended approach as the land has been specifically dedicated for a use compatible with an operational classification. Classification as operational land allows for the ongoing management and maintenance of the land for stormwater infrastructure.

RECOMMENDATION

That the Council classify the land identified as Nos. 4 and 10 Bolwarra Circuit, Wollongbar (Lots 62 and 63 in DP 1190477) as operational land under the provisions of the *Local Government Act* 1993 and that this classification takes effect immediately.

Attachment(s)

1. Locality Map

9.9 Our Community: Our Culture - Ballina Shire Cultural Plan

9.9 Our Community: Our Culture - Ballina Shire Cultural Plan

Delivery Program Community Facilities and Services

Objective To provide information to the Council concerning the public exhibition of the draft Our Community: Our Culture - Ballina Shire Cultural Plan 2014 - 2020 and seek endorsement for its finalisation.

Background

The preparation of the draft Cultural Plan was undertaken by local heritage consultant, Dr Kate Gahan who provided a briefing to Councillors in December 2013. Following this briefing some additional suggestions from Councillors were included into the draft document.

At the Council's Ordinary Meeting held in January 2014, it was resolved "*That Council endorses the draft cultural plan Our Community: Our Culture Ballina Shire Cultural Plan 2014 -2020 for public exhibition*" (Minute No. 230114/11).

Following this resolution the draft document was placed on public exhibition. This report provides an overview of exhibition and the matters raised through the public submissions that were received. The report also provides recommendations on changes to the draft Cultural Plan based on the response to these submissions and seeks endorsement to finalise the plan.

Key Issues

- Community engagement
- Fostering cultural activity to encourage community connection.
- Endorsement of the Cultural Plan

Information

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

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

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

9.9 Our Community: Our Culture - Ballina Shire Cultural Plan

The overarching intent of the draft plan is to identify the community's cultural strengths and priorities, as well identify 'opportunities' and 'potential projects' as options to do this. The draft plan is structured around six objectives informed by the community engagement process and based around the themes of:

- Sense of Place
- Aboriginal Culture
- Great Outdoors
- Art Smart
- Cultural Space and
- Family Fun.

The public exhibition period for the draft Cultural Plan occurred over four weeks from the 26 February through to the 28 March 2014. During this time the draft document was distributed via a variety of avenues including to those groups and individuals who had provided feedback through the Cultural Plan survey or focus groups. Details on the extent of community engagement during preparation of the draft plan, and during its public exhibition, are included under the consultation section of this report.

During the public exhibition period, a total of 12 submissions were received:

- four representing community individuals (two of whom were artists)
- three representing Aboriginal family groups
- two representing community-based arts groups
- one library representative
- one combined church group and
- one community based environmental group.

The submissions received are contained in Attachment 1 of this report.

All submissions indicated some support for the overall concept, or the importance of having a Cultural Plan, or aspects of the plan itself. Other matters raised through the submissions received can be grouped into the following categories:

- inclusion of specific activities, facilities or groups into the plan
- provision for more environmental and cultural heritage site management
- inclusion of reference to the importance of spiritual culture and
- Aboriginal cultural issues.

An overview of the matters contained in the submissions is provided below, together with the suggested response. A more detailed summary of the submissions is contained in the Submissions Summary Report contained in Attachment 2.

A copy of the draft Cultural Plan, amended in a manner consistent with the recommendations which follow, is contained in Attachment 3.

Inclusion of specific activities, facilities or groups into the plan.

Some submissions suggested the listing of specific additional activities, facilities or groups in the plan. In considering this, it is important to recognise that cultural activities are referred to generally in the plan, as the scope of the plan is to provide direction to Council and the community on how to foster these activities more broadly across the whole shire without singling out individual projects or groups.

The broad approach taken in the Cultural Plan also seeks to give the plan greater longevity through avoiding the need to make changes as groups and interests change over time.

No change to the draft plan is recommended.

Provision for more environmental and cultural heritage site management.

A number of submissions have raised the importance of managing and promoting natural areas to sustain environmental and cultural heritage sites across the shire. This is recognised in the plan as important in preserving cultural values.

Key land use planning concerns and how these matters are managed broadly underpin a number of objectives within the plan. However, it is not the intent of the plan to identify all the possible ways these objectives might be achieved.

The overall intent of the Cultural Plan is to identify the community's cultural strengths and priorities, as well as identify potential ways to do this.

No change to the draft plan is recommended.

Recognition of the importance of spiritual culture.

One submission emphasises the importance of recognising the shire's spiritual culture in the plan. Churches and their associated facilities are recognised as important cultural spaces in the shire and this could be better reflected in the plan.

As such, a change to the draft plan is recommended in response to this submission.

It is suggested that spiritual culture elements can be highlighted under the Cultural Spaces objective with the following wording:

Churches, and church organisations, of various denominations are part of the shire's historic spiritual culture, or traditions. Churches and other spirituality-based organisations continue to generate, and support cultural activity in the shire.

Amendment to the exhibited draft Cultural Plan to insert the above wording is recommended.

Aboriginal cultural issues.

A number of Aboriginal cultural matters relating to an appropriate Acknowledgement of Country, wording of objectives specific to Aboriginal culture in the shire, cultural awareness training, the listing of cultural sites and partnership projects between Council and the Aboriginal community were raised in the submissions.

Without diminishing in any way the importance of the above, is considered appropriate that other forums, such as the Ballina Shire Aboriginal Community Committee, continue to consider the issues raised as these matters potentially have much wider implications for Council than the Cultural Plan alone.

No change to the draft plan is recommended.

Sustainability Considerations

- **Environment**

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

- **Social**

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

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

- **Economic**

The Cultural Plan recognises the significant contribution cultural activities, including the arts and recreation, make to the shire's economy. The plan seeks to increase participation in, and access to, cultural activity and, in so doing, encourage increased local opportunities and employment for community residents working in cultural and creative industries.

Legal / Resource / Financial Implications

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

9.9 Our Community: Our Culture - Ballina Shire Cultural Plan

The preparation of the plan has been funded from Council's heritage program budget. However, resourcing will need to be considered before the potential projects or activities suggested in the plan can be actioned. Appendix 2 of the draft plan provides indicators as to how the potential projects and activities listed for each of the objectives are, or may be, resourced.

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

Consultation

The community engagement undertaken for the draft Cultural Plan was two-phased. The first was undertaken during the preparation of the draft plan whilst the second phase was the public exhibition.

A number of activities were undertaken during the preparation of the draft Plan, including:

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

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

During the public exhibition in February and March 2014, the draft Cultural Plan, together with a brochure entitled *Our Culture: Current Community Projects*, was distributed via a number of avenues. These included:

- Notification through the local media via media release (all local media), advertisement in the Advocate and on Council's website.

9.9 Our Community: Our Culture - Ballina Shire Cultural Plan

- Notification of the public exhibition via email blasts to 11 community groups, 22 shire schools for inclusion in their respective newsletters, 156 members of the Arts Northern Rivers Ballina database, 387 individuals who subscribe to enews, and 538 individuals who subscribe to the industry enews.
- The draft plan was provided to 136 of the survey participants who provided contact details and all of the 32 participants of the focus groups.
- The draft plan was provided to the Youth Council & Council's Aboriginal Community Committee.

Following the public exhibition and collation of submissions, Councillors received a briefing on the project in May 2014.

Options

1. That the Council does not adopt the draft *Our Community: Our Culture Ballina Shire Cultural Plan 2014 -2020* and ceases further action on the project.

Due to the extensive consultation undertaken in the preparation of the plan to date and the rationale underpinning the key elements of the proposed plan, this option is not recommended.

2. That the Council defer the adoption of *Our Community: Our Culture Ballina Shire Cultural Plan 2014 -2020*.

This option could involve further consideration of the draft plan by way of another Councillor briefing or additional community engagement. Given the community engagement undertaken to date and the various means available to address the key issues raised in the submissions, this option is not recommended.

3. That the Council adopt *Our Community: Our Culture Ballina Shire Cultural Plan 2014 -2020* as exhibited or with changes.

Council can adopt the draft plan as exhibited or with minor changes.

The submissions relating to the public exhibition of the draft plan have been considered and this information is contained in Attachment 2. Based on this Submissions Summary Report, it is suggested that most of the matters raised do not warrant changes to the draft Cultural Plan.

The exception to this is an addition to include recognition in the plan of the contribution spiritual culture makes in the shire. It is suggested that this can be highlighted under the Cultural Spaces objective with the following wording: *Churches, and church organisations, of various denominations are part of the shire's historic spiritual culture, or traditions. Churches and other spirituality-based organisations continue to generate, and support cultural activity in the shire.*

9.9 Our Community: Our Culture - Ballina Shire Cultural Plan

If the Council elects to adopt the plan, it is recommended that this be done with the addition of the wording above. A copy of the draft Cultural Plan, inclusive of the above recommended change, is contained in Attachment 3.

Under this approach, staff will proceed to finalise and publish the plan, including making any final formatting and typographic adjustments.

Adoption of *Our Community: Our Culture Ballina Shire Cultural Plan 2014 -2020* with the identified change referenced above is the recommended approach.

RECOMMENDATION

That the Council adopts the *Our Community: Our Culture Ballina Shire Cultural Plan 2014 -2020* as attached to this report.

Attachment(s)

1. Cultural Plan Submissions
2. Cultural Plan Submissions Summary Report
3. Our Community: Our Culture Ballina Shire Cultural Plan 2014 - 2020 (Under separate cover)

9.10 Wardell and District War Memorial Hall

9.10 Wardell and District War Memorial Hall

Delivery Program Community Facilities and Services

Objective To invite the Council's further consideration of management options in relation to the Wardell and District War Memorial Hall.

Background

As an outcome of the Council's decision last year to reallocate functional and operational areas within the organisation, the Strategic and Community Facilities Group has been assessing the status of a number of matters that have formed part of that transitional arrangement. This report presents one of these matters and invites the Council to confirm its preferred approach to the management of the Wardell and District War Memorial Hall (the Hall).

The Council has previously considered several reports in relation to the acquisition, management, maintenance, classification and tenure of the Hall. The acquisition of the Hall by Council was effected on 18 November 2013, however due to some technical difficulties within NSW Land and Property Information, the transfer was not registered into Council's name until 11 February 2014.

On 24 May 2012, the Council received and considered a report relating to the Hall. At that meeting it was resolved as follows:

- 1. That Council notify the Trustees of the Wardell and District War Memorial Hall that it is prepared, in principle, to accept the Trustees' offer to assume ownership of the property, as per the contents of this report.*
- 2. That prior to Council proceeding to assume ownership, Council seek expressions of interest from the community for the formation of a management committee to oversee the operation of this hall, as occurs with the various other community halls in the Shire.*
- 3. That if point 2 can be implemented to the satisfaction of the General Manager, the General Manager is authorized to proceed with the contract for sale only upon receipt of a further building report concerning the condition of the Hall, with the General Manager being satisfied that the general condition of the Hall and the scope of any remedial works are acceptable.*
- 4. That the General Manager is authorized to affix the Council Seal to documentation associated with the contract for sale, subject to points 1, 2 and 3.*

On 20 December 2012, the Council considered a further report as a follow up to the above. This report advised that in response to the community expressions of interest process that was conducted, two responses were received offering to be appointed as members of a Hall Management Committee. These responses were, firstly, from Mr Pat Carney and secondly, the Wardell War Memorial Hall Committee, nominating five persons as potential members, being: Mr Boyd and Ms Jodi Wilcox, Mr Ron Rosolyn, Mr Mike Bardell and Mr Barry Clifford.

9.10 Wardell and District War Memorial Hall

Following its deliberations at this meeting, the Council resolved to defer the matter to a Council workshop, with no decision made to either proceed with the Hall purchase or to appoint a management committee.

At its Ordinary meeting held on 28 February 2013, the Council resolved as follows:

1. *That Council approves the purchase (ie transfer) of the Wardell and District War Memorial Hall into Council ownership and authorizes the General Manager to enact all actions necessary for this purchase.*
2. *That Council authorizes the establishment of a standard Council licence agreement for the Hall, with a Local Hall Management Committee.*
3. *That Council ask the Hall Management Committee, once established, to confirm a scope of works for immediate and urgent works to the Hall, based upon the report prepared by Techton.*
4. *That the funding for the agreed works be allocated from the Wardell Town Centre upgrade budget, up to a limit of \$20,000.*
5. *That Council resolve to classify the land as operational land under the Local Government Act 1993, affording Council with greater flexibility for the use of the land in the future.*
6. *That Council approves the Council Seal to be attached to any legal documentation required to acquire the property, being situated upon Lot 1 DP312334, be that a Contract for Sale of Land, Deed of Transfer or any other legal documentation. Further, that consent to affix the Common Seal also be granted to the Lease Agreement to be drafted between Council and the yet to be appointed Hall Management Committee.*

It is noted that in relation to item five above, the Council subsequently resolved to reclassify the property as community land for the purpose of the Act. The public records have been appropriately adjusted to reflect the Council's decision.

Key Issues

- Management and tenure arrangements for a Council-owned community asset.

Information

Whilst the Council has canvassed on a number of occasions the issue of appointing a Hall management committee, there has not been an actual decision to appoint individuals to this role.

Council has also received a letter from the Wardell and District Progress Association Inc. advising that it had arranged for a sub-committee of the Association to be formed for the purpose of administering the Hall.

9.10 Wardell and District War Memorial Hall

The names which the Association conveyed to Council for this purpose are:

Mr John Stead, President
Mr Mike Rushby, Vice President
Ms Jodi Wilcox, Secretary
Mr Michael Bardell, Treasurer
Ms Lois Cook
Mr Pat Carney
Ms Sue McCowan
Ms Trish Tundall

Essentially, what the Council is now asked to do is firstly, confirm it wishes to have community members form a structure to administer the Hall, maintain and improve it and promote its use in the best interests of the Council, as the owner of the property. Secondly, the Council is asked to confirm the composition of the management group. From staff's perspective it is suggested that there are benefits in vesting the management responsibility for the Hall in the Wardell and District Progress Association Inc., if it is prepared to assume that role.

As an incorporated body, the Association would be asked to enter a lease with Council under the relevant provisions of the Local Government Act which, subject to any conditions in the lease, would confer an exclusive right of occupation for the term of lease. The Association may choose to appoint its own sub-committee to manage day to day issues relating to the Hall, but Council's agreement would be with the Association itself. The terms of the lease would need to be established by the Council and might include revenue distribution arrangements and financial and use reporting responsibilities, for example.

As a matter of interest, it is understood the "self-appointed" Hall committee has been meeting at regular intervals for some time. Further, that it has undertaken fundraising activities and sought grant funding for improvements to the Hall. The group is demonstrating that it is motivated to promote community usage of the facility and to generate revenue to support Hall improvements.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
Local halls are often critical items of infrastructure for communities which they serve. The extent to which local halls are utilized and maintained can be an indicator of the level of community cohesion within a particular area.
- **Economic**
Council is aware that local community halls can consume significant financial and other resources. However, we have local examples of active management committees, working hard through fundraising efforts, to promote and improve their important community assets.

Legal / Resource / Financial Implications

Council is the owner of seven local community halls. There are 5ive other halls which are in and operate on shire Crown Land under private management. Each of these halls is managed by a local community committee, some of which are more active than others in terms of promoting usage etc.

Staff are currently considering the possibility of engaging with the respective hall management groups to include the respective properties in our online community facilities booking system and promotional literature. If accepted, it is hoped this initiative will help to stimulate usage of the halls, providing improved social and financial outcomes.

In terms of the Wardell Hall, the Council has previously been made aware of the extent of work that is required to make it fully compliant with current building and access standards, as well as generally improving it to make it a more attractive venue for casual hirers. Whilst Council will endeavour to assist with upgrading work within its available resources, outcomes will also depend on the extent to which the local management group will “buy in” to the facility.

Consultation

No formal community engagement was undertaken in relation to Council’s acquisition of the Wardell Hall.

In relation to the establishment of a Hall management committee, an expression of interest process was conducted during 2012, however the Council did not resolve to accept the nominations received.

Options

On the presumption that the Council does wish to have a community-based management structure in place to administer the Hall, it seems the following options would be available to achieve that:

1. Formally appoint the community members who responded to Council’s expression of interest process conducted in 2012;
2. Conduct a fresh expression of interest process
3. Appoint the community members who have “volunteered” and who are currently performing in that role, albeit without authorization to do so;
4. Offer to appoint the Wardell and District Progress Association Inc. to manage the Hall under the terms of a lease arrangement. This is the preferred option. It would then be a matter for the Association to decide to nominate its own sub-committee to administer the day to day operations of the Hall, but Council’s agreement would be with the Association.

RECOMMENDATIONS

1. That Council notes the contents of this report relating to options for the future management of the Wardell and District War Memorial Hall.
2. That the Wardell and District Progress Association Inc. be invited to accept an offer to manage the Wardell and District War Memorial Hall under the terms of a standard Council lease agreement for halls of this type. Council authorises the Council seal to be attached to this lease.

Attachment(s)

Nil

9.11 Lennox Head Cultural and Community Centre - Insurance Claim

9.11 Lennox Head Cultural and Community Centre - Insurance Claim

Delivery Program Governance and Finance

Objective To provide an overview of the confidential report relating to the Council insurance claim for the design of the Lennox Head Cultural and Community Centre.

Background

Since 2010 Council has been seeking damages from the GHP Pty. Ltd. being the initial project architect for the design and construction of the Lennox Head Cultural and Community Centre (LHCCC). The damages relate to the defective design and breaches of the Consultancy Agreement for the Project.

The solicitors representing the insurer for GHP are now proposing a possible settlement of this claim and the confidential report elsewhere in this agenda provides details of that settlement offer.

Key Issues

- Difficulty in finalising this matter
- On-going costs
- Options that can be pursued

Information

The purpose of this report is to provide a brief overview of the confidential report to meet the requirements of the Local Government.

Consultation

There has been significant on-going consultation and legal action to finalise this matter. Financial details of the claim are included in the confidential report, as required by Council's solicitors.

Options

This report is for information purposes only.

RECOMMENDATION

That Council notes the contents of this report regarding the insurance claim for the design of the Lennox Head Cultural and Community Centre.

Attachment(s)

Nil

9.12 Cawarra Park - Kawaihae Outrigger Canoe Club

9.12 Cawarra Park - Kawaihae Outrigger Canoe Club

Delivery Program Community Facilities and Services

Objective To invite the Council's consideration of a proposal by a sporting club to consolidate its activities within Cawarra Park in Ballina.

Background

The Kawaihae Outrigger Canoe Club (the Club) has informally occupied an area of Cawarra Park, adjacent to the foreshore of North Creek in Ballina, since approximately 2008. More recently, the Club has experienced an increase in its membership and has been successful in obtaining a State Government grant to assist with the expansion of its storage facilities.

The Club's consolidation proposal increases the footprint of its existing equipment storage facilities to the extent that development consent from the Council will be required. A copy of the Club's proposal is attached to this report, along with an artist's impression of the proposal. Also attached is a map which shows the proposed footprint of the storage area on the park, together with some photographs showing the improvements which are currently in place.

In reviewing the submitted proposal, it became apparent that the Club compound currently spans the boundary of Cawarra Park, which is Council-owned Community Land, and an adjoining parcel of Crown land for which the Council is the appointed Trust Manager. The occupation of the Crown land is being undertaken without authorisation. To address this, the Club has agreed that any expansion of its facility will include a relocation to be entirely within the boundaries of the Council-owned land. This would enable Council to issue a lease or licence in accordance with the requirements of the Local Government Act, if this use of the reserve is considered acceptable. The accompanying map depicts by red outline the area that, in general terms, would form the new compound. It is noted however a specific site within the park would be selected by Council's Manager of Open Spaces if the project is to proceed.

Key Issues

- Impact on the open space and general amenity of Cawarra Park
- Existing structures in Cawarra Park
- Social, health and community benefits of non-impact sporting facilities available in the shire

Information

The Council's adopted Generic Plan of Management for Community Land notes in the Special Provisions as a current permitted use at Cawarra Park

" ... the use of part of the park adjacent to the boat ramp at the end of Martin Street by the Ballina Surf Lifesaving Club for the establishment of a surfboat/board/ski storage facility".

9.12 Cawarra Park - Kawaihae Outrigger Canoe Club

and notes a further permitted use of:

“Exclusive occupation of the land for the establishment of a clubhouse and storage facility”.

Having regard for the above, the Club’s proposal is broadly consistent with the current provisions in the Generic Plan of Management for Cawarra Park.

The issues which the Council is invited to consider are:

1. Whether the proposal submitted by the Club is an acceptable community outcome for the reserve (bearing in mind a separate development application will need to be assessed and determined in due course) and
2. Whether the Club is offered the use of the land in the absence of a process in which other sporting or community groups are invited to express their interest in using the same area.

As set out in the documents provided by the proponent (attached to this report), the Club has indicated that it operates cooperatively with other groups of a similar nature and is seeking to incorporate additional storage in its proposed development to allow other user groups to store their equipment within the site.

A particular issue which the Council (as the landowner, rather than the consent authority) is asked to consider, and perhaps provide some guidance on, is the nature of improvements that may be considered acceptable. In discussions with representatives of the Club, staff has ascertained that storage within the proposed compound is likely to comprise one or more shipping containers. These structures have the advantage of being portable (should they need to be removed/replaced in the future), but are also very sturdy and secure. It is proposed that these containers would be “disguised” by means of plantings, being painted (possibly murals), screened or by other means. Details of the proposed treatment would be provided at DA stage.

It is considered preferable to gain an understanding of the Council’s view about these components of the proposal now, rather than subsequently dealing with the matter as part of a future development application. From staff’s perspective, it is conceded that shipping containers can be an ideal solution for this type of proposal, from both a landowner’s and applicant’s perspective. However, it has also been recently acknowledged that a proliferation of these structures can detract from the amenity of public spaces.

Sustainability Considerations

- **Environment**

The Club has a positive environmental impact as its members attend to regular cleaning and maintenance of the immediate area surrounding their current storage facility, as well as participating in Clean Up Australia Day; where the club members remove rubbish and debris from the waterways.

9.12 Cawarra Park - Kawaihae Outrigger Canoe Club

- **Social**

The Club offers inclusive sporting and social activities for the community. Due to the low impact nature of the sport, it is an ideal activity for families and older members of the community.

- **Economic**

Not applicable

Legal / Resource / Financial Implications

Due to the current location of the compound, straddling the boundary of both Council-owned land and Crown land, the Club is not able to be given tenure. Without tenure, there are potential legal and insurance liability issues. The expansion proposal would see the relocated Club being wholly within Cawarra Park, which would result in tenure being able to be offered.

Consultation

Members of the Club have engaged with Council staff to discuss the proposal. The Club advises it has discussed its proposal with the baseball club which currently occupies the clubhouse located within Cawarra Park. The Club also reports regular positive engagement with the adjacent neighbours.

It is noted however that if the Council agrees to the lodgment of a DA for the expansion proposal, it is expected the application would be advertised for community comment, along with any lease or licence proposal.

Options

As the owner of Cawarra Park, the Council has the option of supporting, or declining to support, the current proposal by the Club to consolidate its current activities and use of the reserve.

If the Council wishes to support the proposal, in principle, it will authorize the General Manager to sign the Club's development application, and this will be assessed and determined in due course (either under delegation or be reported to the Council for determination). If consent is granted, staff will then prepare a lease or licence with the Club for an initial period of three years to confirm its tenure. This is the preferred and recommended option on the basis that the Club's recent operation has not substantially impeded the community's use and enjoyment of the eastern portion of the park. Furthermore, the location of the compound adjacent to North Creek, with its convenient vessel launching infrastructure, "makes sense" having regard for the nature of the Club's activities.

In relation to the types of structures proposed, the Council (as the landowner) may wish to express a view about what it is prepared to authorize for the purpose of a future development application. As suggested above, there can be "pros and cons" concerning the use of shipping containers within a public space and their acceptability may depend on particular circumstances. It may be sufficient just to convey to the Club that this will be an element of its future development application (if the matter proceeds) which will be very carefully scrutinized.

9.12 Cawarra Park - Kawaihae Outrigger Canoe Club

If the Council does not wish to support the proposal lodged by the Club, action will commence to have the Club vacate the site, in which case it will need to find another suitable location for its facility.

RECOMMENDATIONS

1. That the Council provides support for the use of the eastern portion of Cawarra Park in Ballina by the Kawaihae Outrigger Canoe Club for the establishment of a craft and equipment storage compound, as outlined within this report.
2. The General Manager is authorised to permit the lodgement of a development application by the Club for establishment and operation of a new facility within the park.
3. Should development consent be granted for the Club's proposed facility, the General Manager is authorised to grant to the Club a licence or lease for an initial period of three years, at a peppercorn rental, with the Council Seal being affixed to the related documents.

Attachment(s)

1. Kawaihae Outrigger Canoe Club letter dated 30 May 2014
2. Artists Impression
3. Site Plan
4. Proposed expansion and licence area
5. Photos of the site

9.13 Policy (New) - Local Directional Signage within Road Reserves

9.13 Policy (New) - Local Directional Signage within Road Reserves

Delivery Program Community Facilities and Services

Objective To invite the Council to promote a policy position concerning local directional signage within road reserves.

Background

Council occasionally receives requests from organisations and / or individuals seeking permission for the placement of directional signage within road reserves. The Council's previous policy position in relation to this type of signage was contained within the 2006 Development Control Plan (DCP) which was revoked upon the commencement of the *Ballina Local Environmental Plan 2012* (BLEP 2012) in early 2013. As a consequence since that time, Council has not had a policy position in relation to directional signage within road reserve. As such, there has been no clear position in response to requests for signage of this nature.

The purpose of this report is to invite the Council to consider the draft *Local Directional Signage within Road Reserves Policy*, which is contained in Attachment One.

Key Issues

- Criteria for directional signage within road reserves
- Provide an open and transparent decision making process for directional signage within road reserves
- Cost recovery

Information

The objective of the draft policy is to guide the decision making process when requests for directional signage within Council's road reserves are received. The draft policy also clarifies the application process and details for eligibility, as well as providing information on acceptable signs. Key points in the proposed policy include:

- Enables Council to install approved signage for community facilities on local roads
- Excludes signage for advertising
- Requires that all costs will be borne by the applicant
- Signage is to be consistent with relevant Australian Standards
- The activity/facility to be signposted must be lawful

9.13 Policy (New) - Local Directional Signage within Road Reserves

1. Eligible applicants
 - a. Civic facilities such as post offices, government offices, Council administration and services such as public libraries, community centres, waste management facilities, public swimming pools and sports grounds
 - b. Public hospitals
 - c. Public transport facilities such as bus/coach interchanges or airports
 - d. Public education institutions
 - e. Churches and religious institutions
 - f. Other facilities where demonstrable community or visitor interest can be shown and where the applicant is a not for profit incorporated association (i.e. public gallery, museum)
 - g. Holiday parks where the majority of the sites are available for visitors (i.e. greater than 50%)
2. Shape, size and permitted information
3. Visual amenity
4. Costs
5. Removal of signs
6. State roads

Consideration has also been made for signposting visitor or tourist facilities. The State criteria used to assess applications for the Tourist Attraction Signposting Assessment Committee (TASAC) brown and white signs are typically difficult to comply with for smaller organisations. It is therefore intended this policy will also consider applications for tourist/visitor facilities that may fall short of the TASAC criteria.

Sustainability Considerations

- **Environment**

The intent of the policy is to maintain attractive and safe streetscapes. The policy will seek to limit the number of directional signs in any one location in accordance with the Australian Standard 1742.
- **Social**

Implementation of the policy, if adopted, will be beneficial in providing directional support for those less familiar with our area, and may boost visitation to the respective facilities/organisations.
- **Economic**

Not Applicable.

9.13 Policy (New) - Local Directional Signage within Road Reserves

Legal / Resource / Financial Implications

The proposed policy addresses the financial and/or resource implications of installation and manufacture of signs, with all costs associated with the erection, display, affixing, maintenance and removal of signs being the responsibility of the applicant. The proposed fee of \$450 (inc gst) per sign will be exhibited along with the new policy.

In addressing legal implications, the policy only applies to local roads where Ballina Shire Council is the public authority. It is intended that all signage will be compliant with Australian Standard 1742.

Consultation

A Councillor briefing was held on Wednesday 28 May 2014 to discuss the proposed policy prior to it being reported to the June Council Meeting. The feedback received has been included in the draft policy attached to this report.

As with all Council policies, this policy will subject to a public exhibition period which will allow the community to provide further input.

Options

The Council may accept or reject the draft policy. Acceptance is the preferred and recommended option for the purpose of public exhibition. If adopted, it will enable staff to respond to community requests in a timely, consistent and efficient manner.

Alternatively, the Council itself may choose to make amendments to the draft policy.

RECOMMENDATIONS

1. That the Council adopts the draft Local Directional Signage Within Road Reserves Policy, as attached to this report.
2. That the Council adopts the associated fee of \$450 (inc gst) per sign to accompany the policy.
3. That the Council place the draft policy and recommended fee on exhibition for public comment, with any submissions received to be presented back to the Council. If no submissions are received then no further action is required.

Attachment(s)

1. Draft Policy - Local Directional Signage within Road Reserves

9.14 Destination Management Plan

9.14 Destination Management Plan

Delivery Program Tourism

Objective To invite the Council's further consideration of the draft Ballina Shire Destination Management Plan following its public exhibition, and to recommend its adoption.

Background

The Council, at its Ordinary Meeting held on 27 February this year, resolved to endorse the draft *Ballina Coast & Hinterland Destination Management Plan 2014 – 2020* (DMP) for public exhibition and that the matter be reported to the Council at the conclusion of the exhibition period. More specifically, the resolution was as follows:

1. That Council endorses the draft destination management plan *Ballina Coast & Hinterland Destination Management Plan 2014 - 2020* for public exhibition and that this matter be reported to the Council again at the conclusion of the exhibition period, inclusive of the following amendments:
 - a. That Council establish a Taskforce made up of the stakeholders as mentioned in Section 2.2 – “Key Stakeholders”
 - b. Page 33 – add to Clause 4.2 – Alstonville’s Main Street for Level 2 or 3 Visitor Services
 - c. Page 36 Grey Nomads – highlight that Grey Nomads are to be included in volunteer programs
 - d. Page 37 - Promote industry and service-oriented training for industry staff including TAFE
 - e. Correction of any formatting errors

This report is in response to the Council's February resolution.

Key Issues

- Matching community expectations with available resources

Information

The draft *Ballina Coast & Hinterland Destination Management Plan 2014 – 2020* (DMP) was prepared in consultation with representatives of the local tourism industry and was publically exhibited in March and April 2014 through a number of communication channels. It was also distributed electronically to industry in the regular tourism newsletter. The document was also emailed to key stakeholders prior to reporting to Council in February 2014.

9.14 Destination Management Plan

Regrettably, participation in the workshops and responses to the online survey were poor, albeit that concerns have been expressed regarding the timing of this consultation. The subsequent public exhibition period did not elicit any further feedback. Despite this lack of feedback it is important to acknowledge that the DMP is not a static document once adopted and it is designed to be amended based on on-going consultation with the industry.

With respect to points a. through to e. in the Council's February resolution, the following comments are provided to assist the Council's further deliberations.

a. That Council establish a Taskforce made up of the stakeholders as mentioned in Section 2.2 – "Key Stakeholders".

In 2001 Council established a Tourism Advisory Committee in response to industry requests. Members of this Committee included Councillors, Council staff and tourism industry representatives. Following the 2004 local government election, the Council resolved to discontinue the Committee's operation.

Typically, the primary motivation to establish a committee is to promote consultation and encourage detailed discussion for better informed decision-making. In regard to tourism and visitor service related matters, Council staff consult regularly with a number of key stakeholders including chambers of commerce, the regional tourism organisations, regional tourism managers and the Ballina Byron Gateway Airport Manager. Consultation is also regularly sought, on a case by case basis, with representatives of the Ballina Coast & Hinterland tourism industry via surveys, newsletters and telephone.

Council's Tourism staff has been meeting regularly with the three Chambers of Commerce in the Ballina Shire (Alstonville/Wollongbar, Ballina and Lennox Head). This has been as a consequence of the proposed business levy which was considered by the Council earlier this year, however these meetings have continued since that time.

The Ballina Chamber of Commerce and Industry and Council are joint members of the regional tourism organisation, North Coast Destination Network (NCDN). This membership association provides access to funding via Destination NSW's quarantined funding program for regional tourism. It also provides a network for cooperative marketing programs such as The Legendary Pacific Coast touring route. Additionally, NCDN provides an opportunity for tourism colleagues from fifteen local government areas to meet twice each year through the Regional Reference Groups.

The regional Tourism Management Group (TMG) comprises Tourism Officers from seven local government areas in the Northern Rivers region. This group has been responsible for the inception of the Tourism Symposium in the years 2008 to 2010, the Regional Visitor Services Strategy and the regional North Coast Tourism Awards. The TMG reports to the regional General Managers' Group.

The Ballina Byron Gateway Airport is a major infrastructure provider for the visitor economy in the Ballina Shire and the region. The Airport Manager and Council Tourism staff meet regularly to discuss ideas and to collaborate on joint projects. A project which ensures continued consultation and engagement is the Airport Ambassador Volunteer Program.

9.14 Destination Management Plan

Having regard for the foregoing there are concerns that the formation of a Taskforce, as per the February 2014 resolution, is duplicating processes already in place and by selecting only a small group of private sector operators, albeit the larger operators, Council is not forming a truly representative group.

The key stakeholders identified in Section 2.2 of the Destination Management Plan are as follows

- Ballina Chamber of Commerce & Industry
- Alstonville Wollongbar Chamber of Commerce
- North Coast Destination Network
- Ramada Hotel and Suites Ballina Byron
- Ballina Beach Resort
- Community Event Organisers
- Macadamia Castle
- Summerland House Farm
- Ballina Byron Gateway Airport
- Ballina Naval and Maritime Museum

If Council wishes to form a Taskforce it needs to be clear as to the role of that Taskforce. With the February 2014 resolution providing no supporting information a possible Terms of Reference for this Taskforce could be:

Terms of Reference

The objective of the Destination Management Plan Taskforce is to monitor the delivery of the aims, goals and objectives of the Ballina Shire Destination Management Plan through increased consultation with key tourism stakeholders in the Ballina Shire.

Any committee / taskforce requires staff time to support its operations, which places a further drain on what are always limited resources. There is also an expectation from committee members that they can direct actions being undertaken by Council when ultimately the elected Council provides this overall direction. This can at times lead to frustration for members who wish to see their own personal agendas advanced.

True representation is also difficult to achieve for tourism when there are so many different types of operators with linkages to tourism. It is not just the major tourism operators such as the accommodation providers or the attractions that represent the industry but rather the majority of all retail businesses also have an interest in tourism as an increased visitor economy benefits most businesses. This is why on-going consultation with the Chambers of Commerce is important, albeit that they often only represent somewhere around 20% of businesses.

Ballina Tourism and Hospitality Inc was also formed by some members of the tourism industry to better promote tourism, particularly for its members, but this group has had limited membership since its inception. At one point in time Council used to meet regularly with this group however those meetings no longer occur as firstly the group appears to be dormant and when meetings did occur there was often not agreement with the preferred direction as Council's efforts are focused more on outcomes for the broader community where this group was largely focused on benefits for their members.

9.14 Destination Management Plan

In summary as Council has resolved to form a Taskforce, the recommendation to this report includes possible Terms of Reference. However due to concerns over the value or benefit of this Taskforce the recommendations also include an alternative option not to proceed, due to the existing consultation methods already in place and the difficulties in obtaining a truly representative Taskforce.

b. Page 33 –add to Clause 4.2 – Alstonville’s Main Street for Level 2 or 3 Visitor Services.

This amendment has been incorporated into the DMP and also on page 35 which is a consolidated summary of actions, along with funding details.

c. Page 36 Grey Nomads – highlight that Grey Nomads are to be included in volunteer programs.

This amendment has been incorporated into the DMP; albeit that typically Council’s volunteer programs such as the Airport Ambassador Program, require volunteers to have a good working knowledge of the local area.

d. Page 37 - Promote industry and service-oriented training for industry staff including TAFE.

This amendment has been incorporated into the DMP.

e. Correction of any formatting errors

Please refer to amended DMP attached under separate cover.

Sustainability Considerations

- **Environment**

The plan will recognise and promote the Shire’s key environmental attributes.

- **Social**

Visitor services and the visitor economy provide substantial direct and indirect social benefits to the residents of the Ballina Shire and Northern Rivers region.

- **Economic**

Visitor services and the visitor economy provide substantial economic benefits to the Ballina Shire and Northern Rivers region. The plan seeks to increase engagement with stakeholders, and encourages increased investment to the visitor economy.

Legal / Resource / Financial Implications

Projects identified in the DMP and nominated for action will be integrated into Council’s delivery programs and operational plans over time. Funding and resource provisions in relation to these activities would be considered in the context of broader budgetary processes.

Consultation

The Council invited industry stakeholders to participate in workshops held in December 2013. Stakeholders were also invited to participate in the development of a DMP by way of an online survey. This survey was distributed to over 500 stakeholders.

The recent public exhibition period provided further opportunity for the community to provide feedback, however no submissions were received.

Options

The Council has the option of either endorsing the revised version of the document (copy attached) or declining to do so. In the alternative, the Council may choose to further amend the document. If this option is selected, re-exhibition of the draft plan may be warranted, depending on the scope of the changes.

An important point to acknowledge is that the DMP is not intended to be a detailed operational plan. Rather, it is aspirational in nature, with a more detailed suite of actions arising from the plan.

It is also intended that the plan will be regularly monitored and adapted as the Council sees fit, or to respond to changing circumstances within the tourism sector or government directives. Finally, the plan will be essential if the Council or tourism businesses wish to pursue future external grant funding opportunities, in particular the Regional Visitor Economy funding program,. This is the primary State Government funding program for tourism / visitor economy related projects and a contemporary DMP is a key requirement for eligibility under this program. The DMP also allows private sector organisations to apply for funding with Macadamia Castle being an example of one operator who will be using the DMP as part of their project application.

On balance, it is suggested that the publicly exhibited draft plan, incorporating the amendments as discussed in this report, is the preferred and recommended outcome. It will provide the Council itself, staff, tourism businesses and the community with a clear understanding of the strategic goals for tourism and visitor services for the Shire for the medium and longer term. Importantly, the plan, if adopted and implemented effectively, will promote the clearly articulated policy position of the State Government, which is to double overnight visitor expenditure within the State by 2020.

RECOMMENDATIONS

1. That the Council adopts the amended draft Destination Management Plan for the Ballina Coast and Hinterland 2014-2020, as attached to this report.
2. That a letter of appreciation be conveyed to those individuals and businesses who contributed to the preparation of the plan.
- 3A. That Council endorses the formation of a Destination Management Taskforce based on the following Terms of Reference:

Objective

The objective of the Destination Management Plan Taskforce is to monitor the delivery of the aims, goals and objectives of the Ballina Shire Destination Management Plan through increased consultation with key tourism stakeholders the Ballina Shire.

Membership

As per section 2.2 of the Destination Management Plan

Meetings

Three monthly or as required

Delegations

Nil

OR

- 3B. That Council not proceed with the formation of a Destination Management Plan Taskforce, due to the wide range of existing consultation methods and organisations already in place, as detailed within this report.

Attachment(s)

1. Destination Management Plan for the Ballina Coast & Hinterland 2014-2020 as exhibited (Under separate cover)

10.1 Use of Council Seal

10. General Manager's Group Reports

10.1 Use of Council Seal

RECOMMENDATIONS

That Council affix the Common Seal to the following documents.

US13/24	<p>Plan of Subdivision, Administration Sheet and Section 88B Instrument for Proposed Lots 30 and 31 being resubdivision of Lot 211 DP 755684 for Leasehold Purposes</p> <p>Explanation: Council has agreed to lease an area at the Ballina Byron Gateway Airport for Airservices Australia to locate a non-directional beacon for airport operations.</p> <p>The existing Non Directional Beacon (NDB) at the airport is owned by Council and maintained by airport management at a cost of some \$6,500 p.a.</p> <p>Over the past few years, the Airport Manager has been trying to remove the NDB from the airport and/or transfer these maintenance costs to Airservices Australia (AsA). We should note that the NDB is an old navigation aid that is no longer required (at most airports).</p> <p>Unfortunately, the Ballina NDB has been identified as a back-up navigation aid that is now required by Airservices Australia as part of their national network. As a result of our discussions, Airservices Australia are happy to lease the NDB site, spend \$1m in upgrading the NDB towers and take over all future maintenance costs. This will save the airport some \$6,500 per annum on maintenance, \$1m on replacement costs and the associated costs of power and communications.</p>
US13/25	<p>Plan of Consolidation and Administration Sheet for consolidation of Lot 1 DP 918596 and Lot 1 DP 784894 being the Newrybar Community Hall and the Newrybar Rural Fire Service Shed.</p> <p>Explanation: To resolve existing anomalies and access arrangements for the Newrybar Hall and Rural Fire Service shed.</p>
US13/26	<p>Licence Agreement between Crown Lands and Ballina Shire Council for occupation of the Old Depot site at Tamarind Drive, Ballina.</p> <p>Explanation: Council has held a permissive occupancy over the site for a number of years. To ensure continued tenure, a licence agreement has been offered by the Crown. Lease fees are still to be determined.</p>

10.1 Use of Council Seal

US13/27	<p>Deed of Assignment for Shell Aviation Australia Pty Ltd for Registered Lease No. AE503601 in respect of Ballina Byron Gateway Airport being Lot 6 in DP 1043261, Parish of Ballina, County of Rous dated 27 January 2009.</p> <p>Deed of Variation to Lease for Shell Aviation Australia Pty Ltd for Registered Lease No. AE503601 in respect of Ballina Byron Gateway Airport being Lot 6 in DP 1043261, Parish of Ballina, County of Rous dated 27 January 2009.</p> <p>Explanation: Council has been requested to execute a Deed of Assignment for a name change from The Shell Company of Australia Limited to Shell Aviation Australia Pty Ltd and also a deed of variation to the abovementioned lease for an increase in the survey area applicable to the lease.</p> <p>Shell has a ground lease and will be paying the newly agreed rental rate of \$18/m² p.a. + GST for any additional land leased. The current area under lease is 1,706m². The revised area under lease will be 2,046m² (subject to final survey).</p>
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Attachment(s)

Nil

10.2 Investment Summary - May 2014

10.2 Investment Summary - May 2014

Delivery Program Governance and Finance

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

Background

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

Key Issues

- Compliance with Investments Policy and Investment Return

Information

Compliance with Investments Policy

Council's investments are all in accordance with the Local Government Act and the Regulations. As previously noted, 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 three investments have fallen due and have been placed with alternate institutions.

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.

As at 31 May 2014 Council has \$8 million invested with ING which represents 11.8% of the total portfolio.

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.*

As noted in previous reports, Council has not eliminated the breach within the desired three month period as this 'objective' could only be achieved by breaking investments which would result in a loss of interest income.

The next ING deposit matures on 21 July 2014 and it is for \$2 million.

10.2 Investment Summary - May 2014

It is expected that the ING percentage of the portfolio would fall below 10% at that time.

Given that the rating of ING remains quite strong (A-), it is again recommended that Council wait until the investment matures to relocate the funds.

Overview of Investments Held

The balance of investments as at 31 May 2014 was \$67,815,000. This represents an increase from April of \$504,000. It is anticipated that this balance will increase to 30 June as further net cash inflows are predicted.

Council's investments as at 31 May are at an average (weighted) rate of 3.71%, which is 1.02% above the 90 Day Bank Bill Index of 2.69%.

The balance of the cheque account at the Commonwealth Bank, Ballina as at 30 May 2014, was \$2,773,590.

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 investments portfolio the majority of the approximately \$68 million of investments are restricted by legislation (external) and Council (internal) uses for the following purposes:

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

* Based on reserves held as at 30 June 2013

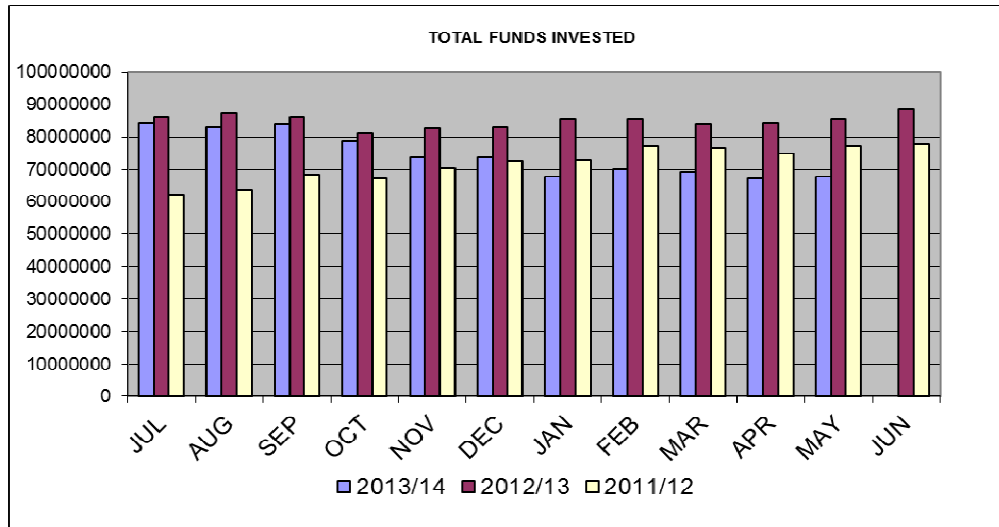
The above table will be updated after the end of this financial year.

10.2 Investment Summary - May 2014

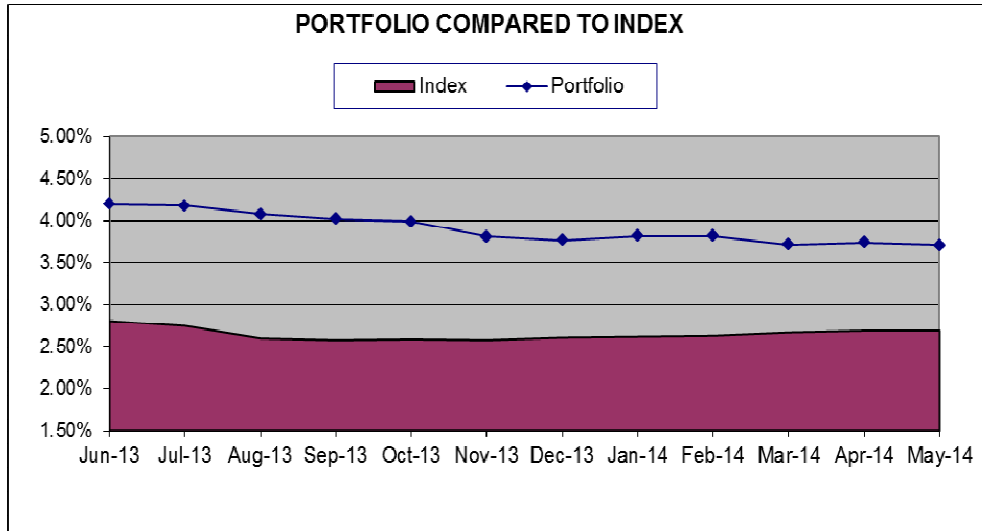
A. Summary of investments by institution

Funds Invested With	ADI Rating	Previous Month (\$'000)	Current Month (\$'000)	Quota % / Balance	Current % / Balance	Total
Grandfathered Investments						
Goldman Sachs	AA-	1,000	1,000	0%	1.5%	
National Australia Bank	AA-	1,788	1,788	0%	2.6%	
National Wealth M'ment Holdings	A	2,000	1,000	0%	1.5%	6%
Rated Institutions						
AMP Bank	A+	6,000	6,000	20%	8.8%	
Bank of Queensland	BBB+	5,000	4,000	10%	5.9%	
Commonwealth Bank	AA-	4,523	7,027	20%	10.4%	
Defence Bank Ltd	BBB+	1,000	1,000	10%	1.5%	
Greater Building Society	BBB	2,000	2,000	10%	2.9%	
Heritage Bank	BBB+	6,000	5,000	10%	7.4%	
ING Bank Ltd	A-	9,000	8,000	10%	11.8%	
Members Equity Bank	BBB+	4,000	5,000	10%	7.4%	
National Australia Bank	AA-	10,000	9,000	20%	13.3%	
Newcastle Perm Bld Society	BBB+	2,000	2,000	10%	2.9%	
Suncorp-Metway Bank	A+	10,000	10,000	20%	14.7%	
Westpac Banking Corp	AA-	3,000	5,000	20%	7.4%	94%
Unrated ADI's				\$1.0m	\$0.0	
Total		67,311	67,815			100%

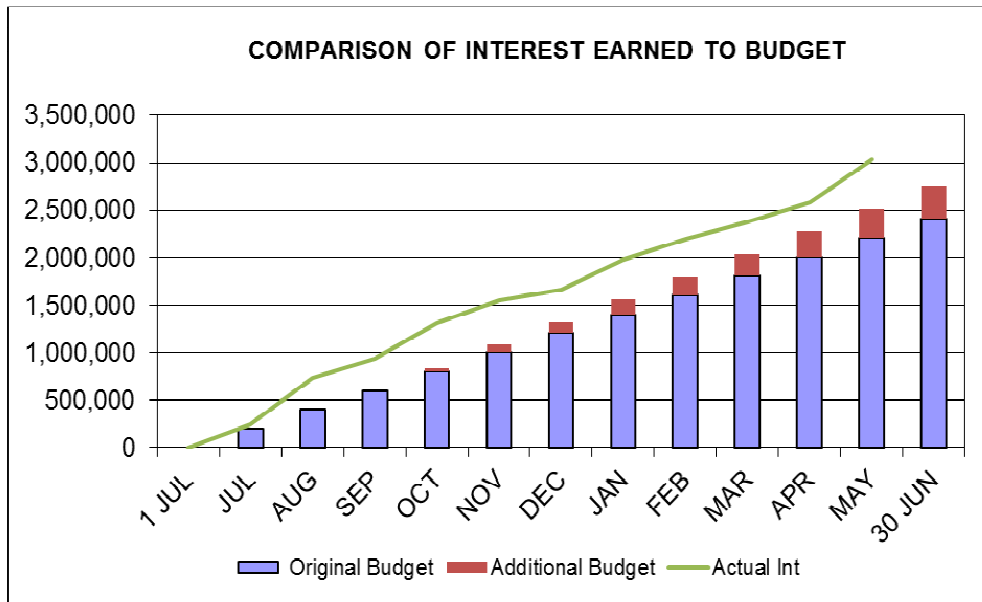
B. Monthly Comparison of Total Funds Invested



C. Comparison of Portfolio Investment Rate to 90 Day BBSW



D. Progressive Total of Interest Earned to Budget



10.2 Investment Summary - May 2014

E. Investments held as at 30 May 2014

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	PURCH VALUE \$'000	FAIR VALUE \$'000
20/09/04	National Aust Bank (ASX Listed)	FRN	3.95%	Perpetual	1,788	1,416
12/04/06	Goldman Sachs	FRN	3.14%	12/04/16	1,000	995
16/06/06	National Wealth M'ment Holdings	FRN	3.28%	16/06/26	2,000	1,930
	at call Commonwealth Bank Of Australia	FND	2.45%	at call	5,034	3,034
24/01/12	ING Bank Ltd	FRTD	4.64%	24/01/17	1,000	1,000
06/02/12	Westpac Bank	FRN	4.32%	06/02/17	1,000	1,034
25/01/13	Commonwealth Bank Of Australia	TD	4.36%	25/01/18	1,993	2,037
07/05/13	Heritage Bank	TD	3.80%	05/11/14	3,000	3,000
05/06/13	National Australia Bank	FRTD	3.93%	05/06/15	2,000	2,000
07/06/13	Greater Bld Society	FRN	4.11%	07/06/16	2,000	2,012
30/07/13	ING Bank Ltd	FRTD	4.13%	30/07/14	2,000	2,000
31/10/13	Heritage Bank	TD	3.80%	31/10/14	1,000	1,000
06/11/13	Bank of Queensland	TD	3.80%	06/05/14	1,000	1,000
25/11/13	Suncorp-Metway Bank	TD	3.65%	25/05/14	2,000	2,000
23/12/13	AMP Bank	TD	3.90%	23/06/14	2,000	2,000
20/01/14	ING Bank Ltd	TD	3.61%	21/07/14	2,000	2,000
24/01/14	AMP Bank	TD	3.80%	23/07/14	2,000	2,000
24/01/14	AMP Bank	TD	3.80%	23/01/15	2,000	2,000
30/01/14	ING Bank Ltd	TD	3.60%	29/07/14	1,000	1,000
10/02/14	Heritage Bank	TD	3.75%	11/08/14	1,000	1,000
10/02/14	ING Bank Ltd	TD	3.70%	11/08/14	2,000	2,000
25/02/14	Westpac Bank	FRN	3.57%	25/02/19	2,000	2,012
27/02/14	National Australia Bank	TD	3.74%	26/08/14	1,000	1,000
03/03/14	Suncorp-Metway Bank	TD	3.45%	03/07/14	3,000	3,000
04/03/14	Suncorp-Metway Bank	TD	3.55%	04/09/14	2,000	2,000
24/03/14	Members Equity Bank	TD	3.80%	22/09/14	1,000	1,000
14/04/14	National Australia Bank	TD	3.70%	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	3.69%	03/11/14	2,000	2,000
05/05/14	Newcastle Permanent Bld Society	TD	3.55%	05/08/14	2,000	2,000
13/05/14	National Australia Bank	TD	3.63%	13/11/14	1,000	1,000
14/05/14	Members Equity Bank	TD	3.75%	10/11/14	1,000	1,000
14/05/14	Westpac Bank	FRN	3.55%	10/11/14	2,000	2,000
19/05/14	Members Equity Bank	TD	3.75%	17/11/14	2,000	2,000
20/05/14	Defence Bank	TD	3.75%	17/11/14	1,000	1,000
22/05/14	Bank of Queensland	TD	3.70%	20/11/14	2,000	2,000
27/05/14	Bank of Queensland	TD	3.70%	26/11/14	1,000	1,000
27/05/14	National Australia Bank	TD	3.65%	24/11/14	1,000	2,000
Totals					67,815	66,470
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 May 2014.

Attachment(s)

1. TCorp Economic Commentary - May 2014

10.3 Local Government NSW - Annual Conference

10.3 Local Government NSW - Annual Conference

Delivery Program Governance and Finance

Objective To determine Council's delegates and submission of issues/motions to the Annual Conference

Background

The Local Government NSW (LGNSW) Annual Conference will be held in Coffs Harbour from 19 –21 October 2014. This is the second conference following the amalgamation of the former Shires Association and Local Government Association.

LGNSW is seeking input from councils to guide the content of the business sessions. The LGNSW Board has set the first day of business as the primary time to discuss all issues and motions, and a session time will be put aside to ask councils how they wish to deal with motions and issues into the future.

Councils are requested to identify the most important issues which they believe are causing concern to the Council and / or the local community. These are to be provided to the Association by 1 August 2014.

The Association will review the responses received and then identify the top issues as identified overall by member councils. These issues will then be put to the conference for debate as part of the business sessions. In identifying an issue, councils are encouraged to suggest an appropriate solution by including either a motion which could be considered by the Conference or notes which might guide delegates to an agreed position.

Councillor interest is also sought in attending the conference.

Key Issues

- Benefit of the conferences and cost
- Any issues/motions to be submitted

Information

Registrations open in July. The registration fee for the conference is not known at this stage, but is normally in the vicinity of \$900 per delegate. Travel costs, accommodation and some meals/dinner costs would be in addition to this registration fee. Council is entitled to one voting delegate, which is normally the Mayor or his delegate. A copy of the correspondence from LGNSW, including the draft conference program is attached.

In respect to matters to be raised at the conference, as per the background notes, LGNSW is not only seeking issues but solutions as part of any submissions to the conference.

10.3 Local Government NSW - Annual Conference

It is therefore a matter of how much time and effort Council wishes to put into a submission, acknowledging that any matters raised may not make the final agenda.

In respect to the challenges facing Ballina Shire, as with many councils, the current issues we face include, but are not limited to:

- Financial sustainability – declining grants, rate pegging etc
- Independent Review of Local Government – ongoing uncertainty
- Ageing population
- Coastal erosion, floodplain management, uncertainty over climate change
- Town centres and the modern retail environment
- Land use planning – on-going reviews

In looking at an item that may be somewhat unique, the entire E zone issue for this region and its implications for the rest of NSW is one matter that Council could provide some background information, along with a potential motion or notes as background information.

This would also not take up a significant amount of extra staff resources especially considering the report earlier in this agenda on the Council's submission to the E zone review.

Sustainability Considerations

- **Environment**
Environmental, social and economic issues will all be considered at the conference.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

Funds are available within the Council's professional development budget to finance this travel.

Consultation

Provided for public information.

Options

The primary purpose of this report is to confirm the delegates to the LGNSW conference. Adequate funding is available for any Councillor to nominate, albeit that a \$5,000 annual expenditure limit may apply subject to Council's agreed position on the Councillor Expenses and Facilities Policy review elsewhere in this agenda.

10.3 Local Government NSW - Annual Conference

In respect to submissions to the conference the E Zone matter is considered to be topical and unique enough for this region to justify a submission to the conference. Staff can prepare this submission and then distribute it to Councillors for feedback prior to sending to LGNSW.

RECOMMENDATIONS

1. That Council approves the attendance of its nominated delegates to the Local Government NSW Annual Conference to be held in Coffs Harbour from 19 – 21 October 2014.
2. That Council authorises the General Manager to prepare a submission to the conference, along with a possible notice of motion, on the State wide implications of the current E Zone review, with that information to be distributed to Councillors for comment prior to forwarding to LGNSW.

Attachment(s)

1. Correspondence from LGNSW including Draft Conference Program

10.4 Policy (Review) - Councillor Expenses and Facilities

10.4 Policy (Review) - Councillor Expenses and Facilities

Delivery Program Governance and Finance

Objective To adopt exhibited changes to the Councillor Expenses and Facilities Policy.

Background

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

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

Prior to exhibition of the policy, clarification was sought at the March 2014 Ordinary meeting as to whether the intent of the resolution was for travel outside the NOROC region to still be approved by the elected Council, if a Councillor is within the \$5,000 maximum annual allowance.

Council's March 2014 Ordinary meeting subsequently resolved as follows:

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

The amended policy was then placed on public exhibition and no submissions were received. A copy of the exhibited document is attached.

Key Issues

- Adoption of exhibited policy

Information

As per the February and March resolutions the key changes were the \$5,000 limit and how this expenditure is authorised.

Importantly, due to the \$5,000 limit, the Mayor and General Manager will now determine approvals to travel. Items will only be reported to Council if there is uncertainty in the approval process.

10.4 Policy (Review) - Councillor Expenses and Facilities

The \$5,000 will not include expenses related to Council coordinated meetings such as the monthly Ordinary meetings, site visits, Councillor briefings etc, with this expenditure not considered to be part of the Councillor professional development budget (i.e. there are separate budgets for meeting attendance). All other expenses such as attendance at conferences, training etc will be included in the \$5,000 limit.

The policy was substantially reworded as per the yellow highlighted sections of the attached document. It was somewhat difficult to clarify all the circumstances that may exist in respect to this significant change to the policy and if the revised wording does prove to be insufficient, or requires amendment, a further report can be submitted to Council.

Also based on the changes exhibited the question has been asked whether attendance or election to Executive / Board positions on organisations outside Council will form part of the \$5,000. The assumption is that this will be the case based on the Councillor debate for these changes.

Sustainability Considerations

- **Environment**
Not Applicable
- **Social**
The Expenses and Facilities Policy assists Councillors in undertaking their role as an elected member of the community.
- **Economic**
Budgets are provided for Councillor expenses and facilities.

Legal / Resource / Financial Implications

Council is legally required to review this policy within five months of the end of the financial year. Changes must also be exhibited for public comment, excluding minor amendments. This amendment was not a scheduled review and the policy will again need to be reviewed within five months of 30 June 2014.

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

Consultation

The Local Government Act requires amendments to this policy to be placed on exhibition for a minimum of 28 days. The policy was placed on public exhibition during April with a closing date of 21 May 2014.

Options

The options are to adopt or not adopt the amendments, make minor amendments without further exhibition or make amendments that are subject to further exhibition.

10.4 Policy (Review) - Councillor Expenses and Facilities

It is recommended that Council adopt the policy, however it is also recommended that additional words be included in the \$5,000 limit section of the policy (clause 2.2.2) clarifying that expenses related to the election to Executive / Board positions will form part of the \$5,000 limit. This will then assist in removing further uncertainty from what is and what is not included in the \$5,000 limit.

RECOMMENDATION

That Council adopts the amended Councillor Expenses and Facilities Policy, as exhibited, with additional wording to be included that confirms that the \$5,000 limit will also apply to expenses relating to Councillors being elected / nominated to the Executive / Boards of industry and other associations.

Attachment(s)

1. Exhibited Councillor Expenses and Facilities Policy

10.5 Community Donations

10.5 Community Donations

Delivery Program Governance and Finance

Objective To invite Council to consider additional donation requests.

Background

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

Copies of the requests are attached.

Key Issues

- Community benefit
- Funding available

Information

Australian Representation – Mr Grant Smith

Grant Smith, a Ballina resident has been selected to represent Australia as a member of the Australian Masters team to attend The Hockey World Cup in Rotterdam in June 2014.

The players are responsible for the payment of flights, accommodation, coaching/physio staff, turf fees and uniforms.

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

Waive Ballina Pool Entry Fees – Dorothy Fingleton

Dorothy Fingleton, a Ballina resident has asked Council to waive the entry fees to the Ballina Swimming Pool for the 2014/15 season. The cost for a senior's season pass is \$165.

Waive 'Set Up' Fees at Lennox Head Cultural & Community Centre – Ballina Hospital Auxiliary

The Ballina Hospital Auxiliary held a Craft show at the Centre on Saturday 7 June 2014 and have requested that Council waive the 'set up' fee for the Friday night. Advice from Community Centre officers is that the cost would be \$70.

Sustainability Considerations

- **Environment**
Not Applicable
- **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:

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

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 these requests.

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 application from Grant Smith, it meets the Australian Representation criteria. This event has actually been held and it has been confirmed that Mr Smith was selected and attended. The application form is missing supporting quotations, albeit that the cost of travel, accommodation etc would have been significant. Council provided a similar donation to Mrs Jan Saul at the April 2014 Ordinary meeting.

In respect to the Dorothy Fingleton request Council did debate the option of waiving the season ticket fees for residents over 90 as part of the recent Finance Committee meetings, however that was proposal was not supported.

In respect to the Ballina Hospital Auxiliary Branch request, 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 Lennox Head Cultural & Community Centre income budget. It is important to note that Council already provides a reduced rate for the hire of community facilities for not for profit groups.

The recommendations provide Councillors the options to approve or refuse the donation requests.

RECOMMENDATIONS

1. That Council approves / refuses the request from Mr Grant Smith for Australian selection.
2. That Council approves / refuses the request from Ms Dorothy Fingleton for a swimming pool season ticket due to her advanced age.
3. That Council approves / refuses the request from the Ballina Hospital Auxiliary Branch for free hire of the Lennox Head Cultural and Community Centre.

Attachment(s)

1. Grant Smith
2. Dorothy Fingleton
3. United Hospitals Auxiliary Ballina Branch

10.6 Risk Management - Dalwood, Tosha and Killen Falls

10.6 Risk Management - Dalwood, Tosha and Killen Falls

Delivery Program Human Resources and Risk Management

Objective To consider long term strategies to minimise Council's risk exposure associated with the public accessing Dalwood, Tosha and Killen Falls.

Background

A key action identified in Council's 2013/14 Operational Plan is to assess the preferred long term risk minimisation strategies for Killen, Dalwood and Tosha Falls, being properties owned by Council that represent potential risks due to access by the public (both authorised and unauthorised).

Due to the risks associated with these sites, Council's Risk Management section completed a formal risk assessment with Council's Insurer in 2005 and again in 2013. This analysis, together with ongoing site inspections, has identified that each of these sites have their own unique legal, social and economic challenges.

As part of identifying long term risk management strategies, it is important to note the risk minimisation measures that have already been installed at these sites being:

- (a) Information signage has been installed advising of the specific hazards at each respective site. Dalwood and Tosha Falls signage also includes no entry prohibition.
- (b) Concrete barrier preventing vehicle access into Dalwood Falls has been put in place. Previous attempts to install temporary security fencing have been unsuccessful due to the fencing being vandalised.
- (c) Council Rangers undertake patrols, within available resources, of Dalwood Falls. This measure has been implemented to help deter the public from entry and to help identify and monitor damage to the Council signage.
- (d) Council's Water and Wastewater section inspect Dalwood Falls twice per month in warmer months and attend to any reported damage of signage. In addition, this section engages staff and / or contractors to remove any identified ropes installed and utilised by swimmers to swing from the cliff edge into the water.
- (e) Council's Water and Wastewater section inspect and maintain the Tosha Falls site. Additional fencing has been installed and vegetation planted to help prevent access.
- (f) Open Spaces and Resource Recovery section continue, within available resources, to monitor and maintain the signage, entry and access paths into Killen Falls.

Council has not received any formal claims made as a result of injuries at these three sites. Council is not aware of any injuries at Tosha or Killen Falls however over the years several serious injuries including two fatalities have occurred at Dalwood. The most recent fatality was in January 2014.

10.6 Risk Management - Dalwood, Tossa and Killen Falls

In March 2014 Council Officers attended a site inspection of Dalwood Falls with Senior Constable Laleynya Ryan, Crime Prevention Officer from the Richmond Local Area Command Crime Management Unit with the purpose of working collaboratively with the Police to identify additional measures to assist with preventing further injuries at this site.

It was recommended that Council consider removal of the trees at the edge of the fall which are used to climb, jump and swing from and to install further additional education signage adjacent to the entry to the falls communicating the serious injuries and tragic fatalities that have occurred at this site. The relevant Council sections are working on implementing these recommendations.

The report that now follows provides options for the long term management of these three sites. Locality maps are also attached for reference purposes.

Key Issues

- Options available
- Infrastructure needs

Information

Dalwood Falls

Dalwood Falls is situated on Operational Land under the control of the Water and Wastewater Section and is located on Dalwood Road, Alstonville.

The Dalwood Falls site was previously utilised as an additional water source by Council however it has not been utilised for this purpose for a number of years. This site has been considered on a number of occasions for possible disposal.

The site has significant hazards including, but not limited to, uneven and slippery access paths, slippery cliff edges, potential drowning in weir and pool under falls, known ledges and vegetation that cannot be seen under the water when jumping from the cliff, falling vegetation, and the potential for individuals to be swept away or suffer serious injury from attempting to cross Gum Creek.

Despite the prohibition and warning signs this site continues to be a popular swimming destination. Council has been informally advised of a number of potential serious spinal injuries where the Emergency Services and Police have been required to attend. Council is also aware that there was a fatality at this site over 20 years ago and there was a further fatality in January this year.

The existing risk minimisation measures require an ongoing financial commitment from Council to fund staff time and resources to maintain signage, undertake patrols and remove ropes, or other introduced hazards by the public to the site. Two staff are required when attending the site for work health and safety reasons due to the isolation and risks at this location. The Rangers have limited resources to patrol this site and Council's water and wastewater staff have minimal powers to remove individuals from the site.

10.6 Risk Management - Dalwood, Tosha and Killen Falls

Council's legal exposure (based on current defence provisions under the Civil Liability Act 2002) is mitigated to a large extent by the measures that Council has implemented and through the public being informed by the prohibition signage. Despite these actions the public are continuing to injure themselves, which places a social responsibility on Council to carefully examine what other options, within existing resources, are available.

This next section provides a summary of the main risk minimisation options., along with the benefits and disadvantages.

Continue with current risk management strategies

The benefit of this option is that it retains this property under Council ownership and can be managed within existing resources. The current costs associated with staff patrolling and attending this site, site inspections, removal of ropes and repairing vandalised signage equates to approximately \$10,000 per annum.

The disadvantage of this option is the ongoing legal and social responsibilities as this approach has failed to prevent the public from continuing to promote this site through social media, along with accessing the site.

Increase security measures at this site to prevent access

Increasing the security measures would further help prevent persons from entering the site. Options that have been explored are:

- (a) Fencing the perimeter of this site with secure security fencing. The options available include only fencing the perimeter along the Dalwood Road frontage or to fence the boundary of the entire property. Fencing the entire boundary will help avoid members of the public accessing the falls from the adjoining private property however it is important to note that there is limited ability to fence across Gum Creek.

The type of fencing options available are security mesh fencing with three strands of barbed wire at the top at cost of \$50 per lineal metre or 2.1 metre high powder coated aluminum school type fencing at a cost of \$230 per lineal metre.

The disadvantage is that this option is extremely costly due to the total perimeter distance being 250 lineal metres (\$12,500 to \$42,700) along the Dalwood Falls frontage and 854 lineal metres (\$57,500 to \$196,400) for the entire perimeter. There would also be ongoing maintenance and human resource costs associated with inspecting the condition of the fence and repairing vandalised panels.

- (b) Introduce additional security or surveillance patrols options utilising Council Rangers or external security services on weekends and school holidays during the known warmer swimming months of the year. This would help deter members of the public from accessing the site.

The disadvantage to this option is the high cost to the community and if existing Ranger resources are to be utilised, there would be a significant reduction of resources within this team to respond to general ranger duties.

10.6 Risk Management - Dalwood, Tosha and Killen Falls

- (c) Installation of a solar powered security camera situated on top of an approximate six metre high galvanized pole with the data relayed through a 3G or 4G phone system. Sensors identify movement on the site and the external monitoring company would then warn persons on the site to leave and that the Police will be notified. This type of remotely operated security system is utilised at other Council premises such as the surf club. The cost for installing the pole and security camera is approximately \$11,000 and there is a monthly monitoring charge of approximately \$800 per month. This is an effective method of deterring individuals however removal of persons ignoring the warning would be limited to available Police or Ranger resources.

Investigate option of selling, leasing or gifting the land

This option has been previously presented to Council however has not been supported due to Council's previous position to retain this asset. The benefit of this option is that it addresses the immediate legal, social and financial implications associated with this site from a Council ownership perspective.

The option of gifting the property to National Parks who manage Victoria Park, which is in close vicinity to Dalwood Falls, also has merit. National Parks has greater expertise in managing sites of this nature and there may well be improved community outcomes in having that agency manage the property.

Provide improved infrastructure for increased community use

This option would require Council to fund implementation of appropriate parking and traffic management requirements, access paths, viewing platforms and safety fencing surrounding the falls.

Council would also need to in place ongoing financial and human resources to monitor and manage this site in order to meet our legal and social responsibilities.

This option has not been costed, as the level of improvements needed due to the high risks associated with this site are likely to be in excess of \$100,000 if not more. The site is also considered far too risky to promote increased usage.

Tosha Falls

This site is situated on Operational Land located at the end of Johnstons Road, Alstonville under the control of Water and Wastewater Section. The actually falls are situated behind and upstream of the Sewerage Treatment Plant and they form part of Maguires Creek. The parcel of land where the falls are situated is not utilised by the Water and Wastewater Section, but it is maintained by this section.

This site does not pose the same level of risks as Dalwood Falls due to the lower height of the falls and depth of the pool below. The bottom of the pool is comprised of small rocks and rises to a shallow gradient to the access point, offering easy standing and access out of the water should someone slip and fall into the water. Staff at the wastewater treatment plant regularly warn visitors of potential hazards at the site.

10.6 Risk Management - Dalwood, Tosha and Killen Falls

The complexity of this locality is that there is a dedicated 20 metre wide pedestrian access easement along Maguires Creek, part of which is located on Council land.

Council has prevented access from the entrance next to the Treatment Plant off Johnstons Road through prohibition and warning signage and fencing however the public can still continue to legally access the falls through the pedestrian access easement on Maguires Creek. Alternatively they can trespass on privately owned land, which is of understandable concern to the landowner.

Despite the hazard warning signage, this site continues to be a popular swimming destination and is well publicised through social media.

In addition to the attraction of the site for swimming, Council staff have reported that this area is popular for locals to visit and walk along and have picnics.

The provision of the public access easement and the knowledge that this site is a popular swimming destination places a responsibility on Council to assess appropriate risk minimisation measures. Following is a summary of identified risk minimisation options.

Continue with enabling public access to the site through application of increased risk minimization measures

This would involve Council continuing to maintain the warning and controls at the site. In addition to the existing measures, Council will need to:

- (a) Establish an inspection and maintenance system to ensure access is maintained to a pre-determined standard.
- (b) Place additional hazard warning signage at different points along the pedestrian easement access.
- (c) Consult with adjoining landowners to minimise the incident and impact of trespassing from people accessing the falls through private land.

The advantage to this option is that it will enable the community to continue to access the site to view the falls, which is believed to be the basis for the creation of the existing easement. The above measures will also enable Council to meet our insurer's requirements to achieve liability protection under the current Civil Liability Act provisions.

The disadvantage of this option is the ongoing resources required to maintain the site at a suitable standard for public access.

Prevent public access to this site

This would require Council removing the existing 20 metre pedestrian access and easement, along with funding the installation of additional security fencing around the boundary of the property.

Council will not be able to fence across Maguires Creek, which means there will still be limitations to preventing access.

10.6 Risk Management - Dalwood, Tosha and Killen Falls

The cost of the security mesh fencing at a cost of \$50 per lineal metre for the total perimeter of the site distance of 258m (being the sections currently without security fencing) is \$12,900. In addition, ongoing inspection and maintenance of any vandalised fencing and general hazard warning signage would need to be undertaken.

The advantage to this approach is that it will reduce access to the site and address the trespassing concerns of the adjoining landowner. The disadvantage to this option is the financial costs associated with removing the easement and installation of the fencing. This approach will also remove the ability for the community to continue to view this site.

Killen Falls

This site is located at the end of Killen Falls Road, Tintenbar adjacent to the Emigrant Creek Dam site. The land is classified as Community Land and under the management of Open Spaces and Resource Recovery section. The land is then categorised as "bushland" under the community land provisions of the Local Government Act.

The core objectives for management of community land, categorised as bushland, as per clause 36J of the Local Government Act are as follows:

- a) *to ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land, and*
- b) *to protect the aesthetic, heritage, recreational, educational and scientific values of the land, and*
- c) *to promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement measures directed to minimising or mitigating any disturbance caused by human intrusion, and*
- d) *to restore degraded bushland, and*
- e) *to protect existing landforms such as natural drainage lines, watercourses and foreshores, and*
- f) *to retain bushland in parcels of a size and configuration that will enable the existing plant and animal communities to survive in the long term, and*
- g) *to protect bushland as a natural stabiliser of the soil surface.*

This site is not actively promoted by Council however it remains a popular site for the community and visitors to the Shire. At the entrance, Council has constructed a sealed car park and garden area and has in place general hazard warning signage. These signs relate to hazards rather than banning access to the site.

The access and infrastructure does not meet current usage demands and is a significant contrast to the paths and viewing area for Emigrant Creek Dam that have been constructed by Rous Water, which provides a safe and high quality viewing access for all individuals.

The site has a range of hazards due to the deteriorated state of the path and the lack of adequate fencing and safe viewing areas. The public walk along the access track, which often has a number of trip and fall hazards and at times it is a slippery surface.

10.6 Risk Management - Dalwood, Tosha and Killen Falls

The public are also able to easily access and walk on slippery rocks to the edge of the falls. There is an approximate five metre drop to the rocks and pool below.

In addition the existing star picket and three strand wire fencing attempting to prevent individuals from accessing a steep and rocky track to the bottom of the falls is ineffective.

As this site is being accessed by the public, Council must ensure that the site is fit for the purpose and to warn users of the potential hazards. Council needs to determine if it wishes to retain this land and if so determine the extent of public access to the site and apply appropriate level of risk minimization strategies to support this use.

Council's Open Spaces and Resource Recovery section maintain the site within existing available resources. Council has previously been provided with a report from Civil Services Group identifying the work that is required to bring this site to an acceptable standard. The information contained in that report is still current and this report provides include infrastructure upgrade information referred to in that report, with a CPI adjustment.

Following is a summary of the available risk minimisation options.

Maintain similar approach to managing risks at this site

This approach would involve Council maintaining the existing hazard warning signage and fencing and continuing to respond to maintenance reports to repair unsafe sections of pathway, which have been washed out.

To proceed on this basis would require Council, as a minimum, to determine the standard of access it wishes to achieve against Australian Standard for walking track classification and signage for its tracks and warn users appropriately.

In addition, fencing to restrict access to the rock platform at the top of the falls and access to the bottom of the falls would need to be installed and additional warning and prohibition signage installed at this location. Council staff would need to implement an increased inspection program to ensure the condition of signage, access paths and fencing continued to meet this established requirement.

The advantage to this option is that Council will meet its legal requirements to warn users of the potential hazards at this site and Council could manage this approach with minimal increase to existing budgets. This approach will assist with minimising some of the current identified hazards to this site.

It is estimated that the cost for installation of the additional fencing and signage would be approximately \$15,000 however this cost does not include the increased inspection program.

The disadvantage to this option is the continued limited access for all persons to a public space and the restricted viewing of the falls. It is likely that some individuals will also climb over the fence to get access to view the falls therefore creating a further hazard to this site.

10.6 Risk Management - Dalwood, Tosha and Killen Falls

Upgrade existing facilities to highlight it as a site of natural beauty

The infrastructure upgrade information previously provided by Council's Civil Services Group is still relevant and can be summarised as follows:

- (a) Construct a walking track to the waterfall from the car park. The length of this track is approximately 350m long. To formalize the walking track to a 1.2m wide wheelchair grade access consisting of a timber edged compacted shale track including a 5mm long raised boardwalk section for the gully overflow would cost approximately \$49,000 to construct. This will not bring this track up to the same standard as provided by Rous Water Emigrant Creek Dam as that pathway is constructed of concrete however it will assist in removing the current slip and trip hazards.
- (b) Construct a viewing platform of materials suitable to the wet environment caused by wind generated spray drift from the waterfall. The viewing platform with geotechnical survey and structural certification would cost approximately \$38,000 to construct. This will remove the current high hazard associated with individuals walking on the slippery rocks to the edge of the falls
- (c) Install additional barriers such as fencing to prevent access to the bottom of the falls.

Investigate option to sell, gift or reclassify this site.

Council needs to determine if it wishes to retain this site and if so establish for what use. If Council is not able to allocate the essential resources to maintain this site to a safe and acceptable standard, from a long term risk minimization strategy purpose, other options should be considered. One option could be to transfer the land to Rous Water to allow them to maintain both properties in a consistent manner.

Any transfer would need to comply with the provisions of the Local Government Act in respect to the management of community land (i.e. the land may need to be reclassified to Operational Land to allow the transfer to take place).

Entirely fence off public access

Fencing would create similar problems to Dalwood and Tosha in that there would still be opportunities to access the site from adjoining land, along with on-going vandalism. Also the Rous Water site is promoted as an educational and tourist facility which means there is significant visitation to this locality.

If fencing was preferred the recommended area to be fenced off is approximately 100 metres for the frontage to the property and an area of approximately 400 metres for land adjoins the neighbouring property.

Sustainability Considerations

- **Environment**

Each of these sites has their own unique environmental considerations including zoning, protected species and habitats.

- **Social**

Council has a duty of care to warn the public of potential hazards at Dalwood, Tosha and Killen falls.

- **Economic**

Maintenance of each the falls requires financial commitment and responsibility by Council to maintain and inspect the sites to an established and acceptable standard within Council available resources.

Legal / Resource / Financial Implications

Where Council provides infrastructure and access Council is inviting people to use the facility and as such has a duty of care to ensure the facility is fit for purpose and to warn users of the potential hazards. The Civil Liability Act 2002 provides a legal defence to Council subject to Council fulfilling certain requirements, one of which is to appropriately assess the risks and to warn of hazards that may lead to harm.

Financial implications will depend on the preferred actions from this report.

Consultation

NSW Police was consulted during the review of risks at Dalwood Falls. Council's Insurer was consulted on the hazards and existing controls for each site and requirements under Civil Liability Act 2002 provisions. Relevant Council sections managing each site were consulted on site specific issues.

Options

As per this report there are a range of options available for each site.

Dalwood Falls

It is understood that this site was previously used as an additional water source however the current advice appears to be that there is no longer an operational need to retain the property. Therefore despite Council's previous decisions not to dispose of the site there does appear to be some merit in approaching National Parks to determine whether they would like to take ownership of the property.

As mentioned, they are far better suited, resource wise, to manage properties of this type than Council. Also if the property was still in public ownership there could still be opportunities to access this as a water source, if ever needed, which seems unlikely.

This being the case the preferred recommendation is to instigate these discussions, to at least assess whether there is any interest from National Parks. If there is interest the matter can be reported back to Council.

As this could possibly take many months to complete, and as it is highly likely National Parks will not be interested in ownership, it is also important that Council consider any immediate measures that could reduce the public risk.

10.6 Risk Management - Dalwood, Tosha and Killen Falls

The measures mentioned in the report are fencing, additional patrols or security cameras. Additional patrols represent a significant investment of limited resources on an on-going basis and similarly the cameras require constant monitoring at \$800 per month.

The fencing options range from \$12,500 for basic security fencing of the Dalwood Falls frontage only, to almost \$200,000 for school type fencing of the entire property. The problem Council will face with the basic fencing is on-going vandalism, plus as pointed out in the report access is still possible via the adjoining property or Gum Creek.

Despite these concerns, on balance, there is considered to be some merit in the basic security fencing for the frontage (\$12,500). Even though there are still other avenues to access the falls, this option again reinforces the message that the property should not be accessed by the general public.

The fencing can also be used to install additional signage highlighting that trespassers will be prosecuted (or words to that effect). The basic security fencing is preferred as it is difficult to justify expenditure of approximately \$60,000 on school type fencing when the property is still accessible from other locations.

The \$12,500 would be funded from the Water Operations budget.

Tosha Falls

The history of this site, with the creation of the easement and the on-going access, appears to lend itself to Council increasing our risk minimization measures as identified in the report. The recommended actions mentioned are as follows:

- a) *Establish an inspection and maintenance system to ensure access is maintained to a pre-determined standard.*
- b) *Place additional hazard warning signage at different points along the pedestrian easement access.*
- c) *Consult with adjoining landowners to minimise the incident and impact of trespassing from people accessing the falls through private land.*

These works can be undertaken at minimal cost, within existing budgets, and this is the preferred approach.

Killen Falls

Council could consider transferring the property to Rous Water, subject to the Community Land provisions of the Local Government Act, as it does make sense to have adjoining publicly owned land under the one ownership due to the economies that can bring. Whether Rous would accept this proposal is questionable seeing the land itself does not provide any benefits to Rous as a water authority.

The site also has potential to provide some tourism benefits to the Shire and with all local government areas competing for vibrant experiences for visitors and residents, and with Council having limited sites of this nature, there is merit in improving the existing infrastructure.

10.6 Risk Management - Dalwood, Tosha and Killen Falls

In discussions with Open Spaces staff they agree that the high profile nature of this site tends to lend itself to managing the site more proactively and there is support for infrastructure improvements, subject to funding being provided.

One option for funding is the Statewide Risk Management bonus that Council receives annually to undertake risk management projects. This bonus is normally around \$40,000 per annum and in recent years the monies have been expended on projects such as security fencing at the depot, fire alarm improvements at the Administration Centre and minor improvements to other Council owned buildings.

The advice from Council's Risk Section is that there could potentially be additional funding available from this bonus in 2014/15 with that figure to be known around August 2014. Therefore the preferred approach is to allocate any surplus monies from this bonus to improved infrastructure.

The preferred priority for infrastructure works is the viewing platform as this then eliminates the risk of the public falling whilst viewing the falls. By identifying this as a funding opportunity it also allows the Open spaces Section to seek matching grant fund opportunities as they arise.

In summary for Killen it is recommended that Council hold discussions with Rous on better management or ownership options, along with identifying that any surplus funds from the Statewide Risk Management bonus are to be allocated to improved infrastructure at this location.

Overall there are a lot of complexities and options in this report and Councillors may well wish to have a briefing prior to determining a preferred position on each of these sites. Importantly, so long as the properties remain in Council ownership, there will always need to be a reasonable level of proactive management of the sites to minimise any risks to the public.

The recommendations that follow are consistent with the options section of this report.

RECOMMENDATIONS

1. That Council notes the contents of this report regarding the current risk management situation for the Council owned properties referred to as Dalwood, Tosha and Killen Falls.
2. That in respect to the risk management options for Dalwood Falls, Council authorises the General Manager to:
 - a) hold discussions with National Parks (Office of Environment and Heritage) to determine whether there is interest from that agency in obtaining ownership of this property.
 - b) install secure security fencing (security mesh with the three strands of barbed wire) at the site for the area fronting Dalwood Road, being an area of approximately 250 square metres, at an estimated cost of approximately \$12,500, with this work funded from the Water Operations budget.
3. That in respect to the risk management options for Tosha Falls, Council authorises the General Manager to improve our existing risk management practices by:
 - a) Establishing an inspection and maintenance system to ensure access is maintained to a pre-determined standard.
 - b) Place additional hazard warning signage at different points along the pedestrian easement access.
 - c) Consulting with adjoining landowners to minimise the incident and impact of trespassing from people accessing the falls through private land.
4. That in respect to the risk management options for Killen Falls, Council authorises the General Manager to:
 - a) hold discussions with Rous Water to determine whether there is interest in Rous obtaining some form of ownership to ensure more consistent management practices with this property and their adjoining land.
 - b) allocate any surplus monies from the Statewide Risk Management bonus for 2014/15 to improved risk management infrastructure at this location.

Attachment(s)

1. Site Plan - Dalwood Falls
2. Site Plan - Tosha Falls
3. Site Plan - Killen Falls

10.7 Delivery Program 2014/15 to 2017/18 and Operational Plan 2014/15

10.7 Delivery Program 2014/15 to 2017/18 and Operational Plan 2014/15

Delivery Program Governance and Finance

Objective To report on submissions received in response to the exhibition of the draft Operational Plan and Delivery Program and to adopt the documents inclusive of any amendments.

Background

The draft Delivery Program and Operational Plan have been placed on public exhibition, with two public meetings held as part of the exhibition process. It is now incumbent upon Council to adopt the documents, subject to any matters arising during the exhibition period.

The draft documents, including the fees and charges and Long Term Financial Plan (LTFP; i.e. the budget) were placed on exhibition following a series of Finance Committee meetings during March and April.

As the documents are extensive they have not been reproduced for this report however the exhibited copies have been provided to all Councillors via the l pads. Copies of the documents, as exhibited, are also available on Council's website. Additional hard copies can be obtained from Council if needed.

Final copies of the documents will be reproduced in full once adopted.

Key Issues

- Contents of submissions
- Additional amendments

Information

This report has been dissected into two main components being:

1. Submissions to the draft Delivery Program / Operational Plan and details of the two public meetings held during June.
2. Further amendments to the draft documents based on updated or amended information.

Submissions

The submissions can be categorised under three main headings:

1. Submissions for funding assistance (i.e. general and hall donations)
2. Submissions to fees and charges
3. Submissions to works and services

10.7 Delivery Program 2014/15 to 2017/18 and Operational Plan 2014/15

1. Submissions for Funding Assistance

The draft budget includes the following allocations for funding assistance:

Donation Description	Budget (\$)
General Donations (\$10,000 already allocated to Ballina and Lennox Carols)	50,000
Public Halls	41,000
Southern Cross University – Scholarship	10,000
Rates and Charges	26,000
Planning and Development Fees - Community Groups	2,000
Total	129,000

Council policy to allocate the General Donations and Public Halls donation budgets, is to form a working party, comprising a minimum of three Councillors, with each ward represented.

The working party then considers the submissions and recommends to the July 2014 Ordinary meeting the preferred distribution of the available funds.

Details of submissions for funding assistance are summarised in the next two tables. Applicants are required to complete a standard form that seeks to provide Councillors with consistent information.

As part of the budget process Council also writes to all the Public Hall Committees advising that there is funding available under our halls assistance program (i.e. 50% funding up to a limit of \$10,000 per hall).

Table One: Submissions for Funding Assistance

Ref:	Organisation / Person	Project / Activity	(\$)
1	NSW Rural Doctors	Advertising & Promoting Bush Bursary Scheme	3,300
2	Ballina Lions Club	Hiring Equipment to ensure participants safety, printing and medals	1,000
3	N/Rivers Ulysess Motorcycle Club	Traffic Control 2014 Toy Run	650
4	Ballina Lighthouse RSL Day Club	Projector for meetings	798
5	Ballina Community Gardens	In-kind works for sewer connection	4,000
6	Ballina General Cancer Support Group	Community Facilities hire fees for monthly meetings	550
7	Ballina Breast Cancer Support Group	Community Facilities hire fees for monthly meetings	308
8	Alstonville Red Cross	Fundraising for local & overseas assistance	1,000
9	Lennox Head Chamber of Commerce	Operational costs for 2014 Love Lennox Carnival	800
10	Mental Health Support Group Inc	Public Liability & volunteer insurance costs	1,151
11	Ballina Senior Citizens Club	Operational costs for 2014 Christmas party	2,000
12	Friends of Handicap in Rwanda	Repairs to Umutara Deaf School	45,000
13	Ballina RSL Sub-Branch	2014/15 Rates for RSL Youth Club	3,215 (est)
14	Masters in Motion	Operational costs towards children's fitness program	36,000

10.7 Delivery Program 2014/15 to 2017/18 and Operational Plan 2014/15

Ref:	Organisation / Person	Project / Activity	(\$)
15	Richmond-Tweed Family History Society	Printing & posting quarterly journal	2,500
16	Cancer Council NSW Relay for Life	Costs associated with running the 2014 Relay for Life event	3,000
17	Lennox Head Landcare Inc	Costs for Waterwatch activities	300
18	Bicycle NSW	Costs associated with holding 'Discovery Rides' event in Lennox Head and Ballina	1,000
19	Lennox Head Resident's Association (Coastcare Group)	Operational costs for maintaining and protecting the amenity provided by the beach dunes	1,800
20	Autism Spectrum Australia (ASPECT)	Operational costs to run the 8 th Annual Aspect Family Day 2015	3,173
21	Southern Cross School Distance Education (SXDE)	Rental costs, program delivery resources, travel costs for disadvantaged youths	2,000
22	Cabbage Tree Island Descendants Rugby League Football Club	Costs associated with attending the Annual NSW Annual Aboriginal Rugby League Knockout Carnival	3,000
23	Ballina Public School	Costs associated with hosting the Aboriginal/Torres Strait Islander Awards Night	500
24	Lennox Head VIEW Club	Operational costs for International Women's Day Breakfast 2015	1,000
25	Heartfelt House	Funds for building a timber pergola with weatherproof roof to enable meetings to be held	5,000
26	Australian Seabird Rescue Inc	Operational costs towards the rehabilitation and release of marine wildlife	2,000
27	Australian Navy Cadets T.S. Lismore	Repair of Boat Ramp used by ANC for waterborne training	12,000
28	The Silversmiths	Hire costs at Kentwell Community Centre; payment of public liability insurance	720
29	Paradise FM Community Radio Assoc Inc	To provide a second broadcasting studio	10,000
30	Lions Club of Lennox Head	To install storage shelves and covered trailer area at the Skennars Head Soccer Field facility	2,695
31	Ballina Rugby Union Club	Costs associated with running a knock out competition ie event, insurance, fencing, security personnel	5,000
32	Spring!! Integrated Dance Theatre Inc	Operational costs to hold dance theatre workshops for persons with and without disabilities	2,000
33	Tintenbar Tennis Club	Costs for reactivating the Club ie replace nets and insurance costs	1,000
34	The Northcott Society	Costs associated with holding a disco for clients of all disability Services	800
35	North Coast Academy of Sport	Costs associated with providing quality coaching, competition and sports science to regional athletes	4,960
			164,220

10.7 Delivery Program 2014/15 to 2017/18 and Operational Plan 2014/15

As mentioned, in respect to works related to public hall improvements, Council policy is that assistance is provided to 50% of the cost of works, based on a maximum assistance figure of \$10,000.

The policy only applies to halls that are located on Council owned or controlled (Crown) land.

Table Two: Submissions for Community Halls

Ref:	Organisation	Project / Activity	Project Value (\$)	Amount Requested (\$)
1	McLeans Ridges Hall	Upgrade driveway at rear of hall, close front driveway to ensure safety of patrons	17,404	8,702
2	Meerschaum Vale Hall	Install fence around hall for safety of patrons	2,200	1,100
3	Newrybar Hall	Storeroom, part repair of foundations, painting interior and part exterior and upgrade electricals	27,867	10,000
4	Tintenbar Hall	Tiling wet areas, replacing timber steps, installing gates and repairing timber benches and tables	10,026	5,000
5	Wardell & District Progress Association (Wardell Hall)	Renovate toilet facilities to include a disabled toilet	46,000	18,000
			103,497	42,802

Copies of all the submissions for Tables One and Two have not been included with this report. These submissions will be distributed to all Councillors as part of the working party process. Copies are available from Council if needed.

2. Submissions Fees and Charges

The following submissions are included as attachments to this report.

Rates and Annual Charges

M/s Leona Ross has written to Council concerned about the proposed increases to rates, water (9% increase) and wastewater (10% increase) annual charges. Some of the points raised in the correspondence include:

- The constant increases to our rates are never ending and seem to occur without any thought for the financial situation of many ratepayers. Those on fixed incomes have no way of finding the extra money requested.
- Do you make an effort to look within your own organisation for any savings to help us?
- There have been major leaks in old Ballina water pipes for many years that cost council up to \$1 million in uncollected water rates. Why has this situation been allowed to continue?
- Ratepayers should be able to expect that every dollar asked from them can be justified and finely examined and only then passed onto them.

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Council rates and annual charges have been increasing above CPI for a number of years. Whilst the ordinary rate is only increasing by the rate peg limit of 2.3% in 2014/15 there have been increases of approximately 6% for a number of years prior to 2014/15.

There are sound reasons why the ordinary rates and the annual charges have been rising and a very brief summary of the main issues follows:

- In respect to ordinary rates the Ballina Shire rates have been one of the lowest in our category in the State. This has contributed to a recurrent operating deficit and a very tight budget. The extra increases to ordinary rates have largely been applied to renewal of the asset base.
- For a period of five years water charge increases were in response to price increases of approximately 15%, paid by Council to Rous Water, for bulk water. The Rous increases have now ceased however the operating position of the water operations is not good with recurrent deficits recorded. The proposed increase in 2014/15 is intended to improve profitability although it is accepted that most likely an operating loss will still be recorded. It should be noted that later in this report a reduction to the exhibited water charges is evaluated.
- Wastewater infrastructure has been through an extended period of renewal to position Council to provide state of the art services for the next generation. This upgrade has required borrowings of over \$70 million. The consistent increase to wastewater charges has been to repay this debt. The forecast is that 10% increases will be required for a further three years beyond 2014/15.
- Waste charges have been strongly influenced by State Government policy to levy a charge on Council for all waste placed in the landfill. The charge commenced at \$10 per tonne and has increased by \$10 plus cost of living each year for the last six years. The motive for the levy is to encourage waste to be managed by ways other than a landfill. Add to this the fact that Council had to borrow funds to construct new waste cells and you have the main drivers for price rises in the area of waste services.

Whilst there are sound reasons for the increases, some of which are beyond Council's control, staff and councillors agonise over the affect the price increases will have on the community, particularly the more vulnerable.

Council does regularly scrutinise expenditures and practices to see if savings can be achieved, including external audits by persons independent of the organisation. Ballina's position is also benchmarked against other councils to see how we are performing.

In respect to the issue raised about water leaks, again the points are valid. However Council is actively pursuing improvements to leaking mains including the replacement of a pipe at West Ballina that should reduce the total leakage by approximately 16%.

There remains more to be done to remedy this problem and this will occur though an ongoing program.

10.7 Delivery Program 2014/15 to 2017/18 and Operational Plan 2014/15

Ballina Surf Club Fees

A submission has been received from Mr Max Moffitt requesting council to reconsider the proposed fee increases to hire the facility. In particular Mr Moffitt references the proposed increase for the hire of function room two from \$550 to \$750.

The surf club is not run with the intent of making a profit and the forecast is that general revenue will continue to subsidise the club's operations. The proposed fee increases reflect a better understanding of the real costs to operate the facility. It is a quality venue very close to the ocean and costs for expenses such as cleaning, maintenance and security are very high.

3. Submissions to Works and Services

Lifesaver Patrols

A submission has been received from the Far North Coast Surf Lifesaving Branch requesting additional services be provided at Shelly Beach. This request is based on the popularity of the beach compared to existing service levels.

The lifesaving services contract is in the process of being put to tender. The tender includes options for current and improved service levels. Until the tender process is completed it is not known what the cost of the different options will be. The tender process will not be completed until after the Delivery Plan has been adopted. The 2014/15 budget includes \$242,000 for the provision of surf life saving services which is a 3% increase on the 2013/14 year. It is recommended Council wait for this tender to be finalised before a final position.

Shelly Beach Surf Club / Toilets

A submission has been received from the Far North Coast Surf Lifesaving Branch requesting Council funding for upgrading of the public toilet section of the Shelly Beach Surf Club / Toilets. The submission suggests that approximately \$50,000 is required to improve the toilets.

Council has a budget of \$20,000 in the 2014/15 Operational Plan to apply to the Shelly Beach toilets. The plan is to replace some partitions and repaint. It is considered that the layout is adequate for a beach side toilet and it does cater for disabled access. If Council wanted to allocate extra monies to this project it would need to reallocate funding from the other projects identified in the public amenities and asset improvement programs; i.e.

Project	2014/15 (\$)
Shelly Beach Surf Club Toilets (paint / partitions)	20,000
North Lake Ainsworth Toilets (paint / repairs)	10,000
Compton Drive Toilets (asbestos / paint)	15,000
Meldrum Park Toilets (paint / repairs)	5,000
Administration Building (air-conditioning – transfer to reserve)	40,000
Visitor Information Centre (roof / paint)	60,000
Library – Ballina (roof / paint)	70,000
Crawford House (paint / repairs)	36,000

10.7 Delivery Program 2014/15 to 2017/18 and Operational Plan 2014/15

South Ballina Residents Association

The Association has made 18 requests in their submission. This submission actually came about from Council's Rural Character Statements Project, however as it relates more to Delivery Program and Operational Plan matters, the information has been listed in this report. Very brief comments on each item are as follows:

- 1) Village Status – This would need to be approved by the Geographic Names Board. It is not considered that the population or density of South Ballina supports such an application – The Rural Character Statements Project may well end up having some recommendations in respect to how our rural areas are defined.
- 2) Meeting Hall – Council has no funding for this project in its LTFP. Due to the population density of South Ballina it is difficult to justify this expenditure over other priorities.
- 3) Toilets and Waste Management – Council has debated these services before, but due to the relative remoteness of this location, the magnitude of funding, plus on-going maintenance costs, the projects have not been supported.
- 4) Community Signage – Council now promotes community group meetings through our Community Directory website. This requires community Groups to upload their own information to that site.
- 5) More Signage – Council has reviewed this in recent years and discussions were held with National Parks resulting in some improvements to wildlife signs. Regarding bike riders this matter has been referred to the Civil Services Group for reassessment again.
- 6) South Wall – Council undertakes maintenance of our section of this road as part of our normal grading program, and at times private works are undertaken for the National Parks component. This matter has also been referred to Civil Services for further review.
- 7) 4WD Access – These proposals have not been supported previously as Council practice is not to locate signage at too far a distance from a location, plus Council signage is minimised where possible.
- 8) Better Signage – As per item eight.
- 9) Tourist Information Brochure – There are various mentions of South Ballina and Wardell in Council's latest Visitor Guide publication (i.e. pages 10, 11, 13, 14, 15, 22, 25 etc). There is also a map in the centre of the publication which highlights South Ballina. The Dolphin Bay Beach Village Holiday Park also has a major advertisement in the publication (at their expense). This new visitor guide will be available on Council's tourism website (discoverballina.com.au) following the launch of the guide on Tuesday 24 June 2014.
- 10) Ferry Promotion – The ferry continues to operate at an annual loss of just under \$200,000. Council has previously called for expressions of interest for advertising on the ferry without success. The merits of this proposal are debateable and no actions are planned unless Council determines this is a priority for 2014/15.
- 11) Ferry Replacement Option – The regular maintenance on the ferry is designed to ensure it continues to operate with the lifespan of the ferry uncertain. Council has no funding set aside for replacement.

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- 12) Markets Fairs and Fun – Ideally the local community should work together with areas such as the school to provide these types of events. Council's event funding program is focussed on the major population centres of Ballina, Alstonville and Lennox Head.
- 13) Broadband and NBN – Council's Manager – Information Services deals with these matters on behalf of Council and contact details will be forwarded to the Association.
- 14) Emergency Evacuation Plan – Council has a shire wide evacuation plan and the school is required to have its own plan.
- 15) Tourist Route – Council's resolved position on the tourist routes is Route 28 (Wardell to Alstonville to Tintenbar roundabout – to be extended along existing highway to Ewingsdale once the Tintenbar to Ewingsdale bypass is completed and Route 30 (River Street, The Coast Road, Byron Bay, Ewingsdale). There could be an option to commence Route 30 at East Wardell and then join River Street and Council's Tourism Section will follow this up with the TASAC, which is the NSW Authority that determines these matters.
- 16) Bike Friendly – This proposal is not funded in Council's LTFP.
- 17) Rezoning – South Ballina has not been identified as an area for residential growth in Council's Growth Management Strategy.
- 18) Under Funded – Infrastructure provision from Section 94 Plans is focussed on the major population centres and with there being very little in the way of residential growth in South Ballina, Section 94 is not a relevant funding source for this locality. Whether or not South Ballina is underfunded is also debatable as many services provided by Council are not locality specific, but rather provided for all residents and visitors to the shire.

As per these comments some matters have been referred to Civil Services and also to the Tourism Section for further review. Also it is recommended that the correspondence be referred to the C Ward committee for consideration. This forum may then help identify the preferred priorities for Council to assess.

Richmond River County Council (RRCC) - CZMP Works

RRCC provided a submission to Council that included a ten year works program for various drainage works. Council considered this submission at the Finance Committee held on April 8 2014. It was determined not to include the contribution in the LTFP. A resolution was passed as follows:

That Council receive a report on options for the introduction of an annual charge for drainage works in respect to Richmond River County Council for 2015/16 onwards.

Preliminary work has commenced in respect to preparing this report and discussions have occurred between Ballina and RRCC at a staff level.

A second submission has now been received from RRCC and they advise that in respect to the 2014/15 year all other constituent councils are proposing to provide funding for the program.

Some of the councils have agreed to fund the program for the first year only and assess the results to determine whether continued participation is warranted. Council would need to allocate \$35,000 in 2014/15 to fund these works.

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As Council has made a number of representations to RRCC regarding the need for all constituent councils to share the costs of projects, Council most likely should commit to this funding, so long as the other two member councils also commit, as the submission does seem somewhat qualified.

Pleasingly it appears that Council will only be required to fund the Blackwater Study to \$40,000 for 2014/15 and \$40,000 for 2015/16, which are the amounts included in our LTFP. This is more than reasonable seeing Council did fund \$160,000 in 2013/14.

Alstonville Plateau Historical Society / C Ward Committee

Council has been asked to acknowledge the 150th anniversary of the settlement of Duck Creek by placing a basalt boulder at the entrance to Fairfield Estate. The boulder would have a plaque with appropriate wording.

It is estimated that the cost to source a boulder from the quarry, relocate it to Fairfield Estate and fasten a plaque would be in the order of \$2,000. These works have not been specifically included in the 2014/15 draft Delivery Program or LTFP.

With all the other pressures for funding from Council the preference is for the Historical Society to try and have this work undertaken on a volunteer basis either through their members or other community groups. Council already provides a valuable Council property to this group at nil rental.

Ballina Environment Society

The submission from the Society is concerned that there is not enough being done to effectively manage our natural resources in respect to 'bushcare'. This includes a lack of adequate support to the teams of volunteers who presently undertake various 'bushcare' projects.

The Society suggests that Council implement an environment levy with the funds being put towards 'bushcare' including the employment of a part time Council officer. The Society advises that other councils have adopted this approach and it works well.

A second issue raised by the Society is that the Shire's natural vegetation faces an invasion of feral vegetation. It is requested that a budget allocation be provided for weed control. This budget could possibly be funded from an environment levy.

Discussions with staff indicate that in terms of resourcing, recent staff replacements have meant that the Natural Resources Officer has not spent the time that he normally would on bushland management. It is anticipated that staff time on natural resource management will now increase in comparison to recent months following the recruitment of the new section manager.

However it is fair to say that the level of staff resource generally applied to natural resource management is small and is less than neighbouring councils.

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In regard to weed control Council does have a recurrent budget of \$10,000 and this budget has been used successfully to leverage substantial grant income. It is becoming more difficult to win grants as the authorities are less likely to provide funds for areas that have already been targeted in previous projects.

Also the grant authorities are now seeking assurances that Council will take responsibility for the section of land that has been weeded for a period of five years after completion of the project.

Council does provide an annual contribution to Far North Coast Weeds County Council of \$117,000 for weed control services.

In respect to the environment levy, such a levy could be introduced in the future subject to formal consultation and approval as required by IPART. No matter what shape the levy is presented to the ratepayer, it does represent an additional impost and Council needs to consider this issue along with other priorities. A levy could not be introduced in 2014/15 and Council would need to propose such a levy for 2015/16 onwards.

Ultimately Councillors need to determine the level of available resources allocated to each area. If additional funding is to be provided to this activity, that funding will need to be sourced from another program.

Womensport NSW

The submission suggests various amendments to the 'Directions and Outcomes' section of the draft Delivery Program. The general theme is to raise the profile of women in sport (and disadvantaged or minority groups) and initiate actions that will encourage greater participation in in sport. There is also an emphasis on data collection that will increase our knowledge base on actual participation in sport on a gender basis.

This submission has undertaken a comprehensive review of Council's draft Delivery Program and they are seeking improved participation for women and girls in sports and recreation.

Following discussions with Council's Manager – Open Spaces, it is agreed that Council could do more to measure and possibly improve the participation of women in sport. Therefore it is recommended that Council include an additional action for 2014/15 in the Operational Plan for staff to report on options to improve our measurement of the participation of women and girls in sport.

Lennox Head Residents Association

The submission from the Association includes numerous requests for works and services.

The majority of these projects require funding therefore it is a matter for Council to determine whether any items are to be brought forward.

Items where there are actions already planned include:

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- Evaluation of the provision of a Visitor Centre Service at the Lennox Head Cultural and Community Centre
- Coastal Shared Path
- Lake Ainsworth Management Plan Review – This is identified in 2015/16 once the major works planned for 2014/15 are completed
- Volunteers gardening program

Similar to the South Ballina Residents Association submission it is recommended that the correspondence be referred to the B Ward committee for more detailed consideration and the establishment of priorities.

Otherwise Council can include some of the priorities in the 2014/15 Operational Plan, subject to funding being identified.

Late Submission – David Felsch

A submission has been received from Mr David Felsch for three issues relating to the Burns Point Ferry: Extracts from that submission are:

1. There is very poor lighting on the south side (a lot of the time, not working at all). The women in the community have expressed some fear waiting in the dark for the ferry. I myself find I am fearful of running into the back of a parked car, as we are required to turn out our lights when being blinded by the ferries.
2. There is no turning bay on the south side, this is highly challenging for those having the need to back a trailer all the way to a point to turn around, because they were unable to get onto the ferry at low tide with a big low caravan, or just went down there by accident. A turning bay should be created.
3. Substantial savings in running costs could be made with a parabolic mirror on both sides of the river. This would allow the ferry master not to have to put the flap down and up again for late comers. I estimate 25% of the wear and diesel could be saved in relation to the flap operation.

Civil Services staff have met with Mr Felsch and provided the following response to the three issues:

1. The lighting on the south side is provided by solar power and is limited to the one light positioned at the boom gate. The light is activated by a timer. The light on the south side would have been affected by the solar power changeover earlier this year, however, there are no outstanding reports regarding the light currently not working.

Updating to permanently powered lighting on the south side is not included in Council's delivery program. However, an estimate for an upgrade will be prepared for your information.

2. The provision of a turning bay on the south side has not been previously recorded as a necessary road or ferry upgrade, and is not included in Council's delivery program. However, as discussed, a small amount of investigation (survey and design) will be required to provide a preliminary estimate for feasibility assessment. This investigation will be undertaken when design resources allow.

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3. The installation of parabolic mirrors is covered by guidelines and this matter will be further checked by the Civil Services Group.

The Civil Services Group is continuing to manage these issues and no additional actions are planned.

Mr Felsch has indicated he may make a deputation to the June Council meeting.

Public Meetings

Council held two public meetings to outline the draft 2014/18 Delivery Program and 2014/15 Operational Plan. The meetings were advertised in the local paper, on Council's website and via community access points. Brief descriptions of the meetings follow.

Wardell Community Hall: 2 June 2014

There were 11 people in attendance excluding staff and councillors. A summary of the main issues discussed is as follows:

- It was noted that in previous years Delivery Programs future years capital works included road works for Wilson Street and Cedar Street. In the current years Delivery Program those proposed works have been removed. It was advised that the future year's capital program is indicative only, especially in relation to roads, as priorities change dependant on current information in respect to the whole network.
- There was discussion on the upgrade to the swimming pools and the proposed 2.5% increases to the ordinary rate.
- Wardell has significant opportunity to expand with quality land suitable for subdivision. Also there is excess capacity in infrastructure such as the sewage treatment works. It was requested that Council commission a study into the feasibility of a low cost housing subdivision in the Wardell area. The General Manager advised that he would discuss this matter with staff and provide feedback.
- Discussion occurred around the lost income faced by Council, if the Federal budget is passed, due to reductions to the Federal Assistance grant and the pension rebate subsidy.
- The new Wardell bypass includes a new bridge that will connect Pimlico Road to Smith Drive. It is very likely that this will result in a large increase in traffic volumes for this road. The question was posed as to whether Council had any plans to upgrade the road given the increased traffic flow. *Whilst this question could not be answered at the meeting it has been ascertained that there are not plans to upgrade Pimlico Road due to the connection to Smith Drive. However sections of Pimlico Road are identified for renewal in the Delivery Program.*
- Lumley's Lane has not been graded this year. The rural roads crew has been and gone from the area. The question was asked whether it was intended to return to grade the lane. *Whilst this question could not be answered at the meeting it has been ascertained that Lumley's Lane is scheduled to be graded in the week commencing 16 June 2014.*

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- Wardell boat ramp has been completed under budget. Staff have been negotiating with the grant provider to obtain approval to construct a fish cleaning table. Those at the meeting suggested that a pontoon would be preferred to a cleaning table. This request has been conveyed to staff and they will look at costing the pontoon and hold discussions with the grant provider.

The one issue that is recommended for inclusion in the 2014/15 Operational Plan is the affordable housing matter that was raised at the meeting. This was also raised at the previous year's meeting.

Council's Draft Delivery Program has an identified priority of -

Facilitate and provide affordable infrastructure, both business and residential

The actions included for 2014/15 for this item in the Draft Plan are as follows:

PE3.2.1 Pursue affordability strategies in respect to the availability of residential land	
<i>PE3.2.1a</i>	Progress Wollongbar and Ballina Heights Building Better Regional Cities Programs
<i>PE3.2.1b</i>	Research and implement appropriate strategies to assist with reducing the cost of residential land
<i>PE3.2.1c</i>	Monitor effectiveness of waiver of Section 94 contributions for secondary dwellings

It is now recommended that Council include a further action along the following lines:

<i>PE3.2.1d</i>	Analyse options for the delivery of affordable housing in Wardell.
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This item would result in the Strategic Planning Section providing a report during the year on options for affordable housing in Wardell. Wardell is one of the more affordable areas of the Shire and there are land areas in this locality identified in Council's growth management strategy as suitable for residential development.

An options report will address some of the concerns raised at the public meeting, along with identifying actions that could be taken to encourage the delivery of affordable residential land to the market.

Lennox Head Community and Cultural Centre : 4 June 2014

There were 12 people in attendance excluding staff and councillors. A summary of the main issues discussed is as follows:

- The Lennox Town Centre Master Plan is proposed to be reviewed in 2016/17. The view of the meeting was that it would be preferred if the review could be brought forward to the 2014/15 financial year.

10.7 Delivery Program 2014/15 to 2017/18 and Operational Plan 2014/15

- Concern was expressed in respect to Ross Lane in that it required realignment and was prone to flooding. The volume of traffic using the road has increased and at the very least planning needs to commence to improve the road. Different funding options were discussed and as a start point it was requested that funding be provided to complete a study to start the process.
- There was general discussion on the coastal cycleway and there was agreement that it was a wonderful project.
- The 2014/15 works program includes \$90,000 for the footpath at Ballina Street Lennox Head. The query was raised as to which part of Ballina Street was to be upgraded. *Whilst this question could not be answered at the meeting it has been ascertained that the works are proposed up near the roundabout at the southern entrance to town. The embankment in this area has slipped and it is proposed to replace the temporary kerbing that has been in place for quite some time.*
- The issue of playground equipment was raised and the need for more swings in the beachfront area of Lennox.
- The meeting discussed parking in the business district of Lennox. The General Manager advised that there was a developer contribution plan in place that included plans for future property acquisitions for parking. It is also proposed that, once the rural fire shed is relocated, this site will be used for car parking.
- There was general discussion on the upgrade to the swimming pools and the proposed 2.5% increases to the ordinary rate.
- Discussion occurred around the various rates and charges to be levied by Council next year.
- Concern was expressed that the parks and gardens staff numbers were not increasing at the same rate as their workload. This resulted in areas such as Williams reserve and Lake Ainsworth not being presented as well as some would like.

The people present were encouraged to make a submission to the draft documents and the earlier submission from the Residents Association contains the majority of the matters raised at the meeting.

2. Amendments to the Draft Delivery Program and Operational Plan

Long Term Financial Plan (Budget)

During the period that the Draft Delivery Program has been on exhibition numerous budgets have been adjusted and fine tuned as part of an ongoing review of the budget. Detailed below are the more significant amendments.

1. Reductions in Financial Assistance Grant and Pension Rebate Subsidy

The Federal Government is proposing to remove the CPI increase from the Financial Assistance Grant (FAG) for the next three years. This will reduce our income by approximately \$120,000 per annum compounding (in excess of \$360,000 in year three), based on an assumed increase of 3% per annum. This has a significant negative impact on our budget going forward.

10.7 Delivery Program 2014/15 to 2017/18 and Operational Plan 2014/15

Another aspect of the Federal Government budget is to reduce the funding that has been in place for many years to subsidise the pension rebate. Under the Local Government Act Council is required to write off 50% of ordinary rates, water, wastewater and domestic waste annual charges subject to certain maximums. The State Government reimburses Council 50% of the 50% amount written off and the Federal Government has historically reimbursed Council a further 5%.

The 5% provided by the Federal Government will no longer be paid. It is estimated that the gross loss to Council revenue from this will be approximately \$75,000 of which approximately \$30,000 relates to the General Fund.

These items combined represent an enormous impost on the organisation and must result in a drop in service levels.

2. Suspended Staff Positions

Five staff positions, as previously reported to Council, that are currently vacant have been removed from the budget, but not the staff structure. This means that they will remain vacant until funding becomes available.

3. Development Services Planning

The LTFP included \$100,000 however with the number of applications increasing and some legal cases already running, there is concern that this amount will be insufficient. In response to this the legal budget has been increased by \$50,000 to \$150,000.

4. On site Sewerage Management

Council approved the exhibition of the fee for inspections of On Site Sewerage Systems based on an increase from \$27 to \$40. The fee increase will generate additional revenue of around \$30,000 which has been applied in full to extra staff resources to inspect the systems.

5. Distribution of Overhead Costs

The method of distributing administration overheads to self funding areas such as Water, Wastewater, Waste, Airport etc has been reviewed. The new system resulted in additional funds being extracted from the self funded areas to the benefit of General Fund. The new process has also shifted the burden accepted by the different cost centres from what was previously the case. This resulted in approximately an additional \$80,000 in revenue being contributed to the General Fund.

6. Airport Loan

An existing airport loan came up for renewal and the new rate negotiated was 1.5% less than the previous interest rate. This has reduced the expense in Airport by \$72,000 in 2014/15.

10.7 Delivery Program 2014/15 to 2017/18 and Operational Plan 2014/15

7. Alstonville Pre School

Council passed a resolution at the April 2014 meeting that a maximum contribution of \$120,000 was to be provided to the new pre-school. The funding source for this contribution was to come from the deferral of infrastructure works within the Civil Works construction program.

In response to this the proposed 2014/15 program for stormwater capital works has been adjusted with expenditure of \$100,000 on Grant Street being deferred and work on the stormwater management plan reduced by \$20,000. The revised stormwater capital works program will now be as follows:

Item	Amount (\$)
Asset Data Collection	40,000
Grant Street (Tamar Street to River)	100,000
Martin Street (River Street to Fawcett Street)	10,000
Martin Street (Fawcett Street to River)	30,000
Management Plan	30,000
Urban Lanes	20,800

Overall impact on General Fund

Reductions to the FAGs and also the increase in the legal budget have had a significant impact on the General Fund budget.

The draft budget as exhibited was already showing a large recurrent deficit and five staff positions were placed on hold to reduce that deficit as per the following table.

General Fund – Working Capital Results – As Exhibited

Item	2013/14	2014/15	2015/16	2016/17	2017/18
General Fund Cash Deficit	(84,700)	(373,000)	(446,900)	(408,800)	(225,400)
Savings from Staff Deferrals	0	216,000	222,000	229,000	236,000
Revised Result – Surplus / (Deficit)	(84,700)	(157,000)	(224,900)	(179,800)	10,600

Once the FAG reduction was factored into the future forecasts, the results deteriorated even further by approximately an additional \$120,000 in 2014/15, \$240,000 in 2015/16 and \$360,000 in 2016/17.

This higher level of deficit was unsustainable and to bring the budget back to a reasonable level of deficit it was necessary to trim numerous budgets across the entire Council programs.

Also for 2015/16 and 2016/17 no CPI increases were applied to the roads and open spaces programs, being the two biggest revenue funded programs within the Council budget.

Through this wide range of budget trimming staff were able to produce the following revised forecasts for General Fund.

10.7 Delivery Program 2014/15 to 2017/18 and Operational Plan 2014/15

General Fund – Working Capital Results – Recommended

Item	2013/14	2014/15	2015/16	2016/17	2017/18
General Fund Cash Deficit	(122,200)	(95,300)	(195,900)	(321,300)	(256,100)

Please note the 2013/14 forecast result has changed from that exhibited, as the March Quarterly Financial Review results were reported to the May 2014 Ordinary meeting.

Overall the revised deficit for 2014/15 is reasonable considering the size of Council's budget, however the 2015/16 onwards deficits remain high. Importantly this is even with the revised figures with no CPI applied to roads and open spaces.

If a CPI was applied to those major programs the deficit for 2015/16 would increase by approximately \$140,000 and continue on. This does mean that in real terms both these programs are being reduced by this amount in 2015/16.

Council may well need to look at reducing other programs in 2015/16 to finance the freeze in the FAG grant.

This information does highlight the impact the freeze on the FAG is having or will have on the recurrent Council budget.

Fees and Charges

Gate Fees Waste Centre

A further review of the gate fees at the waste centre has revealed that some fees do not reflect the true cost to Council. The proposed changes are;

1. 100% Sorted Re-usable Waste (clean topsoil, fill and gravel): current price in the draft plan is \$53/tonne and the proposed price is \$66/tonne.

These materials are used onsite and remain onsite. They do attract the levy of \$65.40 per tonne which should be the minimum fee applicable. There are minimal site operational costs associated with these types of materials so it is recommend that no additional charges be allocated for their disposal. Recommended 2014/15 charge of \$66/tonne.

2. 100% Sorted Recyclable Inert (clean concrete bricks, rock and roof tiles): current price in the draft plan is \$64/ tonne and the proposed price is \$86/tonne.

These materials remain onsite and attract the levy of \$65.40/tonne. Processing and operational fees are approximately \$20 per tonne. As a minimum the levy component and the processing fee should be applied to this charge until a suitable market can be established. Recommended 2014/15 charge of \$86/tonne.

3. Excavated Material (Clean excavated natural material): current price in the draft plan is \$49/ tonne and the proposed price is \$66/tonne.

10.7 Delivery Program 2014/15 to 2017/18 and Operational Plan 2014/15

These materials are used onsite and remain onsite and attract the levy. As a minimum the levy component of \$65.40 should be charged for their disposal onsite. There are minimal site operational costs associated with these types of materials. Recommended 2014/15 price is \$66/tonne.

4. It is proposed to introduce a new fee where bins are 'missed' from the normal collection route. The missed bin collection fee is to be introduced following the installation of a GPS tracking system. The tracking system allows drivers to easily note if a bin has not been presented for collection.

There have been numerous occasions where residents claim to have presented the bin for collection when Council staff are confident that the bin was not presented. If the GPS system confirms that it was not presented for collection, the resident will be given the alternative of bringing their waste to the facility and not be charged for disposal (the entry will be coded as missed bin service) or pay a price on application (POA) fee. If they chose not to bring the bin to the waste facility or not pay the fee, the bin will be collected on the next collection cycle. The reason that the fee will be POA is because it will vary depending on location.

5. The current schedule of fees in respect to cars and station wagons states a specific fee will be charged depending on the waste type. This can be inequitable when the sedan is carrying very heavy material. It is proposed to amend the fee structure to say 'minimum fee' which provides the weighbridge operator with the opportunity to request the vehicle to go over the weighbridge.

Water Charges

The current financial modelling for the water operations includes an increase to the annual and consumption charges of 9%. This modelling was completed in March 2014, which is prior to the third quarter water meter readings. These readings have now confirmed that it is very likely that substantially more consumption income will be received in 2013/14 than was previously anticipated. This raises the question as to whether the proposed 9% increase is excessive.

The next table provides recent billable water consumption figures. As per that table consumption increased in 2012/13 for the first time in a few years.

Please note the 2013/14 consumption figure is an estimate based on the trend for the first three quarters, which forecasts that 2013/14 will be a substantial increase on 2012/13.

Table Three: Ballina Shire Water Consumption

Year	Kilolitre's '000's)
2013/14 estimate	3,202
2012/13	2,903
2011/12	2,734
2010/11	2,744
2009/10	3,166

10.7 Delivery Program 2014/15 to 2017/18 and Operational Plan 2014/15

The next table provides a summary of the forecast operating results for the water operations based on the assumptions applied prior to the third quarter consumption data. This forecast differs slightly to the advertised LTFP as some figures have been fine tuned since that publication.

The forecast shows a steady improvement in the operating result and a gradual decline in reserves, although reserves remain quite strong.

Table Four: Water Operations Forecast – 9% Increase - (\$'000)

Item	2014/15	2015/16	2016/17	2017/18
Operating Result (exc depn)	301	676	1,179	1,560
Operating Result (incl depn)	(1,417)	(1,123)	(671)	(341)
Total Reserve Balance	6,293	7,045	6,448	5,381

A revised estimate for water consumption based on the updated consumption figures, together with the proposed 9% price increase, produces the forecast shown in table five.

Table Five: Revised Forecast- 9% Increase – Higher Consumption (\$'000)

Item	2014/15	2015/16	2016/17	2017/18
Operating Result (exc depn)	951	1,384	1,950	2,418
Operating Result (incl depn)	(767)	(415)	99	497
Total Reserve Balance	6,943	8,403	8,577	8,349

This revised forecast places the water operations in a very strong financial position, especially considering that there are no external loans, healthy reserves and the primary goal of an operating surplus inclusive of depreciation will be achieved in approximately three years.

The next table now shows a summary of the forecast if the 2014/15 price increase was reduced to 6% based on the higher consumption figures

Table Six: Water Operations - 6% Increase – Higher Consumption (\$'000)

Item	2014/15	2015/16	2016/17	2017/18
Operating Result (exc depn)	790	1,210	1,760	2,212
Operating Result (incl depn)	(927)	(590)	(90)	290
Total Reserve Balance	6,783	8,069	8,053	7,618

The forecast based on a 6% price rise is acceptable, with an operating surplus inclusive of depreciation achieved in 2017/18 and reserves in a reasonable position.

Clearly the increase to water consumption is changing the financial outlook dramatically. The risk is that a wet year will result in consumption reducing or not increasing to the level anticipated. Also it is unclear whether Rous Water will again apply above CPI increases for the purchase of water during the next few years.

10.7 Delivery Program 2014/15 to 2017/18 and Operational Plan 2014/15

Council has received one submission in respect to annual rates and charges which raises concerns about the level of increases over a sustained period. In this instance it may be reasonable to lessen the impost on the ratepayer and achieve financial goals over a slightly longer time frame.

Another issue worthy of note is that the sooner the water operations' profitability improves the sooner Council can consider taking a non compulsory dividend to benefit General Fund. This issue requires further discussion and information and it is not intended to dwell on this matter as part of this report, however it is relevant in terms of the overall financial strategy.

Based on this latest information it is recommended that the proposed price increase for water annual charges is set at 6%. This represents a 3% reduction on the advertised document.

This adjustment is based on the assumption that water consumption will remain approximately between 2012/13 and 2013/14 levels.

If consumption in 2014/15 does not achieve these levels the fund still has strong reserves and future modelling can take the latest consumption figures into account.

If Council wishes to be more conservative an increase of 7% or 8% could also be considered.

Table seven shows the proposed charges for 2014/15 based on both 6% and 9% increases.

Table Seven: 2014/15 Annual and Consumption Charges (\$)

Charge Type	2013/15	2014/15 (6%)	2014/15 (9%)
Water Access Charge - 20mm meter	178	189	194
Water Consumption under 350kl	1.91	2.02	2.08
Water Consumption over 350kl	2.87	3.04	3.12
Vacant Land Charge	178	189	194

Waste Charges – Annual Charge

The draft Delivery Program includes a new Waste Management charge of \$70. This charge has been introduced in tandem with a reduction to the Domestic Waste annual charge of \$70. This proposal looks to better align costs associated with the disposal of waste with a specific revenue stream.

The proposal to raise the new waste annual charge, which shifts revenue from Domestic Waste Management (DWM) to Landfill and Resource Management (LRM), also assists to overcome accounting constraints that are associated with DWM.

Hoarding Fee

In accordance with the resolution from the Council meeting on 24 April 2014, the following matters are noted:

10.7 Delivery Program 2014/15 to 2017/18 and Operational Plan 2014/15

- Council already has fees for “hoarding” in the Fees and Charges schedule being an application fee of \$107 and a weekly lineal metre rate of \$5.00.
- This fee is hardly ever applied as the benefit / cost of the fee is debatable (i.e. cost of invoicing and follow up compared to the revenue generated)
- Enquiries of other council’s practices show that hoarding fees generally are applicable where pedestrian access or traffic flow is interrupted or where the construction infrastructure causes damage or may cause damage to council infrastructure
- The fees generally relate to CBDs, not in residential or industrial areas.

Other councils who charge the “hoarding fee” do so in accordance with a policy and charge fees ranging from \$50 - \$200 application fees and rental fees ranging from a flat \$5.00 per site per day to \$20 per m2 per week.

Given the relatively low level of development in the Ballina CBD the application of this fee could be criticised to be hindering development.

The benefit in implementing this fee is that there is a financial incentive for developers to work quickly to remove their infrastructure from the footpath. However, objectively considering the number of times that development occurs in the CBD (and the amount of times that this impacts the road or footpath), and then considering who the developers are that carry out this level of development, it is arguable that strictly applying this fee across the board would most likely result in Council charging itself for the use of the footpaths.

Council staff have the option to apply this fee in respect to extreme circumstances and it is recommended that Council only note this information. If further action is required then that needs to be included in the final resolution.

Rate Revenue

Due to a major change in the valuation for one item of land at West Ballina the actual rates in the dollar for the levying of ordinary rates has changed. The updated figures are in the following table.

Table Eight: Updated Rates in the Dollar

Rate Category	Rate in Dollar (cents in \$)	Base Amount (\$)	% Income from Base Amount
Residential	0.165306	429	49.85
Business	0.604521	429	14.74
Farmland	0.133971	429	32.64
Mining	0.604521	429	00.00

Council will need to adopt these figures for 2014/15.

Operational Plan – Additional Measure - Customer Requests

It is proposed to introduce a new measure of effectiveness into the Operational Plan in respect to the management of customer requests. Council now has reliable systems to track customer requests and assess the outcomes. With over 8,000 requests actioned in 2013/14 this is considered to be a very good measure to include in the 2014/15 Operational Plan; i.e.

10.7 Delivery Program 2014/15 to 2017/18 and Operational Plan 2014/15

Customer requests are dealt with effectively and promptly	% completed within allocated timeframe (Target > 85%)	Governance and Finance
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Sustainability Considerations

- **Environment**
This report encompasses the entire Council budget and proposed activities and operations.
- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

This report deals with all of Council's operations. Legal, resource and financial implications are all relevant to this report. The recommendations contained at the bottom of this report include various budget adjustments.

Consultation

The Draft Delivery Program and Operational Plan have been advertised for public comment during May and June.

Options

Council has a legal obligation to adopt the Operational Plan and Delivery Program. Three Finance Committee meetings have been held to develop the strategies contained within these documents and Council is also in a position to consider community input.

The recommendations that follow encompass all the items addressed in this report, along with a recommendation to endorse the rating structure for 2014/15.

In respect to the submissions received recommendation three includes actions for each item. Council may well wish to amend these actions based on the contents of the submissions.

The only item recommended for additional funding is the submission from Richmond River County Council. There is no identified funding source for that item and on that basis the recommendation is to increase the estimated working capital deficit for 2014/15.

The current deficit is at \$95,300 and the allocation of \$35,000 will increase that figure to \$130,300. This is a borderline acceptable result, with the concern being that the freeze on the FAG will place significant pressures on Council during the next three years.

RECOMMENDATIONS

1. That Council adopts the 2014/15 to 2017/18 Draft Delivery Program and 2014/15 Operational Plan, as exhibited, inclusive of any amendments determined at this meeting or at the May Ordinary meeting, whilst the documents were on exhibition.
2. That Council approves the formation of a Committee of three Councillors, representing each Ward, to consider the applications for general and hall donations for 2014/15.
3. That in respect to the various submissions for fees and charges and works and services Council endorses the following actions:
 - a) Leona Ross – Noted with a reduction in the water charges recommended
 - b) Max Moffitt – Noted with no change recommended
 - a) Far North Coast Lifesaving – Lifesaver patrols – Defer until tender completed
 - b) Far North Coast Lifesaving – Shelly Beach Surf Club – No action as priorities already determined
 - c) South Ballina Residents Association – Actions noted as per contents of this report
 - d) Richmond River County Council – Include additional funding of \$35,000 in 2014/15 funded from General Revenue, with this funding only available if all constituent councils contribute.
 - e) Alstonville Plateau Historical Society – Noted with no change recommended
 - f) Ballina Environment Society – Noted with no change recommended
 - g) Womensport NSW – Inclusion of an additional Operational Plan action to improve our measurement of women and girls participation in sport
 - h) Lennox Head Residents Association – Actions noted as per contents of this report
 - i) David Felsch – noted with no change recommended
4. That Council based on the feedback from the public meeting held at Wardell Council include the following additional action in the 2014/15 Operational Plan:

Analyse options for the delivery of affordable housing in Wardell.
5. That Council notes the overview provided of the changes to the Long Term Financial Plan, with the General Fund now predicting a working capital deficit of \$95,300 for 2014/15, subject to any further changes resolved as part of this report.
6. That Council approves the gate fees at the waste centre for 100% sorted reusable waste (clean topsoil and fill) to be increased from \$53/tonne to \$66/tonne.

10.7 Delivery Program 2014/15 to 2017/18 and Operational Plan 2014/15

7. That Council approves the gate fees at the waste centre for 100% recyclable inert (clean bricks, tiles rock) to be increased from \$64/tonne to \$86/tonne.
8. That Council approves the gate fees at the waste centre for excavated material (clean excavated natural material) to be increased from \$49/tonne to \$66/tonne.
9. That Council approves the introduction of a new fee titled 'missed collection charge' for instances when the customer has not presented their bin for collection and subsequently ask for the bin to be collected. The fee will be based on a 'price on application' calculation.
10. That Council approves amendments to the the gate fees at the waste management centre such that any pricing referencing a sedan or station wagon is amended to include the words 'minimum fee'.
11. That Council based on the information contained in this report and the latest water consumption figures approves an amendment to the 2014/15 water annual and consumption charges as per the following table:

Charge Type	2013/14	2014/15 (6%)
Water Access Charge - 20mm meter	178	189
Water Consumption under 350kl	1.91	2.02
Water Consumption over 350kl	2.87	3.04
Vacant Land Charge	178	189

12. That Council notes the comments in this report in respect to the application of the Hoarding Fee.
13. That Council resolves to make a base rating structure for the levy of the 2014/15 Ordinary Rate as per the following structure.

Rate Category	Rate in Dollar (cents in \$)	Base Amount (\$)	% Income from Base Amount
Residential	0.165306	429	49.85
Business	0.604521	429	14.74
Farmland	0.133971	429	32.64
Mining	0.604521	429	00.00

14. That Council resolves to make the 2014/15 rates and charges as per the advertised Operational Plan and Delivery Program, inclusive of any amendments adopted at this meeting.
15. That Council approves the addition of the following measurement in the 2014/15 Operational Plan as identified within this report:

Customer requests are dealt with effectively and promptly	% completed within allocated timeframe (Target > 85%)	Governance and Finan
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Attachment(s)

1. Submissions to Fees and Charges
2. Submissions to Works and Services

10.8 Senior Staff Contracts and General Manager Annual Review

10.8 Senior Staff Contracts and General Manager Annual Review

Delivery Program Human Resources and Risk Management

Objective To comply with Section 339 of the Local Government Act and the General Manager's employment contract.

Background

Section 339 of the Local Government Act states as follows:

The general manager must, at least once annually, report to the council on the contractual conditions of senior staff.

Senior staff are defined under Section 332 of the Local Government Act which lists a range of criteria which must be satisfied before a staff member can be defined as senior staff. The positions within the Ballina Shire Council that meet the criteria and have been resolved by Council as senior staff are:

- General Manager
- Group Manager - Civil Services
- Group Manager – Development and Environmental Health

The purpose of this report is to comply with section 339 of the Local Government Act in respect to these three positions.

Also the General Manager's employment contract, which is based on a standard template, as produced by Local Government NSW, requires a performance agreement to be completed between Council and the General Manager.

The contract requires the performance agreement to be monitored at least on a six monthly basis, with the council to provide a written statement to the General Manager, within six weeks of the performance review, advising of the Council's conclusions on the General Manager's performance.

The report that follows provides details on these two items that is not considered to be of a personal nature, with two further reports included in the confidential section of this agenda.

The confidential reports contain information that can be considered to be of a personal nature and as such the two reports are recommended for discussion in confidential session in accordance with Section 10A(2) (a) of the Local Government Act; i.e. personnel matters considering particular individuals.

By having the reports in confidential session this also provides an opportunity for Councillors to discuss the performance of the senior staff on a confidential basis.

Key Issues

- Compliance with the Local Government Act
- Compliance with the General Manager's employment contract

Information

Senior Staff Positions

The major difference between senior staff positions and other positions within the council organisation (excluding the total salary) is that senior staff must be placed on standardised performance based contracts, details of which are reported to Council each year (Sections 338 and 339). Also under Section 332 of the Local Government Act the general manager may appoint or dismiss senior staff only after consultation with the council.

Details of the three senior staff positions within the organisation are as follows:

General Manager

- Term limited, performance based contract
- Five year term terminating 13 April 2017

Civil Services Group Manager

- Term limited, performance based contract
- Five year term terminating 31 May 2016

Development and Environmental Health Group Manager

- Term limited, performance based contract
- Five year term terminating 31 May 2016

Specific details of the employee's remuneration are included in the confidential report.

General Manager's Employment Contract

The General Manager's contract requires a performance agreement to be completed between Council and the General Manager. That agreement is made up of two distinct components, Part One, which provides a standard list of managerial objectives and Part Two, which identifies key specific activities that a council may wish to see completed.

The performance agreement can be varied from time to time, upon agreement by both parties. Council practice has been to review the agreement on an annual basis to align with the timeframe for Council's Operational Plan (i.e. financial year).

The General Manager's Performance Review Committee (PRC) comprises the Mayor and the Deputy Mayor, as resolved by Council. The PRC met with the General Manager on Friday 6 June 2014 to perform the twelve monthly performance review for the 2013/14 financial year.

The confidential report included elsewhere in this agenda provides the recommended performance review for 2013/14 being the Part One and Part Two assessments for 2013/14 and the recommended Part Two targets for 2014/15.

10.8 Senior Staff Contracts and General Manager Annual Review

Consultation

This report contains what are considered to be the open Council items relating to the employment contracts for the senior staff, along with the performance review for the General Manager.

Options

This report is provided for information.

RECOMMENDATION

That Council notes the contents of this report relating to the senior staff contracts and the General Manager's annual performance review.

Attachment(s)

Nil

11.1 Ballina RSL Land Swap - Update

11. Civil Services Group Reports

11.1 Ballina RSL Land Swap - Update

Delivery Program Open Spaces and Reserves

Objective To provide an update in relation to the proposed land swap between the Ballina RSL Club and the Council acting as the Reserve Trust.

Background

At a meeting of the Ballina Shire Council, acting as the Reserve Trust, held 28 November 2012, the Trust considered a report in relation to a proposed land swap between the Ballina RSL Club and the Reserve Trust for land within RSL Park. The resolution of the Trust from this meeting is reproduced below.

1. That Council, as the Reserve Trust Manager, provides in principle support for the proposed land swap and re-alignment of the boundary between the RSL Park (Lot 546, DP 821,908) and land owned by the Ballina RSL Club (Lot , DP 866,388) as detailed within this report.
2. That the cost of the land swap be shared evenly between Council, as the Reserve Trust Manager and the Ballina RSL Club.

A copy of the report considered by the Trust is attachment one to this report.

The purpose of this report is to provide an update on the progress of this matter.

Key Issues

- Costs of the land swap
- Anzac Day 2015
- Time frames

Information

The previous report in relation to the land swap also contained information in relation to the RSL Sub Branch's interest to relocate their cenotaph to make better use of the park and to accommodate crowds on Anzac Day. In this regard, a draft master plan was prepared and the RSL Sub Branch has applied for grant funding to assist with the cenotaph relocation.

A potential issue arose in that both the RSL Club and the Sub Branch were of the understanding that the land swap and the cenotaph relocation were interdependent.

11.1 Ballina RSL Land Swap - Update

However Council staff have clarified this by advising the Club and the Sub Branch that the processes and time frames for the land swap and the cenotaph relocation do not need to occur simultaneously, provided that the cenotaph is relocated within the existing land area owned by the Reserve Trust.

The draft master plan shows the preferred relocation site to be within the existing Reserve Trust land area.

This advice enables the Sub Branch to continue their intention to relocate the cenotaph in time for the Centenary Celebrations for Anzac Day in 2015, regardless of the time to finalise the land swap matter.

Council staff have also discussed this matter with the Crown who have confirmed they are in agreement to the proposed planning for the relocation of the cenotaph.

In relation to the land swap, the Crown has advised that this process will require the consent of the Minister. In addition, the proposal will also need the approval of various other state government departments as well as evidence to extinguish any native title claim which may have been available but for the land swap. These additional approvals are expected to add a further 12 months to the land swap time frame.

Once the land has been swapped, a rezoning of the land will need to be undertaken. The area, which is proposed to become RSL Club Land, is currently zoned "public recreation" and the land which is proposed to be added to the reserve is zoned "commercial".

The RSL Club has indicated that they do not want to swap the land if they are unable to rezone the land they would acquire for business purposes. The zoning is not a consideration to the reserve.

It is not intended that the land swap process and the rezoning process be undertaken concurrently given the substantial administrative work involved with the rezoning. That is, it is intended that the rezoning would proceed once there is a reasonable level of certainty that the land swap is likely to be approved.

With respect to the rezoning, the Council should be aware however that there is a possibility that the land swap will proceed and incur costs and the rezoning may not receive Minister's approval to proceed.

The land swap agreement can be made contingent upon the completion of the rezoning to address the RSL Club's preference for a commercial zone over the 'swapped' land.

The anticipated costs initially were approximately \$13,000 however, given the additional work and extended timeframes this figure may now increase. The prior resolution was made on the basis that the costs were shared equally between the RSL Club and the Council as the Reserve Trust Manager.

11.1 Ballina RSL Land Swap - Update

The costs of the rezoning have been included in the agreement with the Club as costs attributable the land swap. Based on Council's proposed fees and charges for the 2014/15 financial year, the rezoning costs are estimated to be between \$8,000 and \$10,000.

The Council currently has an allocation of \$13,000 in its budget for this project.

It is anticipated that the cenotaph relocation on the Ballina RSL Park will only have minor and temporary impacts upon the amenity and use of the park by the public.

The long term benefit to the Ballina RSL Club and wider community through relocating the cenotaph and implementing the Landscape Concept Plan will improve the usability of the foreshore park for the future.

Sustainability Considerations

- **Environment**

The land swap will enable the Landscape Concept Plan to progress transferring high use public areas away from the fragile roots of the large Moreton Bay Fig Tree.

- **Social**

The land swap will improve the social use of the Ballina RSL Park along with the continued implementation of the Landscape Concept Plan.

- **Economic**

The land swap will have short term economic consequences during planning and implementation with long term gains through development and social use.

Legal / Resource / Financial Implications

It is hoped that the project can be completed within the funds currently allocated (\$13,000).

Council's Solicitors have been instructed to prepare a Deed to progress the land swap and a survey has been ordered.

Consultation

Consultation has been carried out with the Ballina RSL Club, Sub Branch and the Crown. As the land swap proposal will require the transfer of a portion of public land to a private entity, the land swap proposal will need to be publically displayed for community submission.

Options

This report is for information and the recommendation is for notation. A further recommendation is provided in relation to the use of Council's seal for the execution of the documentation needed to finalise this matter.

RECOMMENDATIONS

1. That Council notes the contents of this report regarding the proposed land swap and rezoning with the Ballina RSL Club.
2. That Council authorises the attachment of the Council Seal upon any documents required to effect the cenotaph relocation, the land swap and the rezoning.

Attachment(s)

1. Reserve Trust Report - November 2012

12. Public Question Time

12. Public Question Time

13.1 Notice of Motion - Proposed Fishing Licence Reforms

13. Notices of Motion

13.1 Notice of Motion - Proposed Fishing Licence Reforms

Councillor Cr Williams

I move

That Ballina Shire Council write to the Minister for Primary Industries and the Member for Ballina, to express Council's concern at the potential impact of the proposed NSW State Government fishing industry reforms on the local Ballina fishing industry and the Ballina Fish Cooperative and request that further consultation be undertaken with industry bodies prior to the implementation of any reform package.

Councillor Comment

The local fishing industry is an important economic driver and employer in the Ballina economy. The State Government proposes reforms to the structure of the industry to remove redundant licenses and re-allocate shares among continuing fishing businesses.

The industry is concerned that the effect of these reforms will require businesses to purchase additional shares to maintain their current fishing activities. A trawler operation worth around \$1 million could require an additional \$120,000 worth of shares to maintain its business. Smaller fishing operations could be similarly hit.

The Ballina Fish Cooperative advises that a further 25% reduction in the size of the fishing fleet would make its operation unviable and place it's 25 employees at risk.

The fishing industry is currently in the process of establishing its first ever peak industry representative body, with work to finalise structures currently underway. Various industry groups have requested that the reforms be put on hold until such time as that body has been formally established and given a opportunity to provide input on behalf of the entire industry.

COUNCILLOR RECOMMENDATION

That Ballina Shire Council write to the Minister for Primary Industries and the Member for Ballina, to express Council's concern at the potential impact of the proposed NSW State Government fishing industry reforms on the local Ballina fishing industry and the Ballina Fish Cooperative and request that further consultation be undertaken with industry bodies prior to the implementation of any reform package.

14.1 Facilities Committee Minutes - 19 June 2014

14. Advisory Committee Minutes

14.1 Facilities Committee Minutes - 19 June 2014

Attendance

Cr Ben Smith – in the Chair), Jeff Johnson (arrived at 4.55 pm), Sharon Cadwallader (arrived at 4.05 pm), Keith Williams, Keith Johnson, Susan Meehan, Ken Johnston, Paul Worth and David Wright.

Paul Hickey (General Manager), Jamie Fleeting (Construction Engineer), Paul Tsikleas (Commercial Services Manager), Rod Willis (Development and Environmental Health Group Manager), Steve Barnier (Strategic and Community Facilities Group Manager) and Sandra Bailey (Secretary) were in attendance.

There were seven people in the gallery at this time.

1. Apologies

An apology was received from Cr Robyn Hordern.

Crs Cadwallader and Jeff Johnson indicated that they would be late to the meeting as they were returning from the National General Assembly of Local Government.

RECOMMENDATION

(Cr David Wright/Cr Keith Johnson)

That such apology be accepted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Sharon Cadwallader and Cr Robyn Hordern

2. Declarations of Interest

Nil

3. Deputations

- **Lyn Walker, Lake Ainsworth Interest Group a Committee of Ballina Environment Society** – spoke in relation to Item 4.1 – Lake Ainsworth – South Eastern Precinct – Options.

Cr Sharon Cadwallader arrived at the meeting at 04:05 pm.

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- **Andrew Dougherty, Ballina Lighthouse and Lismore Surf Life Saving Club** – spoke in relation to Item 4.5 – Ballina Surf Club – Project Update.

4. Committee Reports

4.1 Lake Ainsworth - South Eastern Precinct - Options

A **Motion** was moved by Cr Paul Worth and seconded by Cr Sharon Cadwallader

A. *Precinct Plan Options*

1. That Council endorses as its preferred option, the recommendation in the attached report from Complete Urban (Attachment A) that the strategic direction for the renewal and upgrade of the Lennox Head Surf Club be the demolition of the current facility and construction of a new facility on the site immediately to the south of the current facility.
2. That Council endorses as its preferred option that the further design for the Lake Ainsworth area is to be based on Attachment C to this report.

An **Amendment** was moved by Cr Keith Williams

1. That Council endorses as its preferred option, the recommendation in the attached report from Complete Urban (Attachment A) that the strategic direction for the renewal and upgrade of the Lennox Head Surf Club be the demolition of the current facility and construction of a new facility on the site immediately to the south of the current facility.
2. That Council endorses as its preferred option that the further design for the Lake Ainsworth area is to be based on Attachment C to this report, with the boardwalk removed.

The **Amendment LAPSED**.

The **Motion** was **CARRIED**.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Robyn Hordern

RECOMMENDATION

(Cr Paul Worth/Cr Sharon Cadwallader)

A. *Precinct Plan Options*

1. That Council endorses as its preferred option, the recommendation in the attached report from Complete Urban (Attachment A) that the strategic direction for the renewal and upgrade of the Lennox Head Surf Club be the demolition of the current facility and construction of a new facility on the site immediately to the south of the current facility.
2. That Council endorses as its preferred option that the further design for the Lake Ainsworth area is to be based on Attachment C to this report.

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FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Robyn Hordern

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Susan Meehan)

B. Eastern Road Options

That Council endorses that its preferred option for the redesign of the Eastern Road, is as an access only road, as per the drawing Option 2 in Attachment B to this report, with access points to the beach to be maintained.

FOR VOTE - Cr David Wright, Cr Sharon Cadwallader, Cr Keith Johnson, Cr Susan Meehan, Cr Paul Worth and Cr Ben Smith
AGAINST VOTE - Cr Keith Williams and Cr Ken Johnston
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Robyn Hordern

RECOMMENDATION

(Cr Paul Worth/Cr Keith Johnson)

C. Allocation of Available Monies

1. That Council confirms its preferred allocation of the currently available monies is as follows, subject to further detailed design and assessment:

Southern Foreshore Community Park Precinct	\$
Design Development/Planning Approvals/ Detailed Design & Tender Documentation	40,000
Demolition Works Road	40,000
New Paths	222,000
Structures Over Water / Street Furniture / Amenities	253,000
Road Works/Cul-de-sac	240,000
Landscaping	74,000
Eastern Road (to be reallocated to Surf Club component assuming eastern road funded by the State Government)	300,000
Car parking	61,000
Total	1,230,000

Lennox Head Surf Club	\$
Design Development and Planning Approvals	100,000

2. That Council seek 100% funding for the eastern road re-alignment from the NSW State Government as this road is required for their access purposes.

Cr Jeff Johnson arrived at the meeting at 04:55 pm.

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D. Precinct Plan Community Consultation Options

3. That Council authorises for public exhibition the attached report from Complete Urban, along with Council's preferred approaches as per points one to four, with a further report to be presented to Council assessing the response to the exhibition. For consultation purposes Council's preferred management model is as per the Ballina Surf Club.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Robyn Hordern

4.2 Wollongbar Sports Fields - Project Update

RECOMMENDATION

(Cr Keith Johnson/Cr Sharon Cadwallader)

1. That Council approves an increase of \$222,000 to the budget line items for clubhouse and amenities buildings within the Wollongbar Sports Fields project budget, with the source of these funds to be a corresponding reduction in the contingency allocation.
2. That Council notes the need to reassess the contingency budget during the next phases of the management of this project.

FOR VOTE - Cr David Wright, Cr Jeff Johnson, Cr Sharon Cadwallader, Cr Keith Williams, Cr Keith Johnson, Cr Paul Worth and Cr Ben Smith
AGAINST VOTE - Cr Susan Meehan and Cr Ken Johnston
ABSENT. DID NOT VOTE - Cr Robyn Hordern

4.3 Community Services - Infrastructure Options

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Susan Meehan)

1. That Council notes the contents of this report relating to options for the use of the Ballina Visitor Information Centre and the Kentwell Community Centre.
2. That Council, for the time being, take no further action to investigate the transfer of services between the Ballina Visitor Information Centre and the Kentwell Community Centre based on the contents of this report.
3. That an expression of interest process be initiated, inviting Ballina based not for profit and community based organizations to temporarily occupy the administration area of the Kentwell Community Centre, at a "peppercorn" rental, in return for the provision of reception and support services for casual hirers of meeting rooms within this facility.
4. That Council offers the Friends of the Library the use of the rear area of the Ballina Visitor Information Centre for an initial period of two years, at a appropriate rental, subject to point five below. That the General Manager be authorised to finalise the terms and conditions associated with this usage agreement, with the Council seal to be attached to any agreement, if necessary.

5. That as part of these discussions, Council write to the Friends of the Library seeking clarification on how any monies raised by the Friends are to be expended on library services in the Ballina Shire.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Robyn Hordern

4.4 Multi Purpose Indoor Sports Facility - Project Update

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Paul Worth)

1. That Council notes the contents of this report relating to siting options for the construction of a proposed indoor sporting and recreation facility within the Southern Cross Industrial Estate in Ballina.
2. That Council confirms that no further action is to be taken on the preferred site for an indoor sporting and recreation facility, until the outcomes of the current State Government review of the Crown Lands Legislation is known, as this review has the potential to significantly improve the feasibility of utilising Crown land as the preferred location for this facility.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Robyn Hordern

4.5 Ballina Surf Club - Project Update

RECOMMENDATION

(Cr Paul Worth/Cr Susan Meehan)

That in respect to the construction of Building B (storage shed) Council confirms its preference is to have the gym located in Building B.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Robyn Hordern

RECOMMENDATION

(Cr Paul Worth/Cr Keith Williams)

That Council approves a contribution from Council of \$600,000 for the construction of Building B, inclusive of all costs associated with the design and approval of the building (excluding any developer contributions), with the General Manager authorised to call tenders for its design and construction.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Robyn Hordern

RECOMMENDATION

(Cr Susan Meehan/Cr Keith Williams)

That in respect to the design of Building B the determination of whether it is one storey, two storey, size etc is to be made by the General Manager in consultation with the BLLSLSC, as part of the approval process, recognising that the amended design will require an amended planning consent. If agreement cannot be reached between the parties the matter is to be reported back to Council for determination.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Robyn Hordern

RECOMMENDATION

(Cr Paul Worth/Cr Sharon Cadwallader)

That in respect to the BLLSLSC's proposal to pay any additional costs for the construction of Building B over \$600,000, Council confirms its in principle support for this proposal as per point two. The General Manager is to ensure that any agreement for BLLSLSC to pay the difference is documented and signed clarifying the costs to be included in the \$600,000 prior to any tender for the works being accepted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Robyn Hordern

RECOMMENDATION

(Cr David Wright/Cr Keith Williams)

That in respect to the \$100,000 owing to Council by the Ballina Lighthouse and Lismore Surf Life Saving Club (BLLSLSC) Council confirms its preference is not to accept a tender for construction of Building B until the \$100,000 previously committed is accounted for to Council's satisfaction.

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

AGAINST VOTE - Cr Jeff Johnson

ABSENT. DID NOT VOTE - Cr Robyn Hordern

RECOMMENDATION

(Cr Susan Meehan/Cr Sharon Cadwallader)

That in respect to the tenure arrangements with the BLLSLSC Council authorises the General Manager to provide a lease rather than a licence as previously resolved for the occupation of the building. This amendment is conditional upon the lease having a clause, or a reference schedule, or any other form of signed agreement stating that the BLLSLSC will proactively pursue Aboriginal participation in the Surf Club with the actions taken to be reported annually to Council.

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FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Robyn Hordern

Cr Keith Johnson and Paul Tsikleas left the meeting at 05:57 pm.

RECOMMENDATION

(Cr David Wright/Cr Paul Worth)

1. That Council authorise the inclusion of the additional showers in the current project budget, with the funding of \$15,000 to be allocated from the indoor sporting and recreational facility funding.
2. That Council authorise the inclusion of separate change rooms in the project budget, with the funding of \$12,000 to be allocated from the indoor sporting and recreational facility funding.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Keith Johnson and Cr Robyn Hordern

RECOMMENDATION

(Cr Paul Worth/Cr Susan Meehan)

1. That Council authorises the deletion of the construction of the stairs from the main building to the shared pathway (estimated cost \$50,000) from the current project budget, with this item to be reviewed once the project is completed.
2. That remedial action be taken in respect to protecting the grass verge on the eastern edge of the building and on the area next to the kiosk with funding to be sourced from existing maintenance budgets.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Keith Johnson and Cr Robyn Hordern

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Keith Johnson)

That Council authorises an amended budget for this entire project as follows:

Description	Estimate
Expenditure	
Main Building (complete)	4,805,600
Other Infrastructure	
Storage Shed – Construction	550,000
Storage Shed - Fees and Charges (10%)	50,000
Car Park and Pathway	408,200
Compton Drive	789,900
Electrical - Temp Connection plus Generator	95,500
Electrical Substation	121,000
Under Bore	23,300
Land Acquisition – 4,000 sq metres @ \$10	40,000
Change Rooms	12,000
Stairs (deleted)	0
Showers	15,000
Contingency	19,500
Sub Total	2,124,400

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Total Project	6,930,000
Funding	
Federal Government Grant	2,300,000
BLLSLSC – Original Contribution	300,000
Ballina Shire Council Property Reserves	4,100,000
Plus BLLSLSC – Additional Contribution	29,000
Plus Council Engineering Works Contribution	39,000
Plus Council Transfer Animal Pound Savings	20,000
Plus Council Sale of Tintenbar Quarry	75,000
Plus Council Transfer Indoor Facility Budget	67,000
Total	6,930,000

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Keith Johnson and Cr Robyn Hordern

MEETING CLOSURE

6.15 pm

RECOMMENDATIONS

That Council confirms the minutes of the Facilities Committee meeting held 19 June 2014 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

15.1 **Mayoral Meetings**

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

15.1 **Mayoral Meetings**

Councillor David Wright

Activities since the May 2014 Ordinary meeting:

<u>Date</u>	<u>Function</u>
24/6/14	Alstonville Markets
24/5/14	Lennox Head – Alstonville SLSC – Annual Presentation
25/5/14	North Coast SES Awards Ceremony - Ballina
27/5/14	Briefing – Wastewater Financial Plan
27/5/14	Briefing – Strategic Project Review Priorities
28/5/14	Briefing - Missingham Stall Holders
28/5/14	Briefing – Local Directional Signage Policy
31/5/14	Riding for the Disabled – 377 Houghlahans Creek Road
2/6/14	Delivery Program – Wardell Hall
3/6/14	Alstonville/Wollongbar Chamber Meeting
3/6/14	Ballina Shire Council -School Debating
3/6//14	Consultation Meeting – Lake Ainsworth Precinct
4/6/14	Delivery Plan – Lennox Head
5/6/14	Ballina Shire Council -School Debating
6/6/14	Lennox Head Tree Planting
6/5/14	General Manager Performance Review
7/6/14	Love Lennox Carnival
7/6/16	Northern Rivers Gallery Opening
7/6/14	Opening Ballina Aero Club
7/6/14	Ballina Lighthouse and Lismore SLSC – Presentation RSL
8/6/14	Lennox Head Markets
10/6/14	Public Citizenship Ceremony
11/6/14	Traffic Committee
11/6/14	Councillor Briefing E Zones – Dept of Planning
11/6/14	Wollongbar Progress Association
12/6/14	Ballina High School Leo Club Change-Over
12/6/14	Meeting Winter Olympics Institute
12/6/14	Aboriginal Community Committee
13/6/14	Bye Bye Birdie – Ballina Players
17/6/14	ARC RRCC – SCU Meeting Blackwater
19/6/14	Meeting - Adam Garvin
19/6/14	Peter Small – Blue Seas Parade
19/6/14	Facilities Committee
19/6/14	Wardell Progress Association
20/6/14	Crowley Care Services – Picnic in the Park
21/6/14	Surf Life Saving Far North Coast Awards of Excellence – RSL
22/6/14	Rotary Breakfast – Hope Road Walk for South Sudan
24/6/14	Launch of Visitor Guide at Visitor Information Centre
25/6/14	RRCC Meeting
26/6/14	Council Meeting

RECOMMENDATION

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

16. Questions Without Notice

16. Questions Without Notice

17. Confidential Session

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

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

17.1 Lennox Head Cultural and Community Centre - Insurance Claim

Refer to Item 9.11 of this agenda.

17.2 Senior Staff - Contract Conditions

Refer to Item 10.8 of this agenda.

17.3 Mayoral Report - General Manager - Performance Review

Refer to Item 10.8 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 Lennox Head Cultural and Community Centre - Insurance Claim

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 as it could impact on Council's ability to settle this claim and may impact on the amount of the final settlement.

17.2 Senior Staff - Contract Conditions

Reason for Confidentiality

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

- a) personnel matters concerning particular individuals (other than councillors)

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the report provides details of the personal affairs of staff.

17.3 Mayoral Report - General Manager - Performance Review

Reason for Confidentiality

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

- a) personnel matters concerning particular individuals (other than councillors)

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 discussion may involve specific details of the employee's performance.