

Agenda

Ordinary Meeting **25 February 2021**

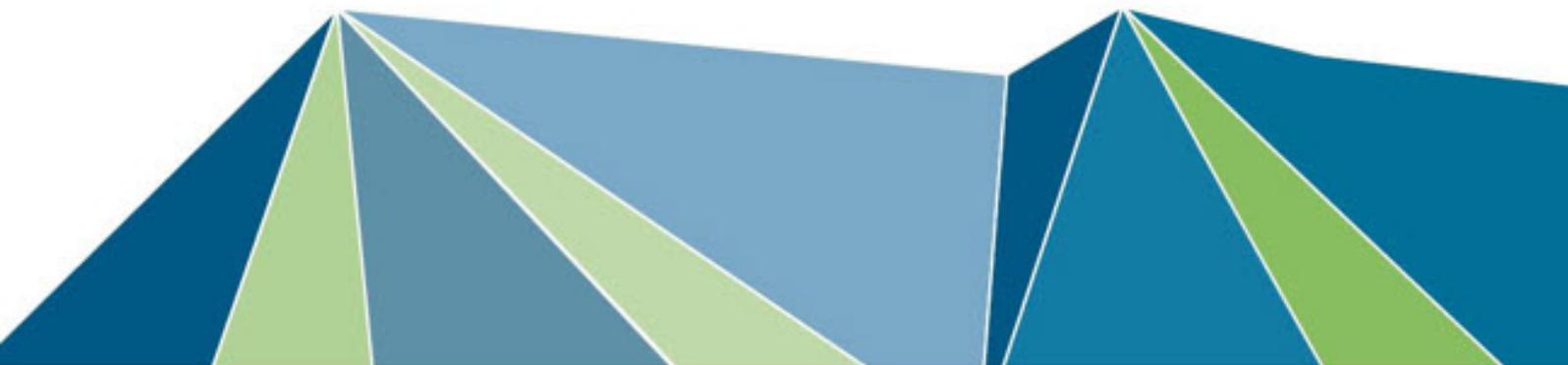
An Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **25 February 2021 commencing at 9.00am.**

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. Planning and Environmental Health Division Reports
9. Corporate and Community Division Reports
10. Civil Services Division Reports
11. Notices of Motion
12. Advisory Committee Minutes
13. Reports from Councillors on Attendance on Council's behalf
14. Confidential Session

Paul Hickey
General Manager

A morning tea break is taken at 10.30am and a lunch break taken at 1.00pm.

**Due to COVID-19 - Social distancing applies in the Public Gallery.
You may access this meeting via our Live Streaming link
ballina.nsw.gov.au/agendas-and-minutes**



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.
- Deputations, per person, will be limited to a maximum of two items on the agenda.
- 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.
- Deputations on the same matter will be listed together with the opposition first and the speaker in affirmative second.
- Members of the public are advised that any documents tabled or given to Councillors during the meeting become Council documents and access may be given to members of the public in accordance with the requirements of the Government Information (Public Access) Act 2009.
- The use of powerpoint presentations and overhead projectors is permitted as part of the deputation, provided that the speaker has made prior arrangements with the General Manager's Office at the time of booking their deputation. The setup time for equipment is to be included in the total time of five minutes allocated for the deputation.
- To avoid conflicts of interest, real or perceived, deputations will not be accepted from:
 - Tenderers during a public tender or request for quotation
 - Persons or representatives from organisations seeking financial support from Council that involves an expression of interest
 - Consultants who are engaged by Council on the matter the subject of the deputation.

Public Question Time – This Session Does Not Form Part of the Ordinary Meeting

- A public question time has been set aside during the Ordinary meetings of the Council. The Ordinary meeting will be adjourned from 12.45 pm for Public Question Time. If the meeting does not extend to 12.45 pm Public Question Time will be held after the meeting closes.
- 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 Ordinary meeting agenda.
- 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 question before other persons with a question will be invited to ask and so on until single questions are all asked and, time permitting, multiple questions can be invited and considered.
- Recording of the questions will not be verbatim and will not form part of the minutes of the Ordinary meeting.
- The standard rules of behaviour in the Chamber will apply.
- Questions may be asked from the position in the public gallery.

Recording and Livestreaming of Council Meetings

- The meeting (with the exception of the confidential session) is being livestreamed and recorded for on-demand viewing via Council's website (***ballina.nsw.gov.au/agendas-and-minutes***) and a person's image and/or voice may be broadcast.
- Attendance at the meeting is taken as consent by a person to their image and/or voice being webcast.
- All speakers should refrain from making any defamatory comments or releasing any personal information about another individual without their consent.
- Council accepts no liability for any damage that may result from defamatory comments made by persons attending meetings. All liability will rest with the individual who made the comments.
- This meeting must not be recorded by others without the prior written consent of the Council in accordance with Council's Code of Meeting Practice.

Table of Contents

1.	Australian National Anthem	1
2.	Acknowledgement of Country	1
3.	Apologies.....	1
4.	Confirmation of Minutes.....	1
5.	Declarations of Interest and Reportable Political Donations.....	1
6.	Deputations	1
7.	Mayoral Minutes	1
8.	Planning and Environmental Health Division Reports	2
8.1	DA 2020/766 - Industrial Building, Gymnasium and Take Away Premises	2
8.2	Planning Proposal - Rural Function Centres	20
8.3	Planning Proposal - Lennox Rise, Lennox Head	26
8.4	LEP Amendments and Planning Proposals - Status	31
8.5	Development Control Plan Amendment - Mosquito Management	35
8.6	Development Applications - Works in Progress - February 2021	40
9.	Corporate and Community Division Reports	51
9.1	Disclosure of Interest Returns	51
9.2	Investment Summary - January 2021	52
9.3	Policy (Review) - Investments	58
9.4	Australia Day - Review	62
9.5	Legal Matters - Update	65
9.6	Financial Review - 31 December 2020	72
10.	Civil Services Division Reports	105
11.	Notices of Motion.....	106
11.1	Notice of Motion - Lennox Village Vision Project - Lennox Park Shelter	106
11.2	Notice of Motion - Cumbalum Interchange	109
11.3	Notice of Motion - Housing Affordability Strategy	111
11.4	Notice of Motion - Bulwinkel Park, Alstonville	112
11.5	Notice of Motion - Fossil Fuel Divestment	113
11.6	Notice of Motion - Fossil Fuel Divestment - LGNSW and ALGA	116
12.	Advisory Committee Minutes	117
13.	Reports from Councillors on Attendance on Council's behalf.....	118
13.1	Mayoral Meetings	118
14.	Confidential Session.....	119

DISCLAIMER ©NSW Spatial Services 2021. Although all care is taken in the preparation of plans within Council's business paper (both agendas and attachments), Ballina Shire Council accepts no responsibility for any misprints, error, omissions or inaccuracies. The information contained within each plan is for pictorial representation only and not to scale. Accurate measurements should be undertaken by survey.

1. Australian National Anthem
 2. Acknowledgement of Country
 3. Apologies
 4. Confirmation of Minutes
 5. Declarations of Interest & Reportable Political Donations
 6. Deputations
 7. Mayoral Minutes
-

1. Australian National Anthem

The National Anthem will be played.

2. Acknowledgement of Country

In opening the meeting the Mayor provided an Acknowledgement of Country.

3. Apologies

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 28 January 2021 were distributed with the business paper.

A copy of the Minutes of the Extraordinary Meeting of Ballina Shire Council held on Wednesday 3 February 2021 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 28 January 2021.

That Council confirms the Minutes of the Extraordinary Meeting of Ballina Shire Council held on Wednesday 3 February 2021.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2020/766 - Industrial Building, Gymnasium and Take Away Premises

8. Planning and Environmental Health Division Reports

8.1 DA 2020/766 - Industrial Building, Gymnasium and Take Away Premises

Applicant	Ardill Payne & Partners
Property	Lot 8 DP 1262723 – Ascot Road, Ballina
Proposal	Construction of an industrial complex containing two buildings to be used for light/general industrial and a gymnasium and take away food and drink premises
Effect of Planning Instrument	The land is zoned IN1 General Industrial under the provisions of the Ballina LEP
Locality Plan	The subject land is depicted on the locality plan in Attachment 1.

Introduction

Council is in receipt of Development Application DA 2020/766 for the construction of an industrial complex containing two buildings to be used for light/general industrial and a gymnasium and take away food and drink premises.

The purpose of this report is to seek Council's determination of the subject application, given the proposal seeks a variation to *Clause 4.3 Height of buildings* under the *Ballina Local Environmental Plan (BLEP) 2012*, which relates to a numerical development standard and the proposed variation is greater than 10%.

To assist Council in the determination of this application, this report outlines the background to the creation of the subject lot and provides an assessment of the variation to a development standard via Clause 4.6 of the BLEP 2012 and the key relevant matters of the proposal under Section 4.15 of the Environmental Planning and Assessment Act (EP & A Act) 1979.

The full Section 4.15 report, which provides an assessment of all required matters under the EP & A Act 1979, is contained in Attachment 2. A copy of the applicant's request for variation to the building height standard is contained in Attachment 3.

Details of Proposal

Development consent is sought for the construction of an industrial complex on part of a vacant industrial lot, Lot 8 DP 1262723, Ascot Road, Ballina.

8.1 DA 2020/766 - Industrial Building, Gymnasium and Take Away Premises

The subject lot was registered on 24 July 2020, having been created under the terms and conditions of DA 1985/192 which was approved on 1 October 1985, for a "Subdivision creating 22 light industrial allotments ranging in size from 990m² to 3,200m² and 5.1ha residue allotment", being a re-subdivision of Lot 3 DP 607328, North Creek Road, Ballina. The portion of Lot 8 on which the subject development is to be constructed has not yet been formally registered via Subdivision Certificate.

The applicant has indicated the proposed development involves the construction of an industrial development containing two buildings, which will be used for light/general industrial purposes, a gymnasium and a take away food and drink premises.

Further details (as provided by the applicant) are provided below:

- construction of two rectangular shaped buildings of reinforced concrete tilt-up painted walls and colourbond metal roofing
- dimensions of proposed industrial building – 15.6m (W) x 22m (L) x 9.807m (H)
- dimensions of proposed gymnasium building – 23m (W) x 30.2m (L) x 9.997m (H)
- gross floor area of 1,289.2m² (including mezzanine):
 - industrial building – 343.2m²
 - gymnasium building – 946m² (including mezzanine)
- 53 x on-site car parking spaces (including one covered accessible parking space)
- two bicycle racks
- one covered waste/garbage enclosure and one internal waste/garbage area
- three kerb crossings/driveways to Ascot Road
- 3m wide site landscaping to Ascot Road frontage
- provision for cars and medium rigid vehicles (MRVs) to enter and leave the site in a forward direction
- industrial building – one unisex accessible toilet + basin
- gymnasium/café building – one unisex accessible toilet/shower/basin, three toilets, two showers and three basins

Vehicular access to the proposed industrial buildings will be via three driveways/kerb crossings to Ascot Road. Provision has been made for medium rigid vehicles to enter and leave the site in a forward direction.

A total of 53 on-site car parking spaces have been provided (including one covered accessible space) with sufficient site area being provided so that cars can enter and leave the site in a forward direction.

Plans of the proposed development are provided in Attachment 4.

Operational details

The applicant has indicated that the operational details of the proposed gym are as follows:

- Operating hours will be 24 hours/7 days a week

8.1 DA 2020/766 - Industrial Building, Gymnasium and Take Away Premises

- Amplified music will be used for music within the gym and voice amplification during classes. Music will be at a level appropriate for the time of day and subject to dBA limits reflective of background noise levels. See Noise Management Plan below.
- The gym will be fully fitted out with weight machines, free weights, bikes, treadmills etc
- The gym will be staffed from 5am until 8pm on weekdays. Weekends will have reduced hours for staff. Outside these hours active video surveillance will be undertaken for safety, security and amenity.

In relation to the industrial building, the nature of the future use is currently unknown, but potential impacts can be managed by way of the recommended conditions of consent. The operation of the take away food and drink premises can also be managed by way of the recommended conditions.

The subject site has a height of building standard of 8.5 metres under the provisions of the BLEP 2012 (Figure 1). The proposal has a maximum height of 9.997m which does not comply with the development standard.



Figure 1: Height of building controls within the immediate and surrounding locality. Key within figure identifies the colour code of the height of building control (i.e. I = 8.5m).

Despite the departure from the height of building standard, the applicant has demonstrated that the development is compatible with the bulk, scale and character of other industrial and bulky goods retail buildings in the locality (and particularly in the Southern Cross Industrial Estate).

8.1 DA 2020/766 - Industrial Building, Gymnasium and Take Away Premises

Further, it has been demonstrated that the proposal will not result in significant impacts on the existing or future amenity of adjoining properties and the scenic or landscape quality of the locality.

A review of the rationale associated with the introduction of the Ballina LEP 2012 (and the current building height standard) has not identified a specific reason for the height for this particular land parcel and the surrounding (undeveloped) area being set at 8.5m as opposed to 10m for other parts of the Southern Cross Industrial Estate.

Description of the Subject Site

The subject land (Attachment 1) is Lot 8 DP 1262723, which is 2.22 hectares in total area. The part of existing Lot 8 to be developed is flat, rectangular in shape with frontage to Ascot Road and is approximately 2,856m² in area. The dimensions of the site are as follows:

- 78.22m north-eastern boundary to Ascot Road
- 37.205m south-eastern boundary to Lot 4 DP 1262723
- 78.2m south-western boundary to Lot 72 DP 737313
- 36.445m north-western boundary to Lot 3 DP 1262723

An easement to drain water (3m wide) dissects the subject split lot component, running generally in a north-east to south-west direction. A Council drainage reserve is situated directly to the rear of the part of the lot to be developed.

The subject land is situated within a largely developed urban area that is characterised by industrial uses (Southern Cross Industrial Estate) to the south and west, residential uses to the north and cleared grassland and bushland to the east. The immediate surrounds (Ascot Road) is currently undeveloped industrial zoned land (Figure 2):

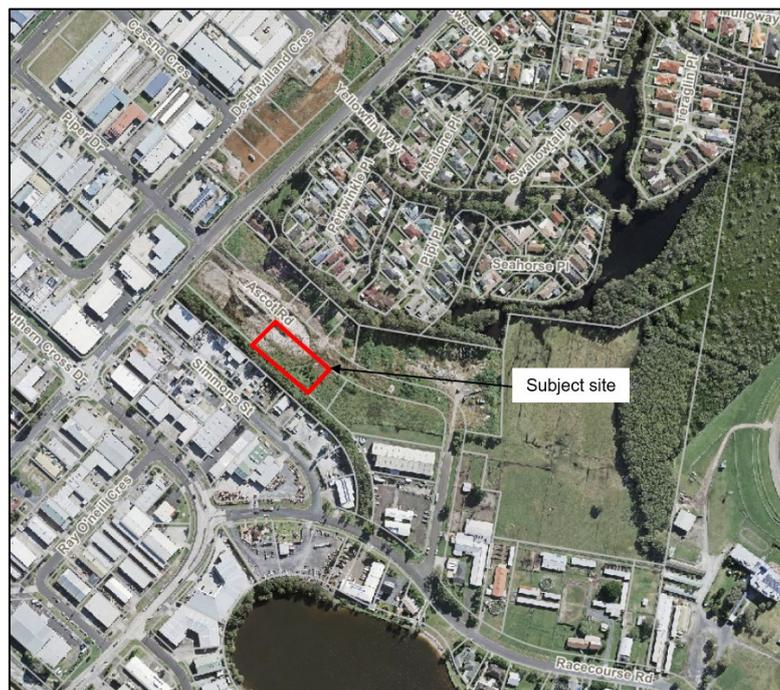


Figure 2: Aerial image of subject property within locality

Reportable Political Donations

Details of known reportable political donations are as follows:

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

Report

The proposed development has been assessed under the heads of consideration in Section 4.15 of the Environmental Planning and Assessment Act 1979.

The assessment has identified the following key issues in relation to this development application which are elaborated upon for the consideration of the elected members of Council.

This report should be read in conjunction with the attached Section 4.15 assessment report (Attachment 2).

Section 4.15(1)(a)(i) provisions of any environmental planning instrument

SEPP 55 – Remediation of Land SEPP (Coastal Management) 2018	No issues are raised in relation to any applicable SEPP. Refer to Attachment 2 for further comment and assessment.
Ballina Local Environmental Plan 2012	The proposal generally complies with the aims of the BLEP 2012. The application seeks a variation to Clause 4.3 – Height of buildings via Clause 4.6 of the BLEP 2012. Clause 4.3 is discussed below. The assessment of the request for variation via Clause 4.6 has been elaborated upon for Council’s consideration. Refer to Attachment 2 for further comment and assessment of the relevant controls (Clauses 1.2, 1.4, 2.3, 4.3A, 7.1, 7.2, 7.3, 7.7, 7.8).
Clause 4.3 Height of buildings	
	Clause 4.3 provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The height of building as shown on the Height of Buildings map for the land is 8.5m. The proposal has a maximum height of 9.997m which does not comply with the development standard. The applicant has submitted a written request to vary the standard

8.1 DA 2020/766 - Industrial Building, Gymnasium and Take Away Premises

	<p>pursuant to Clause 4.6 of the BLEP 2012.</p> <p>Refer below for comment in relation to Clause 4.6.</p>
<p>Clause 4.6 – Exceptions to development standards</p>	
<p>a) What is the development standard being varied?</p>	<p>Clause 4.3 – Height of buildings.</p> <p>The height of building as shown on the Height of Buildings map for the land is 8.5m. The proposed industrial building has a height of 9.807m and the proposed gymnasium building has a height of 9.997m.</p> <p>In relation to the assessment of the proposal and Clause 4.6, the following comments are made.</p> <p>The objectives of Clause 4.3(1) are as follows:</p> <ul style="list-style-type: none"> <i>(a) to ensure that the height of buildings is compatible with the bulk, scale and character of the locality,</i> <i>(b) to minimise adverse impacts on existing or future amenity of adjoining properties and the scenic or landscape quality of the locality,</i> <i>(c) to protect significant views from public places.</i> <p>The proposal has a total height of 9.997m which does not comply with the 8.5m maximum building height for the land.</p> <p>The total numerical departure is 1.497m and the percentage departure is 17.61%.</p>
<p>b) What is the underlying objective of this development standard?</p>	<p>The underlying objective is to ensure that the proposed building height is compatible with the bulk, scale and character of the locality and to minimise adverse impacts on existing or future amenity of adjoining properties and the scenic or landscape quality of the locality.</p>
<p>c) In accordance with Clause 4.6 of the BLEP 2012:</p> <ul style="list-style-type: none"> • Has the applicant’s written request adequately addressed the matters required to be demonstrated by subclause (3) of Clause 	<p>To determine whether there are sufficient grounds to support the Clause 4.6 objection, it is necessary to establish that compliance with the development standard is unreasonable or unnecessary in the circumstances and there are</p>

<p>4.6? (i.e. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard)?</p> <ul style="list-style-type: none"> • Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, as required pursuant to subclause (4) of Clause 4.6? 	<p>sufficient environmental planning grounds to justify contravening the development standard.</p> <p>The applicant has submitted the following:</p> <ul style="list-style-type: none"> • The first Objective (1(a)) is satisfied in that the height of the proposed buildings is compatible with the bulk, scale and character of other industrial and bulky goods retail buildings in the locality (and particularly in the Southern Cross Industrial Estate). • The second Objective (1(b)) relates to minimising adverse impacts on the existing or future amenity of adjoining properties and the scenic or landscape quality of the locality. Adjoining properties comprise vacant industrial lots (that have recently been developed under the terms and conditions of DA 1985/192), an industrial road (Ascot Road) and a vegetated drainage reserve (15m wide). <p>The proposed buildings (and in particular the proposed additional height thereof) will not have any impacts on any views from any public places.</p> <p>The adjoining vacant industrial lots will be developed for industrial purposes and are situated in a recently constructed and developing industrial estate.</p> <p>There will not be any adverse impacts on the adjoining road (to the north) or drainage reserve (to the south).</p> <p>There is a 10m building height applying to the adjoining/adjacent Southern Cross Industrial Estate (including lots fronting Simmons Street and Ray O'Neill Crescent).</p>
--	--

	<ul style="list-style-type: none">• The third Objective (1(c)) relates to the protection of significant views from public spaces. The proposed buildings (and in particular the proposed additional height thereof) will not have any impacts on any views from any public spaces. <p>The proposed buildings are setback well in excess of the required 6m building line/setback to Ascot Road, being 20m for the industrial building and 13m for the gymnasium/café building, which will significantly reduce the perception of their bulk, scale and setting and presentation in the streetscape when viewed from the road.</p> <p>Those parts of the building that exceed the height control do not give rise to any loss of privacy. There is no opportunity to overlook any neighbouring properties from the buildings due to the absence of windows.</p> <p>The buildings both have a long east-west axis, with the bulk of shadows being cast to the south, over the existing 15m wide vegetated drainage reserve. The additional overshadowing caused by the built elements that exceed the height control is minor, and in any event, would largely fall within the drainage reserve (fronting Simmons Street) comprises developed industrial lots.</p> <p>The proposed buildings are in full compliance with the objectives of clause 4.3 of BLEP 2012.</p> <p>The applicant has also considered the relevant Objects in Section 1.3 of the Environmental Planning and Assessment Act 1979:</p> <ul style="list-style-type: none">• The height variation is a result of attempting to provide future
--	--

	<p>adaptable buildings, to enable them to be used for a broader range of industrial uses (including warehousing – extra building height will permit extra capacity for pallet racking/storage etc).</p> <ul style="list-style-type: none">• The height variations are considered to be negligible variations that would not be readily observed from the public domain given the proposed height of the structures and the increased setbacks from the road.• Although there is an exceedance of the height control, there is respect for, and compliance with other controls and consistency with the Ballina LEP and DCP as a result of the design of buildings. The development observes and respects the requirements of planning law.• The design of the buildings sets a desirable precedent with respect to a practical design for industrial functions and for future adaptable re-use.• The EP&A Act and associated legislation permits and promotes development within parameters – but parameters that are (in the main) flexible in order to deliver better outcomes. In this respect, development standards <i>“are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives”</i> (Wehbe v Pittwater Council 156 LGERA 446 [2007] NSWLEC 827 at [43]).• Development standards, including height controls, are to be respected but can be varied when better design outcomes can be achieved without sacrificing amenity. This
--	---

	<p>development is consistent with that environmental planning ground.</p> <p>With respect to the objectives of the IN1 General Industrial zone, the following justification was provided:</p> <ul style="list-style-type: none">• The proposed development involves the construction of two industrial type buildings that will be subject to a number of industrial and related uses that are permitted with consent in the IN1 zone and are consistent with the zone objectives.• The exceedance of the height controls is requested to facilitate future adaptable re-use for a range of other industrial and related uses that are permitted in the IN1 zone.• The proposed height is consistent with the permitted 10m height under the BLEP 2012 for other parts of the Southern Cross Industrial Estate (including the adjoining and adjacent industrial lots to the south, being Stinson Street and Ray O'Neill Crescent). <p>In addition to the above, the applicant also suggests that strict compliance with the standard having regard to the particular circumstances of the case is considered unreasonable and/or unnecessary due to:</p> <ul style="list-style-type: none">• The proposed height variation will not result in any unreasonable or adverse amenity impacts for any adjoining or adjacent properties.• The proposed buildings are compatible and consistent with the bulk, scale, external appearance etc of existing and
--	--

	<p>future adjoining and adjacent industrial type buildings.</p> <ul style="list-style-type: none">• There will not be any resultant adverse impacts on the privacy or overshadowing of any adjoining properties.• The subject split lot section is adjoined by a public road to the north, vacant industrial lots to the east and west and a drainage reserve and developed industrial lots to the south.• The proposed buildings have increased building setbacks to Ascot Road and landscaping is proposed to soften the built form.• The proposed height variations are considered to be relatively minor in the context of the setting and will not be overly perceptible to the broader industrial landscape and streetscape.• The development and buildings are compliance with Council's DCP 2012.• The proposed buildings are in full compliance with the objectives of Clause 4.3 of the LEP 2012. <p>With regard to the above, the applicant has adequately justified the departure from the height of buildings development standard and has satisfied the requirements of Clause 4.6(3).</p> <p>The objectives of the height of building standard are as follows:</p> <ul style="list-style-type: none">a) <i>to ensure that the height of buildings is compatible with the bulk, scale and character of the locality,</i>b) <i>to minimise adverse impacts on existing or future amenity of</i>
--	--

	<p><i>adjoining properties and the scenic or landscape quality of the locality,</i></p> <p><i>c) to protect significant views from public places.</i></p> <p>The bulk and scale of the proposed buildings are compatible with the bulk, scale and character of other industrial and bulky goods retail buildings in the locality (and particularly in the Southern Cross Industrial Estate).</p> <p>The proposed buildings are significantly set back from Ascot Road, which will assist in reducing the perceived bulk of the development. The drainage reserve situated at the rear of the proposed building will also minimise any potential visual impacts to existing industrial buildings on Simmons Street. For this reason, the proposal is also not considered to impact on the development of the remaining vacant industrial land on Ascot Road.</p> <p>The subject land does not form part of a scenic area or broader view corridor and no adverse impacts are anticipated in this regard. It is noted this part of Lot 8 does not directly adjoin a residential area.</p> <p>In view of the above, it is considered the proposal is consistent with the objectives of the height of building standard.</p> <p>In relation to the objectives of the IN1 zone, it has been satisfactorily demonstrated that the proposal will provide for a range of industrial and non-industrial uses (i.e. gymnasium, take away food and drink premises) which will be compatible with the nature of the locality.</p> <p>As stated previously, the proposed building height is consistent with the 10m height of building control for</p>
--	---

	<p>other parts of the Southern Cross Industrial Estate and therefore will be compatible with the desired future character of this locality.</p> <p>Having regard for the above, the development is considered to be in the public interest.</p>
<p>d) Will the cumulative effect of similar approvals undermine the objective of the development standard or the objectives of the zone?</p>	<p>The circumstances of the proposal are such that the industrial land on Ascot Road has a lower height limit than the remainder of the industrial estate (8.5m and 10m respectively).</p> <p>A review of the rationale associated with the introduction of the Ballina LEP 2012 (and the current building height standard) has not identified a specific reason for the height being set at 8.5m as opposed to 10m similar to other parts of the Southern Cross Industrial Estate.</p> <p>It is unlikely there would be a significant number of applications lodged in the same manner as proposed under this DA.</p> <p>It has been satisfactorily demonstrated that the proposal meets the objectives of the standard and the objectives of the zone, despite non-compliance with the standard.</p> <p>Further to this, the bulk and scale of the proposal is consistent with the character of the locality. Therefore, it is unlikely this proposal would set a precedent that would undermine the objective of the standard or the objectives of the zone.</p>
<p>e) The Five Part Test (Note: Established by the NSW Land and Environment Court). Only one test needs to be satisfied.</p> <p>1. Are the objectives of the standard achieved notwithstanding non-compliance with the development standard?</p>	<p>The proposal has a total height of 9.997m which does not comply with the 8.5m maximum building height for the land. The total numerical departure is 1.497m and the percentage departure is 17.61%.</p> <p>Therefore, to determine a variation to a development standard under Clause 4.6, Council needs to be</p>

<p>2. Is the underlying objective or purpose of the development standard not relevant to the development and therefore compliance is unnecessary?</p> <p>3. Will the underlying object of the purpose be defeated or thwarted if compliance was required and therefore is compliance unreasonable?</p> <p>4. Has the development standard been virtually abandoned or destroyed by Council's actions in granting consents departing from the development standard and therefore is compliance with the development standard unnecessary and unreasonable?</p> <p>5. Is compliance with the development standard unreasonable or inappropriate due to the existing use of the land and current environmental character of the subject property (should this property have been included in the current zone)?</p>	<p>satisfied that compliance with the standard is unreasonable and unnecessary in the circumstances. To demonstrate the above, Council can apply one of the justifications (Five Part Test) established in <i>Wehbe v Pittwater Council</i> [2007] NSWLEC 827.</p> <p>The applicant has indicated that Test 1 is of relevance and has justified the departure on the basis that the proposal is consistent with the objectives of the standard.</p> <p>Test 1 provides whether the objectives of the standard can be achieved despite the non-compliance with the development standard specified by Clause 4.3.</p> <p>The objectives of Clause 4.3 are specifically stated and are as follows:</p> <p>(a) <i>to ensure that the height of buildings is compatible with the bulk, scale and character of the locality,</i></p> <p>(b) <i>to minimise adverse impacts on existing or future amenity of adjoining properties and the scenic or landscape quality of the locality,</i></p> <p>(c) <i>to protect significant views from public places.</i></p> <p>As discussed previously, the bulk and scale of the proposed buildings are compatible with the bulk, scale and character of other industrial and bulky goods retail buildings in the locality (and particularly in the Southern Cross Industrial Estate).</p> <p>The proposed buildings are significantly set back from Ascot Road, which will assist in reducing the perceived bulk of the development.</p> <p>The drainage reserve situated at the rear of the proposed building will also minimise any potential visual</p>
--	---

	<p>impacts to existing industrial buildings on Simmons Street.</p> <p>For this reason, the proposal is also not considered to impact on the development of the remaining vacant industrial land on Ascot Road.</p> <p>The subject land does not form part of a scenic area or broader view corridor and no adverse impacts are anticipated in this regard. It is noted this part of Lot 8 does not directly adjoin a residential area.</p> <p>In view of the above, it is therefore considered that the proposal is consistent with the objectives of the height of building standard.</p> <p>Given that only one test within the Five Part Test needs to be satisfied, the remaining tests have not been assessed further to support the justification of the application.</p>
--	---

Section 4.15(1)(a)(ii) the provisions of any proposed instrument

Draft State Environmental Planning Policy – Remediation of Land	No issues raised in relation to any Draft SEPP.
Draft State Environmental Planning Policy (Short-term Rental Accommodation) 2019	

Section 4.15(1)(a)(iii) provisions of any development control plan

Ballina Shire Development Control Plan 2012	
<p>Chapter 2 – General and Environmental Considerations</p> <ul style="list-style-type: none"> • 3.4 – Potentially Contaminated Land • 3.6 – Mosquito Management • 3.7 – Waste Management • 3.9 – Stormwater Management • 3.10 – Sediment and Erosion Control • 3.11 – Provision of Services • 3.15 – Crime Prevention through Environmental Design 	<p><u>Part 2 Chapter Planning Objectives</u></p> <p>The proposed development is generally consistent with the planning objectives and controls of this chapter. There are no issues raised in this section that would specifically preclude the development from being granted development consent, subject to the imposition of conditions, where relevant.</p>

8.1 DA 2020/766 - Industrial Building, Gymnasium and Take Away Premises

<ul style="list-style-type: none">• 3.19 – Car Parking and Access• 3.20 – Vibration	Refer to Attachment 2 for an assessment of the clauses that are relevant to this application.
Chapter 5 – Industrial Development	<p><u>Part 3 General Development Controls</u></p> <p>The overarching objectives have been considered in relation to the proposal.</p> <p>The proposal is for the construction of an industrial complex containing two buildings to be used for light/general industrial and a gymnasium and take away food and drink premises on land zoned IN1 General Industrial under the BLEP 2012.</p> <p>The proposal has satisfactorily demonstrated a general compliance with the relevant controls of this chapter and as such, no issues are raised that would specifically preclude the development from being granted consent. Refer to Attachment 2 for an assessment of the controls that are relevant to this application.</p>

4.15 (1) (a) (iiia) – any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

None applicable.

4.15 (1) (a) (iv) – any matters prescribed by the regulations

No issues raised. Refer to Attachment 2 for further comment.

4.15 (1) (b) – the likely impacts of that development

The proposal is not expected to result in adverse impacts to the environment or broader locality, subject to compliance with conditions.

Refer to Attachment 2 for further assessment in relation to the likely impacts of the development.

4.15 (1) (c) – the suitability of the site for the development

The subject site is considered to be suitable for the proposed development.

8.1 DA 2020/766 - Industrial Building, Gymnasium and Take Away Premises

Refer to Attachment 2 for further assessment of the suitability of the site for the development.

4.15 (1) (d) – any submission made in accordance with this Act or the Regulations?

Is advertising required because the development is designated or “advertised” development?	No
Is advertising required in accordance with established Council policy and practice?	No
If YES, how many submissions were received?	N/A

4.15 (1) (e) – the Public Interest

The proposal will support new businesses within the Ballina Shire (industrial, gymnasium and take away food and drink premises) and is considered to be in the interest of the community, with the approval of the variation to the development standard. Refer to Attachment 2 – Section 4.15 Assessment for further comment.

Conclusion

The application has been assessed having regard to the relevant matters for consideration prescribed by Section 4.15 of the Environmental Planning and Assessment Act 1979, including the provisions of the Ballina Local Environmental Plan 2012, the Ballina Development Control Plan 2012. These matters have been adequately addressed with this assessment and the Section 4.15 assessment report contained in Attachment 2.

The applicant has satisfactorily demonstrated that there are sufficient environmental planning grounds to justify the variation to the development standard.

The proposal is suitable within the locality and is generally consistent with the objectives of the IN1 General Industrial zone and the objectives of the standard can be achieved, despite the variation to Clause 4.3 Height of buildings.

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

Option 1 – Approve the Application

Council approves the development application for the construction of an industrial complex containing two buildings to be used for light/general industrial and a gymnasium and take away food and drink premises subject to standard planning, building, civil engineering and environmental health conditions (a set of draft conditions is contained in Attachment 5 as a guide to the conditions that would be applied if the application is granted approval).

Approval would be on the basis that Council is satisfied that the proposal has adequately demonstrated that the objectives of the IN1 General Industrial zone and the objectives of Clause 4.3 height of buildings will be achieved despite the variation to the development standard.

Option 1, being to grant consent to the application, is recommended for the reasons outlined in this report.

Option 2 – Refuse the Application

Council refuse the development application. This option could be taken if Council considers that the departure from the height of buildings standard is excessive and is not satisfied that the proposal is consistent with the objectives of the standard or the objectives of the IN1 General Industrial zone.

It may be difficult defending an appeal in this regard, given the objectives of the development standard and the objective of the IN1 zone have been met despite the building height variation.

Further to this, it has been assessed that the bulk and scale of the proposal is suitable having regard for existing industrial and bulky goods retail buildings within the Southern Cross Industrial Estate.

This approach is not recommended.

RECOMMENDATIONS

1. That the proposed variation to Clause 4.3 Height of buildings development standard under the Ballina Local Environmental Plan 2012 of 8.5 metres be granted to enable a building with a maximum height of 9.997m, for the reasons outlined in this report.
2. That Development Application 2020/766 for the construction of an industrial complex containing two buildings to be used for light/general industrial and a gymnasium and take away food and drink premises be **APPROVED** subject to standard planning, building, civil engineering and environmental health conditions.

Attachment(s)

1. DA 2020/766 - Locality Map
2. DA 2020/766 - Section 4.15 Report
3. DA 2020/766 - Variation Request
4. DA 2020/766 - Plan Set
5. DA 2020/766 - Draft Conditions

8.2 Planning Proposal - Rural Function Centres

8.2 Planning Proposal - Rural Function Centres

Section	Strategic Planning
Objective	To present the outcomes of public exhibition and agency consultation relating to proposed amendments to the Ballina LEP 2012 relating to rural function centres, and to seek direction on finalisation of the amendments.

Background

Council considered a report regarding rural function centres at the 22 October 2020 Ordinary meeting and resolved as follows:

1. *That Council endorses the proposed amendments to the Ballina Local Environmental Plan 2012 relating to function centres and temporary use of land as outlined in the planning proposal (BSCPP 18/005) for submission to the Department of Planning, Industry and Environment for a Gateway determination.*
2. *That the Department of Planning, Industry and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.*
3. *That upon an affirmative Gateway determination being received from the Department of Planning, Industry and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.*
4. *That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.*

The planning proposal (BSCPP 18/005) was placed on public exhibition between 27 November 2020 and 15 January 2021. Associated amendments to the Ballina Shire Development Control Plan 2012 were also foreshadowed as part of the exhibition material to provide a complete overview of the intended changes to the local planning framework.

Agency consultation was undertaken concurrently in accordance with the terms of the Gateway determination.

A copy of the public exhibition version of the planning proposal is provided as Attachment 1 to this report. The previous Council reports relating to this matter are provided as Appendix 1 to the planning proposal.

The purpose of this report is to present the outcomes of the public exhibition and agency consultation and present options regarding the finalisation of the planning proposal.

Key Issues

- Parameters for establishment of function centres and temporary uses in rural areas relative to rural amenity, agricultural production and economic development considerations

Discussion

LEP Amendment Elements Summary

In rural areas, at present, function centres are permissible only on land zoned RU2 Rural Landscape zone under the Ballina Local Environmental Plan (LEP) 2012. Function Centres are prohibited in the RU1 Primary Production zone and will remain so under the terms of the planning proposal as drafted.

The planning proposal involves listing function centres as a prohibited land use within the RU2 zone land use table, but enabling this use via a special clause that requires the satisfaction of a number of assessment requirements and development standards. The clause would also limit the development consent for function centres on RU2 land to no longer than three years.

In summary, the planning proposal establishes a requirement for the consent authority be satisfied that the development will:

- not comprise a convention centre, exhibition centre or music festival
- be small scale and low impact
- not generate noise, traffic, parking or light spill that would significantly impact on surrounding residential uses and
- not impair the use of the surrounding land for agriculture or rural industry.

The changes as proposed also require that the operation of function centres involve:

- No more than one event will be held at the function centre on any one weekend
- No more than 20 events will be held at the function centre in any period of 12 months and
- No more than 150 guests will be permitted to attend an event at the function centre at any one time.

The prohibition of function centres in the RU2 zone with the use of a special clause to enable the use in the zone in certain circumstances allows Council to further narrow the application of the function centres definition (in particular by excluding convention centre, exhibition centre and music festival uses).

In relation to the temporary use of land, the temporary use provisions under the LEP 2012 are another way that proponents can seek to hold events (akin to activities that occur in function centres) such as weddings on rural zoned land.

With the proposed change in approach to rural function centres, a change to the maximum number of days for a use to occur under the temporary use clause has also been proposed.

The proposed change as exhibited is to reduce the maximum number of days for a temporary use to occur from 52 to 14.

8.2 Planning Proposal - Rural Function Centres

The aim of this change is to reinforce the intent for the use of the temporary to relate infrequent low-impact activities that are otherwise prohibited by virtue of being unusual or difficult to define in land use planning terms.

Foreshadowed DCP Amendments

The exhibited planning proposal incorporated proposed amendments to the Ballina Shire Development Control Plan 2012 to accompany the LEP special provision. These are contained in Appendix 2 of the planning proposal.

These DCP provisions seek to provide further details and requirements with respect to matters to be addressed and considered in relation to function centre proposals on land zoned RU2.

In the event that Council resolves to proceed with the finalisation of the planning proposal, it is recommended that Council also proceed to publicly exhibit the foreshadowed DCP amendments inclusive of a change to list function centres under Chapter 7 clause 3.8.3 as a land use for which external road access is generally to be sealed to strengthen the requirement for suitable site access to be available.

Exhibition and Agency Response

No public submissions were received in response to the public exhibition of the planning proposal. Two Government agency responses were received. These agency submissions are provided as Attachment 2 to this report.

Department of Primary Industries (Agriculture)

The submission received from the Department of Primary Industries (DPI) does not raise objection to the progress of the planning proposal. The submission recognises that the provisions will enable only small-scale function centres within the RU2 Rural Landscape zone and will give consideration to state and regionally significant farmlands and include requirements to minimise land use conflict.

Transport for NSW

The submission received from Transport for NSW does not raise objection to the progress of the planning proposal.

However, the agency requests that Council give further consideration to the strengthening of the development controls to ensure that function centre developments not adversely impact on the road network, particularly where access is provided to (or near) a classified road.

The (exhibited) draft Ballina Local Environmental Plan 2012 (LEP) clause requires that consent not be granted unless the consent authority is satisfied the development will *'not generate noise, traffic, parking or light spill that would significantly impact on surrounding residential uses'*.

Further, the draft Development Control Plan (DCP) controls include (under S. 3.8.3(i)(b)) that the consent authority be satisfied that:

8.2 Planning Proposal - Rural Function Centres

'Traffic Impact Assessment has been prepared, addressing traffic numbers, impact on local roads, access and on-site parking, demonstrating that the use of the site for a function centre will not result in unacceptable adverse impacts on the safety or efficiency of local traffic or the amenity of the neighbourhood'.

The development controls referred to relate specifically to rural function centres. However, Section 3.8 of Chapter 7 (Rural Living and Activity) of the Ballina Development Control Plan 2012, to which all rural development assessment is subject, includes the following:

- i. Where a proposed development has the potential to generate significant additional traffic and require substantial car parking, a traffic study will be required.*
- ii. External vehicular access must:*
 - a. not compromise the safety and efficiency of the road network;*
 - b. be suitable for use by emergency service vehicles; and*
 - c. be suitable for traversing in all weather conditions.*

In conjunction with each other the development controls that apply to rural development generally, together with the controls that are proposed specifically in relation to function centres provide adequate measures for the assessment and conditioning of development to manage impacts relating to the road network in the manner sought by Transport for NSW.

Rural Fire Service

The NSW Rural Fire Service (RFS) did not respond during the statutory referral period provided by the Gateway determination. Given the nature of the changes proposed, it is not considered likely that the RFS would have particular concerns with the progress of the subject planning proposal.

Having regard to the above, no changes to the LEP or DCP controls are recommended in response to the agency submissions.

Delivery Program Strategy / Operational Plan Activity

The progress of the planning proposal relates to the following Delivery Program strategies:

- CC 1.2 - Ensure relevant public health and safety standards are being met
- PE1.2 - Provide opportunities for new business
- PE2.1 - Provide an efficient and cost effective regulatory environment for doing business
- HE3.1 – Implement plans that balance the built environment with the natural environment
- HE 3.2 – Minimise impacts on the natural environment.

Community Consultation Policy

The planning proposal was placed on public exhibition from 27 November 2020 until 15 January 2021 and Government agency consultation was undertaken concurrently. The exhibition was undertaken consistent with Council's Community Participation Plan and the terms of the Gateway determination issued with respect to this matter. Agency submissions received are addressed in the discussion section of this report.

Financial / Risk Considerations

The amendment of the LEP and DCP in relation to this matter will provide a greater level of certainty regarding the legal status of wedding venues in the Shire. The LEP amendment can be finalised within existing resources.

Options

Option 1 – Finalise the LEP Amendment and Exhibit DCP Amendments

This option would involve Council finalising the amendment of the Ballina Local Environmental Plan 2012 (under delegation) and endorsing the DCP amendments outlined in Appendix 2 to Attachment 1 for public exhibition (inclusive of the addition of functions centres to the list of development on rural land for which external road access is generally to be sealed).

This option is recommended on the basis that the planning proposal and DCP amendments provide a balanced approach to function centre development in rural areas which provide opportunities for such development whilst seeking to protect other legitimate rural activities from land use conflict.

Council will receive a further report on the DCP amendments following their public exhibition.

Option 2 – Discontinue the planning proposal and DCP amendment

This option would involve a request to the Minister for Planning for the discontinuation of subject planning proposal and cessation of further work on the associated DCP provisions. This option is not recommended as the planning objectives associated with the amendment will not be achieved.

Option 3 – Defer the consideration of this matter to a Councillor Briefing

Council may defer the matter to receive additional information. This option is not recommended as there are no outstanding technical matters or issues arising from the submissions received that have been identified as requiring further assessment.

RECOMMENDATIONS

1. That Council authorises the General Manager to finalise and implement Planning Proposal BSCPP 18/005 relating to Rural Function Centres as exhibited and contained in Attachment 1 to this report, under delegated authority.
2. That Council undertake the public exhibition of the draft amendments to Ballina Shire Development Control Plan 2012 relating to function centres on rural land foreshadowed as part of BSCPP 18/005, incorporating the amendment outlined in this report.

Attachment(s)

1. BSCPP 18/005 - Rural Function Centres Planning Proposal - Nov 2020 - Exhibition Version
2. Agency Submissions

8.3 Planning Proposal - Lennox Rise, Lennox Head

8.3 Planning Proposal - Lennox Rise, Lennox Head

Section	Strategic Planning
Objective	To present the outcomes of the public exhibition of a proposal to amend the Ballina LEP 2012 minimum lot size standard for parts of the Lennox Rise subdivision site and seek direction on the finalisation of the amendment.

Background

Council considered a request to amend the Ballina Local Environmental Plan 2012 in relation to the Lennox Rise development area (formerly known as the “Henderson Farm”) at the 27 June 2019 Ordinary meeting. The location of the land is shown in Figure 1.



Figure 1: Lennox Rise Location (site shown outlined red and marked by purple dot)

The request sought the application of a 450m² minimum lot size for subdivision to parts of the subject land (areas zoned R3 Medium Density Residential) to provide for an increased diversity in residential block sizes within the future estate.

At the time, Council was concerned that the revised subdivision plan did not adequately take into account the practical protection of a heritage listed rock wall located on the property.

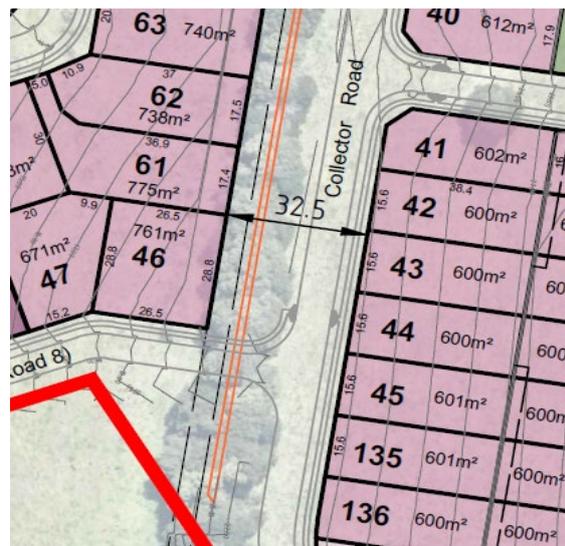
In relation to this matter, Council resolved as follows:

8.3 Planning Proposal - Lennox Rise, Lennox Head

1. That Council invite the proponent to submit a subdivision plan that demonstrates the protection of the heritage rock wall identified as Item 167 in the Ballina Local Environmental Plan 2012.
2. That upon receipt of a suitable subdivision plan from the proponent, that Council prepare a planning proposal to amend the minimum lot size map of the Ballina Local Environmental Plan 2012 to provide for residential subdivision with a minimum lot size of 450m² on parts of Lot 1 DP1070466.
3. That the draft planning proposal be reported to Council for endorsement prior to seeking Gateway determination.
4. That Council request a detailed plan showing the location and management approach for the heritage rock wall.

Following the Council's resolution, the proponent lodged a revised subdivision plan that formed the basis of a modification to DA 2014/31, which was considered and approved at Council's October 2020 Ordinary Meeting.

The revised subdivision layout provided for the practical protection of the heritage rock wall located on the site via an expanded road reserve incorporating the wall into the public domain (Figure 2).



- Site Boundary
- - - Existing dry stone wall (approximate location)
- - - Existing Easements
- - - Proposed Easement (access, services)

Figure 2: Location of Heritage Wall Within Road Reserve

The planning proposal to amend the minimum lot size map provides for the application of a 450m² minimum lot size for subdivision to parts of the site as shown in Figure 3.

The existing minimum lot size standard applicable is 600m².

8.3 Planning Proposal - Lennox Rise, Lennox Head



Figure 3: Existing (left) and Proposed (right) Minimum Lot Size Maps

The areas proposed for the application of a 450m² minimum lot area for subdivision align with eleven super lots approved under the modification to DA 2014/31. These areas are shown green (marked G in Figure 3).

No change to the zoning of the land is proposed (the areas the subject of the proposed lot size standard amendment are currently zoned R3 Medium Density Residential).

The proposed amendment is consistent with principles relating to housing diversity and choice applicable under the strategic planning framework applying to the land (outlined in the exhibited planning proposal contained in Attachment 1).

With respect to the planning proposal (post the provision of the revised subdivision layout and address of the heritage wall's protection), Council resolved as follows at the 22 October 2020 Ordinary meeting:

1. *That Council endorses the proposed amendments to the Ballina Local Environmental Plan 2012 as outlined in the planning proposal (BSCPP 19/002 – Lennox Rise) contained within Attachment 1 to apply a 450m² minimum lot size standard to parts of the Lennox Rise development area for submission to the Department of Planning and Environment for a Gateway determination.*
2. *That the Department of Planning, Industry and Environment be advised that Council does not wish to exercise its delegated plan making functions for this LEP amendment due to Council having a land holding adjacent to the land the subject of the planning proposal.*
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 be undertaken, including public exhibition.*
4. *That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.*

8.3 Planning Proposal - Lennox Rise, Lennox Head

The planning proposal was placed on public exhibition for the period from 26 November to Thursday 24 December 2020 in accordance with the terms of the Gateway determination.

No agency consultation, pursuant to Section 3.34(2) of the Act, was required by the Gateway determination issued in relation to this matter.

A copy of the public exhibition version of the planning proposal is provided in Attachment 1. The previous Council reports relating to this matter are provided as Appendix 3 to the planning proposal.

The purpose of this report is to present the outcomes of the public exhibition and present options with respect to the finalisation of the planning proposal.

Key Issues

- Urban growth area development and housing diversity.

Discussion

The planning proposal seeks an amendment to the Ballina Local Environmental Plan 2012 to apply a 450m² minimum lot size for subdivision to parts of the Lennox Rise development site, aligning with eleven super lots approved under a recent modification to DA 2014/31. These areas are shown in Figure 3.

The proposal has been publicly exhibited and no public submissions were received in relation to this matter.

Not receiving any submissions may reflect that:

- The residential estate is presently undeveloped, meaning there is no 'existing character' nor any immediate residents of the estate from which residential amenity concerns might arise.
- The densities proposed are consistent with other new release areas in Lennox Head, including the adjacent Epiq Estate.

Further details regarding the form of the planning proposal are set out in the background section of this report and the planning proposal contained in Attachment 1.

Delivery Program Strategy / Operational Plan Activity

The assessment of this planning proposal relates to action HE3.1j – *Manage LEP amendment requests* in Council's adopted Delivery Program and Operational Plan.

Community Consultation Policy

The planning proposal was placed on public exhibition in accordance with Council's Community Participation Plan and the terms of the Gateway determination. No public submissions were received in response to the public exhibition.

Financial / Risk Considerations

The assessment and processing of this planning proposal can be accommodated within existing resources, including through the receipt of applicable fees from the proponent.

Options

Option 1 – Finalise the LEP Amendment

This option would involve Council making a request to the NSW Department of Planning, Industry and Environment to finalise the Amendment to the Ballina Local Environmental Plan 2012.

This option is recommended on the basis that the provision of a portion of residential allotments with an area of 450m² over parts of the site provides for increased housing diversity and choice within the estate, consistent with the strategic planning framework applicable to the site.

This approach also supports the maximisation of the use of existing residential zoned land in Lennox Head for housing.

Option 2 – Discontinue the planning proposal and DCP amendment

This option would involve writing to the proponent and the Department of Planning, Industry and Environment to advise of Council's decision and seek the Minister's agreement to discontinue the planning proposal. The Minister for Planning may agree to discontinue the planning proposal or enable the amendment to proceed.

This option is not recommended for the reasons set out under Option 1.

Option 3 – Defer the consideration of this matter to a Councillor Briefing

If further information is desirable, the matter could be deferred in favour of a briefing or provision of additional details. This option is not recommended given that there are no outstanding technical issues or matters requiring further consideration arising from the public exhibition of the proposal.

RECOMMENDATIONS

1. That Council endorses the amendment of the Ballina Local Environmental Plan 2012 to apply a 450m² minimum lot size for subdivision to parts of Lot 1 DP 1070446 as detailed in Planning Proposal BSCPP 19/002, as per Attachment 1 to this report.
2. That Council advise the NSW Department of Planning, Industry and Environment of this decision and requests that the Department finalises and implements the amendment.

Attachment(s)

1. BSCPP 19/002 - Planning Proposal - Lennox Rise (Exhibition Version) - Nov 2020

8.4 LEP Amendments and Planning Proposals - Status

8.4 LEP Amendments and Planning Proposals - Status

Section	Strategic Planning
Objective	To report on the status of Local Environmental Plan amendment requests and planning proposals that are currently under consideration.

Background

Council has an ongoing program of processing requests to amend the Ballina Local Environmental Plans 1987 and 2012 (LEPs) and associated planning proposals. This report provides an update of matters currently pending.

Key Issues

- Status of rezoning and LEP amendment requests.

Discussion

LEP Amendment Requests and Planning Proposals Status

Table 1 provides an overview of the LEP amendment requests and planning proposals currently being considered and processed by Council. The term planning proposal refers to the documentation prepared to describe a request to amend the Ballina Local Environmental Plan/s.

Requests are typically referred to as planning proposals once Council has agreed to progress the initial LEP amendment request and has prepared the required planning proposal documentation for Gateway determination by the NSW Department of Planning, Industry and Environment (DPIE).

Table 1: Status of LEP amendment requests and planning proposals

Item	Name and Status	Summary and Notes	Completion Due
13/005	Southern Cross Industrial Estate Expansion, Ballina (Stage 4)	<p>Proposal by Ballina Shire Council for the rezoning of land northward of the existing Southern Cross Industrial Estate from its current rural zoning to enable a mixture of industrial and employment-type land uses.</p> <p>In response to advice from the Department of Planning, Industry & Environment (DPIE) that no further extension of time would be granted beyond 30 January 2021, Council withdrew the 2013 planning proposal (BSCPP 13/005).</p> <p>The DPIE subsequently issued a new Gateway determination in respect to the Stage 1 rezoning of the Southern Cross Industrial Estate expansion area. This planning proposal is required to be finalised by 30 June 2021. Council is currently in the process of updating previously supplied technical documentation to enable this planning proposal to progress to public exhibition in accordance with Council's May 2020 resolution relating to Stage 1 of the proposal.</p>	30/06/2021

8.4 LEP Amendments and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
17/012	Compton Drive (No. 23), East Ballina (Stage 7)	<p>Proposal to rezone part of Lot 3 DP 525783 and part of the adjacent Council owned land (Lot 1 DP 781542) on Compton Drive East Ballina from 7(d) Environmental Protection (Scenic/Escarpment) to R2 Low Density Residential, apply a 600m² minimum lot size to part of Lot 3 and 6m maximum building height to the land being rezoned R2.</p> <p>Council has recently adopted site specific draft amendments to the DCP in respect to Lot 3 which will take effect from the date the LEP amendment is published on the NSW Legislation website.</p> <p>The Department of Planning, Industry & Environment has been notified that the plan can be finalised (Council does not have delegation to finalise the plan).</p>	06/04/2021
18/003	Attached Dual Occupancy Lots, Wardell (Complete)	<p>Proposal to amend the Ballina LEP 2012 to permit attached dual occupancy development, with consent, within non-flood prone areas of Wardell Village zoned R2.</p> <p>This amendment was completed via Amendment No. 50 to the Ballina LEP 2012 on 23 December 2020.</p>	Complete 23/12/20
18/004	Reservoir Hill Site, 20 North Creek Road, Lennox Head (Stage 6)	<p>Proposal to amend the Ballina LEP 2012 to make minor zone boundary adjustments to reflect an amended subdivision design and to permit subdivision for drainage purposes.</p> <p>Following determination of DA 2018/51, which approved the residential subdivision and associated subdivision works, changes are required to the planning proposal to reflect the approved subdivision design. Council is awaiting submission of amended map data from the proponent.</p> <p>An amended planning proposal has been sent to DPIE with a request for an extension of time to complete the amendment.</p>	12/02/2021
18/005	Function Centres in Rural Areas (Stage 6)	<p>Proposal to amend the Ballina LEP 2012 to incorporate special provisions for function centres on land within the RU2 zone and reduce the time period allowable for a temporary use under clause 2.8 Temporary Use of Land.</p> <p>The planning proposal was publicly exhibited from 27 November 2020 until 15 January 2021.</p> <p>This matter is the subject of a report to Council located elsewhere in this agenda.</p>	25/05/2021
19/002	Lennox Rise, Lennox Head (Stage 6)	<p>Proposal to amend the Ballina LEP 2012 minimum lot size standard applying to parts of the site zoned R3 Medium Density zone from 600m² (currently) to 450m² (proposed).</p> <p>The planning proposal was publicly exhibited from 26 November until 24 December 2020.</p> <p>This matter is the subject of a report to Council located elsewhere in this agenda.</p>	19/05/2021

8.4 LEP Amendments and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
20/001	Dwelling Entitlement Reinstatement, Teven Road, Teven (Stage 5)	Proposal to transfer a dwelling entitlement on Lot 3 Section 1 DP 758964 to an adjacent aggregation of lots through identification of these lots on the "Dwelling Opportunity Reinstatement Map" as having one dwelling opportunity. The dwelling entitlement transfer will enable a suitable development site for a dwelling. The planning proposal was publicly exhibited from 5 February 2021 until 19 February 2021. Government agency consultation has commenced.	4/06/2021
20/002	6-20 Fitzroy Street, Wardell (Stage 3)	Proposal to amend the LEP to rezone the land from RU1 Primary Production to R3 Medium Density Residential and to apply a minimum lot size of 800m ² . In accordance with the Council resolution of 24 September 2020, the planning proposal has been submitted to the Department of Planning, Infrastructure and Environment seeking a Gateway determination.	#
#	12 Gilmore Close, Wollongbar (Complete)	Request to amend the LEP to rezone the land from RU1 Primary Production to R3 Medium Density Residential and to apply a 600m ² minimum lot size. At its meeting held in November 2020 Council resolved not to support the proposal. Proponent and Department of Planning Industry and Environment advised of Council's decision.	Complete
<p>LEP Amendment Request/Planning Proposal Processing Stages</p> <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 the Council's consideration (if the initial concept is supported by the Council). 3. Gateway Determination - DPIE 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 - DPIE finalisation (or Council finalisation under delegation) of the LEP amendment based on the planning proposal. Note: the Minister for Planning and Public Spaces 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 determined by the Department of Planning, Industry and Environment.</p>			

Delivery Program Strategy / Operational Plan Activity

Assessment of LEP amendment requests and planning proposals is a central part of the work program for the Strategic Planning Section.

Processing of LEP amendment request and planning proposals is identified as an activity in Council's adopted Delivery Program and Operational Plan as follows:

- HE3.1 - Implement plans that balance the built environment with the natural environment.
- HE3.1j - Manage LEP amendment requests.

8.4 LEP Amendments and Planning Proposals - Status

Community Consultation Policy

Community engagement (including Government agency referrals) in accordance with Council's Community Participation Plan and Gateway determinations issued by the Department of Planning Industry and Environment has been, or will be, undertaken in relation to individual planning proposals.

Financial / Risk Considerations

The work program associated with LEP amendment requests and planning proposals is being undertaken within existing resources. Fees are applied in accordance with Council's adopted fees and charges in relation to external requests for amendments to the LEP and processing of subsequent planning proposals.

Options

The status of the LEP amendments and planning proposals outlined is provided for information.

RECOMMENDATION

That Council notes the contents of this report on current LEP amendments and planning proposals.

Attachment(s)

Nil

8.5 Development Control Plan Amendment - Mosquito Management

8.5 Development Control Plan Amendment - Mosquito Management

Section Environmental and Public Health

Objective To inform Council of the outcomes of a review of mosquito management provisions in Chapter 2 Part 3.6 of the Ballina Shire Council Development Control Plan 2012 and seek direction on the implementation of proposed amendments.

Background

Nuisance biting and public health risks associated with mosquitoes in Ballina Shire and Northern NSW region have been known for many years.

Ballina Shire contains extensive mosquito habitat including saline and brackish-water coastal wetland areas, freshwater environments, as well as opportunities for mosquitoes within and adjacent to urban areas.

Council has had planning provisions relating to mosquito management in place for many years.

At the December 2012 Ordinary meeting Council resolved to adopt the Ballina Shire Development Control Plan 2012 (DCP).

The DCP commenced operation in conjunction with the Ballina Local Environmental Plan 2012 (LEP) on 4 February 2013.

At that time, the DCP integrated mosquito management controls from Chapter 11 – Mosquito Management of the previous 2006 Ballina Shire Combined Development Control Plan.

The current DCP provisions relating to mosquito management have been reviewed and a new set of DCP provisions reflecting contemporary understandings of mosquito risk and mitigation has been prepared.

This review has had particular regard for the operation of the current provisions, ongoing development of new urban release areas, conservation of local wetland environments and other ecologically sensitive areas, and predicted climate change impacts.

The draft DCP provisions resulting from the review are contained in Attachment 1.

The purpose of this report is to seek direction on the public exhibition of the proposed DCP amendments.

Key Issues

- Implementation of planning provisions to reflect current understandings of mosquito risk and mitigation to minimise nuisance biting and public health risks

Discussion

The review of the DCP provisions has been undertaken in association with mosquito specialist Associate Professor Cameron Webb. Background information supporting the review prepared by Dr Webb is contained in Attachment 2.

Overall, the amendments provide for a greater level of detail in the requirements for development.

The key aspects of the proposed amendments include:

- Combining planning objectives
- Identification of additional development types captured by the provisions
- Making clear locations where buildings require screening and the need for maintenance of screening
- Clarifying controls for development located on Coastal Plains and Lowlands, Elevated Lands and High Risk Areas as identified on the Mosquito Management Maps
- Including the need for mosquito awareness and avoidance programs for high risk developments
- Requirements to consider mosquito exposure when designing and locating playgrounds and other recreational facilities
- Identification of requirements to minimise mosquito habitat when designing and constructing stormwater management devices/infrastructure and other water features such as dams and ponds
- Requiring consistent water holding times for stormwater management devices/infrastructure of 48 hours
- Identifying mosquito management options considered unacceptable such as the operation of an adult mosquito trapping program and the use of adult mosquito control agents (insecticides)
- Identification of permitted mosquito buffer locations and composition. This will help to ensure an unreasonable maintenance burden is not placed on Council
- Identifying considerations and composition of mosquito impact assessments.

Another particularly notable amendment is the identification of permitted mosquito buffer locations. Establishment of buffer areas and their form is often a key matter arising in relation to subdivision design where mosquito hazards are identified. Placing a buffer zone between proposed developments and mosquito habitats is a strategy used to reduce impacts of some mosquito species dispersing from adjacent habitats.

In the Ballina Shire buffer widths have typically been in the order of 25-30m.

Many mosquitoes do not travel far from breeding habitats. Dispersal from habitats is also influenced by prevailing climatic conditions (e.g. humidity, wind) and environmental conditions (e.g. vegetation). Connected areas of dense vegetation are more likely to facilitate movement of mosquitoes greater distances away from habitats than relatively open, sparsely vegetated areas.

8.5 Development Control Plan Amendment - Mosquito Management

Ideally mosquito buffers should be free of vegetation except for mowed grass but the maintenance burden of such areas can be challenging. If alternate vegetation is proposed, the vegetation types must be tall growing lightly foliated native trees with a high canopy that cast minimal shade over the ground around it, while airflow around the lower limbs and base is maximised.

Dense low shrubs, closely planted can provide refuge for mosquitoes. The extent of plantings should therefore be minimised or allowances made for open areas between plantings so they do not create connections between more substantial mosquito refuges and residential developments.

The denser the foliage and canopy of a tree or shrub, the greater likelihood is that it will provide suitable refuge for mosquitoes. High density plantings or built structures further contribute to the creation of suitable refuge areas.

The buffer concept is illustrated in Figure 1.

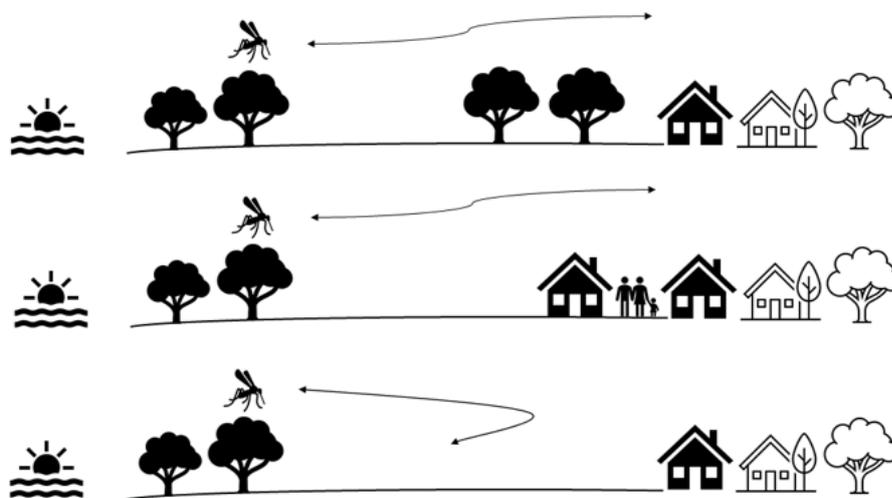


Figure 1: Open buffer zone between mosquito habitat and residential areas.

The establishment of mosquito buffer locations in the past has been inconsistent.

To reduce the maintenance and regulatory burden and sustain effectiveness, mosquito buffers should incorporate roads, bike and footpaths or other suitable open space.

Ideally mosquito buffers should be located on Council managed and maintained land which will be maintained to the required buffer standard regardless of it being in a nominated buffer zone, but mindful of not creating unreasonable maintenance liabilities for Council (e.g. roads, bike and footpaths that are maintained for other purposes).

If mosquito buffers are located on Council managed land that would ordinarily only require minimal maintenance (e.g. planted with dense vegetation), the inclusion of a mosquito buffer would require more intensive and regular maintenance to sustain its effectiveness to minimise mosquito dispersal into nearby developments.

This would place additional obligations on Council resources to maintain such buffer areas in perpetuity.

In some instances where developments face constraints regarding the effective implementation of a suitable buffer, mosquito buffers have been approved on private residential lots. This then places limitations on the area affected by restricting the type and amount of vegetation and structures.

Such restrictions are placed on the title of affected lots under the Conveyancing Act 1919.

Allowing mosquito buffers on privately owned lots can alleviate the maintenance burden on Council. However, it can also substantially degrade effectiveness of the buffer if the property owner or occupier doesn't clearly understand the restrictions.

Regulating these requirements is also difficult and places further responsibilities and strain on Council resources.

Having regard for the above, the DCP provisions seek to provide clarity around the extent and form of buffers applied for mosquito management purposes.

Delivery Program Strategy / Operational Plan Activity

The DCP review has been undertaken in line with Delivery Program and Operational Plan Action HE3.1u – Review Mosquito DCP requirements and mosquito presentation measures.

The DCP review and proposed provisions also relate more broadly to the implementation of the following delivery program strategies:

CC1.2 - Ensure relevant public health and safety standards are being met

HE1.1 - Our planning considers past and predicted changes to the environment

HE3.1 - Implement plans that balance the built environment with the natural environment.

Community Consultation Policy

The DCP review has been undertaken by Associate Professor Cameron Webb in consultation with Council staff. As part of the review Dr Webb provided comprehensive background information which is included as Attachment 2.

The proposed DCP amendments resulted from direct feedback from internal and external sources following the commencement and operation of the DCP, whilst others are as a result of Dr Webb's recommendations.

Should Council be supportive of the draft DCP amendments presented in Attachment 1, they will be publically exhibited for at least 28 days in accordance with the requirements of the Environmental Planning and Assessment Act and associated Regulation.

8.5 Development Control Plan Amendment - Mosquito Management

Financial / Risk Considerations

The review of the DCP has been undertaken in accordance with the requirements of the z (EP & A Act) and associated Regulation.

The amendment can be completed within existing available staff and financial resources.

Options

Option 1 – Endorse draft amendment to Chapter 2 Part 3.6 of the DCP for public exhibition.

This approach is recommended as the comprehensive review and proposed amendments provides further direction for development outcomes to minimise nuisance biting and public health risks associated with mosquitoes.

Under this option staff will proceed to publicly exhibit the proposed amendments and then a further report will be provided to Council in relation to the adoption of the amendments.

Option 2 – Endorse Draft Amendment with Modifications to Chapter 2 Part 3.6 of the DCP for public exhibition.

Council may modify the draft amendments to the DCP as presented in Attachment 1 as considered appropriate.

Option 3 – Defer this matter to a Council briefing.

This option is available if Councillors would like to receive more information prior to the exhibition of the proposed amendments.

Option 1, to proceed with the public exhibition of the amendments is the recommended approach in order to invite public consideration of the changes before further reporting on the amendment to Council.

RECOMMENDATIONS

1. That Council undertake the public exhibition of the draft amendments to the Ballina Shire Development Control Plan 2012 relating to mosquito management (as contained in Attachment 1 to this report), in accordance with the terms of the Environmental Planning and Assessment Act 1979 and the associated Regulation.
2. That a further report be submitted to Council following the public exhibition of the draft amendments to the Ballina Shire Development Control Plan 2012.

Attachment(s)

1. Mosquito Management Provisions - Ballina Shire Development Control Plan Chapter 2 Part 3.6 (amended)
2. DCP Chapter 2 Part 3.6 Review - Background Information - Dr Webb

8.6 Development Applications - Works in Progress - February 2021

8.6 Development Applications - Works in Progress - February 2021

The following schedule sets out all planning related development applications that are currently under assessment. This schedule also incorporates all building related development applications, including dwelling houses and dual occupancy applications that remain undetermined and have been under assessment for a period of greater than 120 days.

Further information relating to each application listed is available via Council's DAs online portal (accessible via www.ballina.nsw.gov.au).

DA No.	Date Rec'd	Applicant	Proposal	Status
2018/74	13/2/2018	Ardill Payne & Partners	Amended Proposal: Demolition of Existing Residential Flat Building and Erection and Strata Title Subdivision of a six storey Residential Flat Building containing 12 (originally 14) dwellings, associated car parking and works. The proposed building has a height of 18.6m (originally 18.3) with the lift over run at a height of 19.3m which is above the building height allowance of 18m under the Ballina Local Environmental Plan 2012 – 8 Grant Street, Ballina	Awaiting additional information
2018/554	13/9/2018	Ardill Payne & Partners	Change of Use to Establish a Depot – Removalist Business and Associated Signage – 6 Waverley Place, West Ballina	Being assessed
2018/630	16/10/2018	Ardill Payne & Partners	To establish a detached dual occupancy and associated works involving the change of use of an existing shed to a dwelling (retrospective). The application is supported by a variation to a development standard request to enable the proposed dual occupancy to be detached rather than attached to the existing dwelling house as required by Clause 14 of the Ballina Local Environmental Plan 1987 – 218 Old Byron Bay Road, Newrybar	Awaiting additional information
2018/747	6/12/2018	Ardill Payne & Partners	Staged Torrens Title Subdivision and Boundary Adjustment to create 18 x residential lots, 1 x residual lot, 1 x drainage reserve, associated infrastructure works, earthworks and revegetation/rehabilitation works (Avalon Estate Stages 6a and 6b) - Rifle Range Road and 22 Scarlett Court, Wollongbar	Awaiting additional information

8.6 Development Applications - Works in Progress - February 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
2018/788	24/12/2018	Prestige Properties Design and Construction	Change of use of a portion of an existing shed to a dual occupancy - 142 Brooklet Road, Newrybar	Awaiting additional information
2019/136	7/3/2019	R & M Martin	Change of use from a manager's dwelling to a dual occupancy dwelling - 783 Fernleigh Road, Brooklet	Awaiting additional information
2019/145	8/3/2019	Ardill Payne & Partners	Construction of an industrial development to be used for a Depot and for general and light industrial purposes, filling of land and associated works – 29-31 Smith Drive, West Ballina	Awaiting additional information
2019/283	7/5/2019	Newton Denny Chapelle	Change of use from a high technology industry to general industry involving the assembly, manufacture and fitting of prosthetic limbs and alterations to the building - 2/188-202 Southern Cross Drive, Ballina	Awaiting additional information
2019/376	11/6/2019	Newton Denny Chapelle	Amended proposal: Erection of two, six shade house structures, two sheds, eight rainwater tanks, earthworks, access driveways, vegetation removal and landscaping – 348 Rous Road, Rous Mill	Amended proposal on exhibition
2019/499	2/8/2019	Planners North	Implementation of erosion and slope stabilisation measures, bushland regeneration works, ongoing geotechnical monitoring and use of existing structures for residential purposes – 35 Pine Avenue, East Ballina	Awaiting additional information
2019/535	21/8/2019	Ardill Payne & Partners	Amended Proposal: To undertake a development in four stages comprising: Stage 1: Three Lot Torrens Title Subdivision (Proposed Lots 1 and 2 with an area of 800m ² each and Proposed Lot 3 with an area 1092m ²), Stage 2: Erection of a two storey dwelling upon newly created Lots 2 and 3. Erection of an attached dual occupancy upon proposed Lot 1. Stage 3: Strata Subdivision of Lots 2 and 3 to create a vacant lot for a future dual occupancy. Strata subdivision of Lot 1 containing attached dual occupancy Stage 4: Construction of a dwelling on vacant strata Lots 2 and 3 to create a detached dual occupancy – 26-30 Fitzroy Street, Wardell	Awaiting additional information

8.6 Development Applications - Works in Progress - February 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
2019/659	15/10/2019	D McAllister	Alterations and additions to a dual occupancy dwelling - 15 Jorgensens Lane, Brooklet	Awaiting additional information
2019/666	16/10/2019	GHD Pty Ltd on behalf of Ballina Shire Council	Upgrades to the Marom Creek Water Treatment Plant – 65 Weis Lane, Rous	Determination pending
2019/708	1/11/2019	P Johnstone	Construction of a shed forward of the laneway building line - 5 Gibbon Street, Lennox Head	Awaiting additional information
2019/718	7/11/2019	L King	Change of use from an Office/Rumpus Room to a Bedroom - 2/44 Stewart Street, Lennox Head	Being assessed
2019/720	12/11/2019	A Andrews	1.8m high boundary fencing forward of the building line - 11 Fern Street, Lennox Head	Awaiting additional information
2019/743	22/11/2019	Ardill Payne & Partners	Refurbishment and expansion of the existing caravan park to provide a total of 87 long-term sites and one site for the manager residence/office. The proposal comprises demolition works, earthworks, removal of short-term and camping sites, removal of access from River Street and construction of new driveway access from Emigrant Lane, construction of new amenities and facilities, internal roadworks and car parking - 586 River Street and 21 Emigrant Creek Road, West Ballina	Awaiting additional information
2020/56	7/2/2020	Ballina Shire Council	Construction of a new sewer rising main extending 1,465m from the intersection of North Creek Road and Skennars Head Road to an existing sewer pump station east of Castle Drive, Lennox Head. The proposed new pipeline will replace an existing dilapidated main – North Creek Road, Skennars Head Road and Castle Drive, Lennox Head	Awaiting additional information
2020/76	14/2/2020	Newton Denny Chapelle	Proposed filling of land to establish a building pad for future development purposes and associated works – 210 Southern Cross Drive & Corks Lane, Ballina	Awaiting additional information
2020/153	13/3/2020	Planners North	Erection of a mixed use development comprising recreation facility (indoor) and information and education facility and associated works – 68 De-Havilland Crescent, Ballina	Being assessed
2020/157	13/3/2020	M Crook	Alterations and additions to a dwelling - 4 Loedna Place, Lennox Head	Being assessed

8.6 Development Applications - Works in Progress - February 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
2020/242	23/4/2020	Planners North	Multi dwelling housing development comprising the erection and Strata Title subdivision of 44 two storey dwellings and associated works - Lot 6 DP 1225206 The Coast Road, Skennars Head	Being assessed
2020/244	23/4/2020	Northern Rivers Land Solutions	Three Lot Torrens Title Subdivision to create one x 800m ² , one x 860m ² and one x 1,084m ² allotments, filling and retaining works, vegetation removal, riverbank stabilisation works, infrastructure servicing and associated works – 23 Richmond Street, Wardell	Awaiting additional information
2020/306	21/5/2020	Town Planning Alliance Pty Ltd	Demolition of a dwelling, tree removal and construction of a two storey dwelling and associated earthworks, a swimming pool and a tennis court including works forward of the rural building line - 172 Old Byron Bay Road, Newrybar	Awaiting additional information
2020/364	12/6/2020	Ardill Payne & Partners	Boundary adjustment subdivision of two lots to create two modified lots comprising one proposed 1.3ha and one 17.3 ha allotments - 13 Kamala Place, Tintenbar	Being assessed
2020/378	18/6/2020	C Kikiras	Alterations and additions to a dwelling, including additions forward of the building line - 29 Pine Avenue, East Ballina	Referred to Government Department
2020/406	29/6/2020	J Connors	Construction of a double carport forward of the building line - 1/2 Fern Street, Lennox Head	Being assessed
2020/441	14/7/2020	Planit Consulting Pty Ltd	Alterations and additions to a dwelling - 36 Pacific Parade, Lennox Head	Being assessed
2020/450	20/7/2020	Ray Cavill	Establishment of an information and education facility (art gallery and studio) comprising conversion of existing church building to gallery space, erection of pottery studio, kiln shed, ancillary amenities including caretaker's accommodation and associated infrastructure works – 36 Rous Mill Road, Rous Mill	Awaiting additional information To be determined by Council Resolution No: 270820/10
2020/466	27/7/2020	A Dunnings	Alterations and additions to a dwelling and construction of a shed and swimming pool - 157A Byrnes Lane, Tuckombil	Awaiting additional information
2020/476	29/7/2020	RLA Building Design	Construction of a two storey dwelling and associated earthworks and retaining walls and a swimming pool and 1.5m high fencing forward of the building line - 6 Olivia Circuit, Lennox Head	Being assessed

8.6 Development Applications - Works in Progress - February 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
2020/480	30/7/2020	B Greig	Alterations and additions to a dwelling - 13 Angus Kennedy Close, Lennox Head	Being assessed
2020/523	17/8/2020	Ardill Payne & Partners	Change of use from a studio to an expanded dwelling module - 208 Fernleigh Road, Tintenbar	Being assessed
2020/529	21/8/2020	Ardill Payne & Partners	To establish a detached dual occupancy and associated works involving the change of use of a shed to a dwelling (retrospective). The application is supported by a variation to a development standard request to enable the proposed dual occupancy to be detached rather than attached to the existing dwelling house as required by Clause 14 of the Ballina Local Environmental Plan 1987 – 76 Phillips Road, Newrybar	Awaiting additional information
2020/540	26/8/2020	Ardill Payne & Partners	Subdivision involving the staged creation of three Torrens Title Lots, demolition of dwelling house and associated infrastructure works – 71 Teven Road, Alstonville	Determination pending
2020/542	26/8/2020	Newton Denny Chapelle	Expansion of an existing rural industry involving the processing of natural extracts and including the erection of a new shed and the carrying out of associated earthworks, services and driveway access - 226 Hinterland Way, Knockrow	Being assessed
2020/548	27/8/2020	Tim Fitzroy & Associates	Erection of an industrial building and associated works - 66 De-Havilland Crescent, Ballina	Determination pending
2020/553	1/9/2020	S Lee	Staged detached dual occupancy development consisting of: Stage 1: Construction of a single storey dwelling and associated earthworks and retaining walls; Stage 2: Construction of a two storey dwelling and associated earthworks and retaining walls and Strata Subdivision - 73 Plateau Drive, Wollongbar	Being assessed
2020/567	4/9/2020	T Brice	Demolition of a shed and construction of a single storey detached secondary dwelling and associated works - 20-22 Summerhill Crescent, Cumbalum	Awaiting additional information
2020/569	4/9/2020	C Imeson	Alterations and additions to an apartment building comprising of new covered decks, relocation of an external stairs and removal of common laundry facilities - 6-7 Easton Place, East Ballina	Awaiting Additional Information

8.6 Development Applications - Works in Progress - February 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
2020/584	9/9/2020	RLA Building Design	Detached building – proposed art studio - 11 Martins Lane, Knockrow	Awaiting additional information
2020/590	10/9/2020	Byron Bay Planning and Property Consultants	Construction of a two storey dwelling, associated earthworks, retaining walls and swimming pool - 51A Blue Seas Parade, Lennox Head	Being assessed
2020/591	14/9/2020	Newton Denny Chapelle	Subdivision comprising the creation of 25 industrial lots ranging in size from 1,181sqm to 4,493sqm, one residue lot of 4.13hectares and associated infrastructure servicing and bulk earthworks – 25-39 Boeing Avenue and Corks Lane, Ballina	Awaiting additional information
2020/592	11/9/2020	N Eldridge & J O'Grady	Construction of a shed and associated earthworks - 31 Emigrant Creek Lane, West Ballina	Determination pending
2020/596	15/9/2020	Ardill Payne & Partners	Industrial development comprising the demolition of one existing industrial building and the construction of two new industrial buildings to be used for a combination of general industrial purposes and warehousing and the carrying out of associated works – 14-16 Southern Cross Drive, Ballina	Determination pending
2020/609	18/9/2020	Jared Alexander Drafting Services	Alterations and additions to a dwelling and construction of a Secondary Dwelling and shed - 2 Henderson Drive, Lennox Head	Being assessed
2020/618	23/9/2020	Newton Denny Chapelle	Multi-dwelling housing development comprising the erection of 25 two storey dwellings, Strata Title subdivision and associated works. A variation is sought to the 8.5m height of building development standard contained in Clause 4.3 of the Ballina Local Environmental Plan 2012 for a number of the proposed dwellings – 2, 6 and 12 Anchorage Avenue, Lennox Head	Being assessed
2020/632	25/9/2020	Newton Denny Chapelle	Warehouse or distribution centre involving the construction of a 40m x 40m shed and associated civil, car parking and landscaping works. A variation to the 8.5m Height of Building development standard is being sought for the proposed shed – Lot 228 DP 1121079 Teven Road, West Ballina	Awaiting Additional Information
2020/641	20/9/2020	Northern Rivers Land Solutions	Two lot boundary adjustment subdivision to create one x 17.1ha and one x 36.7 ha allotments – 9 Houghlahans Creek Road and 1668 Eltham Road, Teven	Determination pending

8.6 Development Applications - Works in Progress - February 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
2020/645	1/10/2020	D S Harris	Alterations and additions to a dwelling including a second storey bedroom and deck - 6B Brighton Street, East Ballina	Awaiting Additional Information
2020/649	2/10/2020	Ardill Payne & partners	Subdivision to create three Torrens Title residential allotments and associated infrastructure servicing – 30 Kellie-Ann Crescent, Lennox Head	Awaiting additional information
2020/657	7/10/2020	O Ben Harush	Strata Title Subdivision of an existing dual occupancy – 38 Calnan Crescent, Cumbalum	Awaiting additional information
2020/665	12/10/2020	G A Shaw	Demolition of a carport, garage and two decks and alterations and additions to a two storey Dual Occupancy building to create a new attached Dual Occupancy development and associated parkin - 28 Allens Parade, Lennox Head	Being assessed
2020/672	13/10/2020	Ardill Payne & Partners	To establish temporary stockpiles of soils and rock surplus to the subdivision works in the western precinct of Ballina Heights Estate – Mitchell Close, Cumbalum	Awaiting additional information
2020/681	15/10/2020	Ardill Payne & Partners	Change of use to general industry and alterations and additions to the industrial premises - 15 Clark Street, Ballina	Being assessed
2020/682	15/10/2020	Newton Denny Chapelle	Multi dwelling housing development comprising three dwellings, Strata Title subdivision and associated earthworks – 62 Avalon Avenue, Wollongbar	Awaiting additional information
2020/687	16/10/2020	R Hammond	Change of use to establish a mixed use development comprising a vehicle repair station with ancillary sales of spare parts and tyres and vehicle sales or hire premises - 16-18 Owens Crescent, Alstonville	Awaiting additional information
2020/705	27/10/2020	J Brady	Alterations and additions to existing shop (Hair Dressing Salon) – 66 Ballina Street, Lennox Head	Awaiting additional information
2020/716	29/10/2020	Newton Denny Chapelle	Subdivision by boundary adjustment of three existing lots to create one 1.3 hectare lot, one 53 hectare lots and one 52 hectare lot – 898 River Drive, Lot 5 River Drive and Lot 6 Church Lane, Empire Vale.	Awaiting additional information

8.6 Development Applications - Works in Progress - February 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
2020/756	17/11/2020	Newton Denny Chapelle	Vehicle Repair Station involving demolition of the former Big W nursery, erection of new building extending west from the Big W western façade, erection of free standing associated building and reconfiguration of existing on-site car parking – 44 Bangalow Road, Ballina (Big W Nursery)	Awaiting additional information
2020/757	17/11/2020	GM Project Development	To establish a storage premises (damaged vehicles) – 26 Smith Drive, West Ballina	Awaiting additional information
2020/776	24/11/2020	Ardill Payne & Partners	Alterations and additions to St Andrews Village including demolition of two units and construction of two replacement units - 140-150 Cherry Street, Ballina	Awaiting additional information
2020/778	24/11/2020	R&J Harris Consulting Pty Ltd	Proposed rural industry comprising the erection of 30 silos and including a variation to the 11.2m AHD building height development standard under clause 4.3A of the BLEP 2012– Silos - 540 Pimlico Road, Pimlico	Awaiting additional information
2020/786	26/11/2020	A Stafford	Alfresco dining – Lennox Smokin' Barrell - 9 Moon Street, Ballina	Awaiting additional information
2020/810	3/12/2020	Newton Denny Chapelle	Subdivision by way of boundary adjustment and consolidation of four allotments to create one 10.8ha allotment and one 28 hectare allotment – 65 & 142 Bartletts Lane, Meerschaum Vale	Referred to Government Departments
2020/811	2/12/2020	Ardill Payne & Partners	Erection of an industrial building to be used for the purposes of a warehouse and distribution centre – 11 Ascot Road, Ballina	Awaiting additional information
2020/817	4/12/2020	Ardill Payne & Partners	Change of use to a vehicle body repair workshop and associated works to the car park and driveway – 1/34 Southern Cross Drive, Ballina	Being assessed
2020/818	4/12/2020	A D Overall	Erection of Farm Shed and Site Filling and Associated Works – 66 Fishery Creek, Ballina	Awaiting additional information
2020/838	15/12/2020	Intrapac Skennars Head	Proposed roundabout and median within Aureus Boulevard – Lot 165 Aureus Boulevard and Road Reserve, Skennars Head	Being assessed

8.6 Development Applications - Works in Progress - February 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
2020/839	16/12/2020	Newton Denny Chapelle	Multi-Dwelling housing and Strata Title subdivision of three single storey dwellings and associated works – 51 Habitat Way, Lennox Head	To be determined by Council Resolution No. 280121/8 Awaiting additional information
2020/845	17/12/2020	Newton Denny Chapelle	Earthworks for a new level fill pad, erection of a shade house structure and associated reticulated irrigation works – 2 Weis Lane, Rous	Awaiting additional information
2020/849	17/12/2020	Catherine Russo	Vegetation management works comprising the pruning of seven trees – 18 Sunray Crescent, Lennox Head	Being Assessed
2020/850	17/12/2020	Ardill Payne & Partners	Subdivision by way of boundary adjustment and consolidation of four rural lots to create one 6.7ha and one 1.7ha allotments – Uralba Road, Uralba	Referred to Government Department
2020/858	18/12/2020	Creative Planning Solutions	Alterations and additions to recreation hall, Lennox Head Sport and Recreation Centre - Pacific Parade, Lennox Head	Being assessed
2020/864	21/12/2020	Ardill Payne & Partners	Multi dwelling housing development comprising the erection and Strata Title subdivision of three units, two swimming pools and demolition of existing dwelling house – 44 Pacific Parade, Lennox Head	Being assessed
2020/869	24/12/2020	Newton Denny Chapelle	Relocation of heritage items including Croquet clubhouse from Lumley Park to the Alstonville Showgrounds, construction of new shed for storage of relocated heritage items at the Alstonville Showgrounds and associated works – 2 Pearces Creek Road and 22-40 Commercial Road, Alstonville	Being assessed
2020/875	24/12/2020	A Cole	Rural Dual Occupancy comprising the erection of a dwelling house and swimming pool and associated works – 137 Friday Hut Road, Tintenbar	Being assessed
2020/877	24/12/2020	Ardill Payne & Partners	Alterations and additions including part demolition to one dwelling within an existing multi dwelling housing development – 1/49 Gibbon Street, Lennox Head	Awaiting additional information
2021/1	4/1/2021	C R James	Vegetation Management Works Comprising the Pruning of Two Trees – 34 Owen Street, Ballina	Awaiting additional information

8.6 Development Applications - Works in Progress - February 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
2021/10	7/1/2021	Tim Fitzroy & Associates	Construction of a Storage Premises Comprising Six Storage Units and Associated Works – 11 Simmons Street, Ballina	Being assessed
2021/43	21/1/2021	S P Hall	Stage 1: Subdivision to create two Torrens Title allotments. Stage 2: Erection and Strata Title Subdivision of a detached dual occupancy on Proposed Torrens Lot 1 – 77 Habitat Way, Lennox Head	Awaiting additional information
2021/46	25/1/2021	K J Dunne	Vegetation management works comprising the removal of one tree – 12 Ocean View Drive, Alstonville	Determination pending
2021/51	27/1/2021	Ardill Payne & Partners	Alterations and Additions to an Existing Dwelling House – 76 Phillips Road, Newrybar	Awaiting additional information
2021/54	27/1/2021	Outlook Planning & Development	Demolition of existing pylon sign and erection of new pylon sign – 486 River Street, West Ballina	Referred to Government Departments
2021/55	28/1/2021	GM Project Development & Management	Erection of a hardware and building supplies multiple tenancy building, vehicular access and car parking, site filling, vegetation management works and associated works – 462-470 River Street, West Ballina	On exhibition
2021/62	29/1/2021	Victor Holmes Town Planning	Erection of a single storey dual occupancy (attached) for the purposes of providing accommodation for persons with a disability under the provisions of State Environmental Planning Policy (Housing for Seniors and Persons with a Disability) 2004, demolition of existing buildings, earthworks and vegetation removal – 39 Kerr Street, Ballina	On exhibition
2021/66	1/2/2021	Abode2 Project Management Pty Ltd	Erection and Strata Title subdivision of a multi dwelling housing development comprising three detached two storey dwellings - 41 Habitat Way, Lennox Head	On exhibition
2021/82	5/2/2021	Ardill Payne & Partners	Multi dwelling housing development comprising the erection of a single storey detached dwelling being a third dwelling on site, in addition to an approved dual occupancy – 175B Tamar Street, Ballina	On exhibition
2021/84	8/2/2021	L Riggs	Vegetation management works comprising the removal of four trees – 1/1/ Anderson Street, East Ballina	Being assessed

8.6 Development Applications - Works in Progress - February 2021

Regional Development (Determined by Northern Regional Planning Panel)

DA No.	Date Rec'd	Applicant	Proposal	Status
2016/524	16/9/2016	Planners North	Seniors living development pursuant to SEPP (Housing for Seniors and People with a Disability) comprising amended layout, 147 (previously 211) self-care housing, clubhouse, recreation facilities, roads and infrastructure, environmental management and protection works – 67 Skennars Head Road	Being assessed
2020/192	27/3/2020	Planners North	Establishment of a proposed 300 site Manufactured Home Estate with associated manager's residence, club house, recreation facilities, roads, utility services, earthworks and other associated works. The application seeks a variation to Clause 4.3 Height of Buildings development standard under the Ballina Local Environmental Plan 2012. A Section 82 Objection under the Local Government Act 1993 has been submitted to enable the onsite construction of manufactured homes in variance to Clause 41 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 requiring construction offsite – 550-578 River Street, West Ballina	Class 1 Appeal – Deemed Refusal Hearing 3-7 May 2021

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 February 2021.

Attachment(s)

Nil

9.1 Disclosure of Interest Returns

9. Corporate and Community Division Reports

9.1 Disclosure of Interest Returns

Section	Governance
Objective	To comply with the provisions of the Code of Conduct relating to the tabling of disclosure of interest returns.

Background

Clause 4.21 of the Model Code of Conduct (the Code) requires councillors and designated persons to lodge a return, in the form set out in schedule 2 of the Code, disclosing the councillor's or designated person's interests, as specified in schedule 1 of the Code within three months after:

- (a) becoming a councillor or designated person, and*
- (b) 30 June of each year, and*
- (c) the councillor or designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b).*

Designated persons includes staff with significant delegations (eg. General Manager and the Executive Team). This is determined for Council, through an internal procedure, approved by the General Manager.

As per clause 4.21 (c) of the Code, it is necessary for councillors and designated persons to lodge a new return during the year, within three months of a change in the interests disclosed. Clause 4.26 of the Code then requires the General Manager to table any returns lodged under clause 4.21 (c) to be tabled at the next Council meeting after the return is lodged. This report complies with clauses 4.21 (c) and 4.26 of the Code.

Discussion

A designated person and a Councillor have amended their returns in accordance with clause 4.21(c) of the Code. The updated returns and the register of returns will be tabled at the meeting.

Community Consultation Policy

The register of returns is defined as open access information and is available to the public, as well as being available on the Council website.

Options

This report is for noting only.

RECOMMENDATION

That Council notes the contents of this report on the disclosure of interest returns submitted in accordance with clause 4.21(c) of the Code of Conduct.

Attachment(s) - Nil

9.2 Investment Summary - January 2021

9.2 Investment Summary - January 2021

Section	Financial Services
Objective	To provide details of Council's cash and investments portfolio breakup and performance.

Background

In accordance with the Local Government Financial Regulations, the Responsible Accounting Officer of a Council must provide a monthly investments report setting out Council's cash and investments.

The report is to be presented at the Ordinary Council meeting, immediately following the end of the respective month. This report has been prepared for the month of January 2021.

Key Issues

- Compliance with Investment Policy

Discussion

As at 31 January 2021, Council's investments are in accordance with Council's Investment Policy and the Local Government Act and Regulations.

The total balance of investments as at 31 January 2021 was \$88,788,300. This is a decrease of \$3 million from December. Council's investments as at 31 January were invested at an average (weighted) interest rate of 0.917%, which is 0.905% above the December average 90 Day Bank Bill Index of 0.012%.

The balance of the Commonwealth Bank business account as at 31 January 2021 was \$2,991,368. This is a decrease of \$330,056 from the balance as at 31 December 2020.

The movement in the total of investments and bank balances since 31 December was a decrease of \$3,330,056.

In addition to standard quarterly payments occurring for the quarter ended 31 December 2020, Council had a number of individually significant payments in January including the settlement of a costs reimbursement claim of \$1.2 million for prior years' developer service plan works.

TCorp's weekly economic commentary report for the final week in January 2021 can be reviewed online using the following link:

<https://www.tcorp.nsw.gov.au/resource/010221.pdf>

The majority of Council's investment portfolio is restricted by legislation (external) and Council (internal) uses for the following purposes, as shown in the following table.

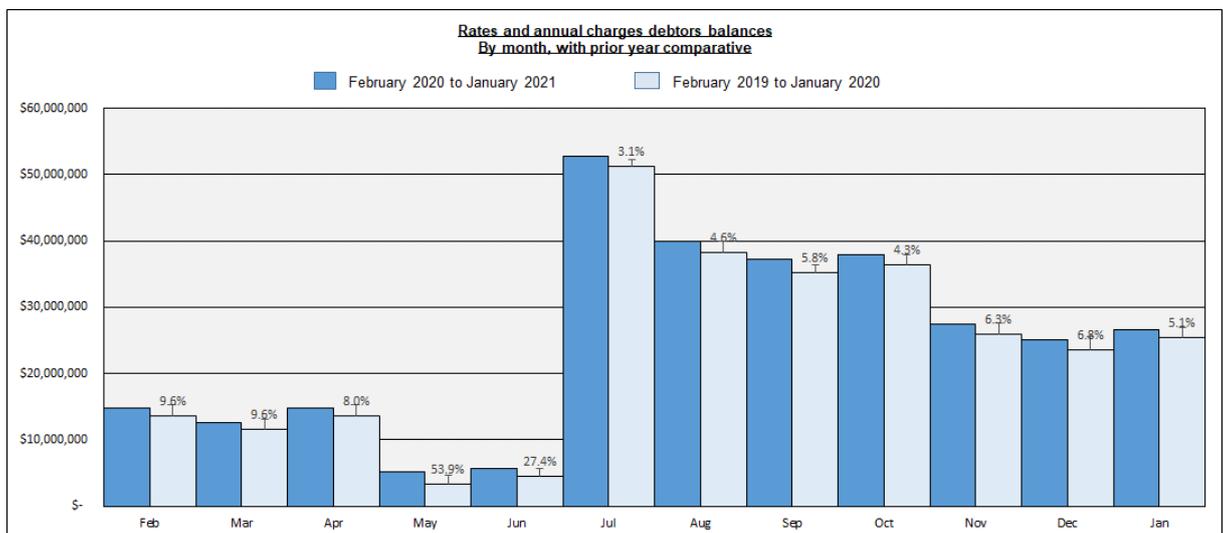
9.2 Investment Summary - January 2021

Reserve Name	Restriction	% Portfolio*
Wastewater (incl developer contributions)	External	13.3%
Water (incl developer contributions)	External	21.9%
Section 7.11 Developer Contributions	External	13.4%
Bonds and Deposits	External	4.6%
Other External Restrictions	External	1.9%
Carry Forward Works	Internal	4.3%
Bypass Maintenance	Internal	4.3%
Bushfire Recovery	Internal	1.4%
Airport	Internal	2.5%
Landfill and Resource Management	Internal	1.0%
Employee Leave Entitlements	Internal	4.2%
Quarries	Internal	0.9%
Property	Internal	4.3%
Plant and Vehicle Replacement	Internal	0.6%
Road Works	Internal	3.5%
Community Facilities	Internal	1.4%
Miscellaneous Internal Reserves	Internal	6.1%
Financial Assistance Grant in Advance	Internal	2.6%
Unrestricted		7.8%
Total		100.00%

* Reflects reserves updated as at 30 June 2020.

The following chart shows the monthly balance of rates and annual charges debtors for the 12 month period ended 31 January 2021 and the percentage variance, in comparison to the prior 12 month period ended 31 January 2020.

Debtors as at 31 January 2021 were 5.1% higher than 31 January 2020, exceeding the expected increase of 2.5% that would result from the rates and charges changes alone. This reflects the slower debtor repayment rate in 2020/21 as compared to 2019/20 (pre-COVID 19). Council's informal debt recovery actions have continued in January 2021.



9.2 Investment Summary - January 2021

A. Summary of investments by institution

Funds Invested With	Fossil Fuel Aligned / non-Green	Rating S&P	Rating Moody	Previous Month \$'000	Current Month \$'000	Quota %	% of Total	Total
Grandfathered Investments								
National Australia Bank (NAB)	Yes	BBB	-	1,788	1,788	0	2.0%	2%
Rated Institutions								
AMP Bank	Yes	BBB	A2	5,500	5,500	10%	6.2%	
Australian Unity bank	n/a	BBB+	-	1,000	1,000	10%	1.1%	
Auswide Bank	No	BBB	Baa2	2,000	2,000	10%	2.3%	
Bank of China	Yes	A	A1	5,000	5,000	20%	5.6%	
Bank of Communications	Yes	A-	A2	1,000	1,000	20%	1.1%	
Bank of Queensland	Yes	BBB+	A3	6,000	6,000	10%	6.8%	
Bendigo & Adelaide Bank	No	BBB+	A3	6,000	6,000	10%	6.8%	
Commonwealth Bank	Yes	AA-	Aa3	11,000	7,000	20%	7.9%	
Commonwealth Bank (Green)	No	AA-	Aa3	1,000	5,000	20%	5.6%	
Credit Union Australia	No	BBB	Baa1	600	600	10%	0.7%	
Defence Bank Ltd	No	BBB	-	4,000	4,000	10%	4.5%	
IMB Ltd	No	BBB	Baa1	5,000	5,000	10%	5.6%	
ING Bank (Australia) Ltd	Yes	A	A3	1,000	0	20%	0.0%	
ME Bank	No	BBB	Baa1	7,500	5,500	10%	6.2%	
Macquarie Bank Limited	Yes	A+	A2	1,000	1,000	20%	1.1%	
My State Bank Ltd	No	BBB+	Baa1	1,000	1,000	10%	1.1%	
National Australia Bank	Yes	AA-	Aa3	9,000	9,000	20%	10.1%	
Newcastle Perm Build Society	No	BBB	A3	4,700	4,700	10%	5.3%	
Suncorp Limited	No	A+	A1	4,000	4,000	20%	4.5%	
Teachers Mutual Bank Ltd	No	BBB	Baa1	700	700	10%	0.8%	
Westpac Banking Corp	Yes	AA-	Aa3	13,000	13,000	20%	14.6%	98%
Total				91,788	88,788		100%	

Credit Rating Summary as per the Investment Policy	Maximum Allowed		Value Previous	Value Current	% Previous	% Current
	%	Value				
A- or Higher	100%	88,788	46,000	45,000	50.1%	50.7%
BBB	60%	53,272	45,788	43,788	49.9%	49.3%
Total			91,788	88,788	100%	100%

The grandfathered investment of \$1,788,000 was paid out by NAB on 15 February 2021. This was the last pre Global Financial Crisis (GFC) investment held by Council, with this type of investment no longer permitted.

B. Summary of Non-Fossil Fuel Aligned and Green investments

Environmental Classification	Previous Month		Current Month	
	(\$'000)	(%)	(\$'000)	(%)
Fossil Fuel Aligned and Non-Green Investments	54,288	59	49,288	55
Non-Fossil Fuel Aligned	36,500	39	33,500	38
Green Investments	1,000	1	5,000	6
Not Classified	1,000	1	1,000	1
Total	91,788	100	88,788	100

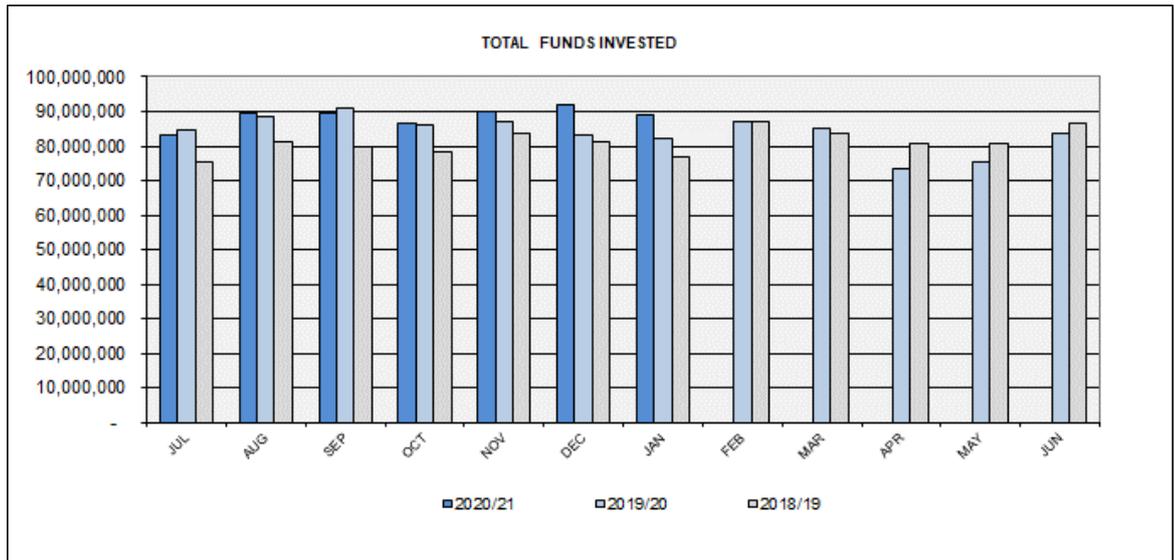
In January 2021, Council invested \$4 million in a Commonwealth Bank Green Bond, with green investments shown as a separate line item in the above table.

9.2 Investment Summary - January 2021

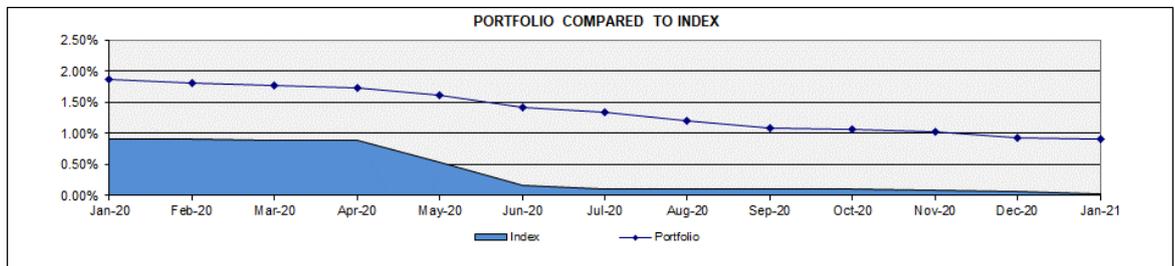
This investment helped improve Council's environmental outcomes from the investment portfolio.

Further discussion on "green investments" is included in the next report in this agenda, which is a review of Council's Investments Policy. The green investment classification in this table is based on 'Climate Bond Standards' and the fossil fuel classification is based on advice from 'Market Forces'.

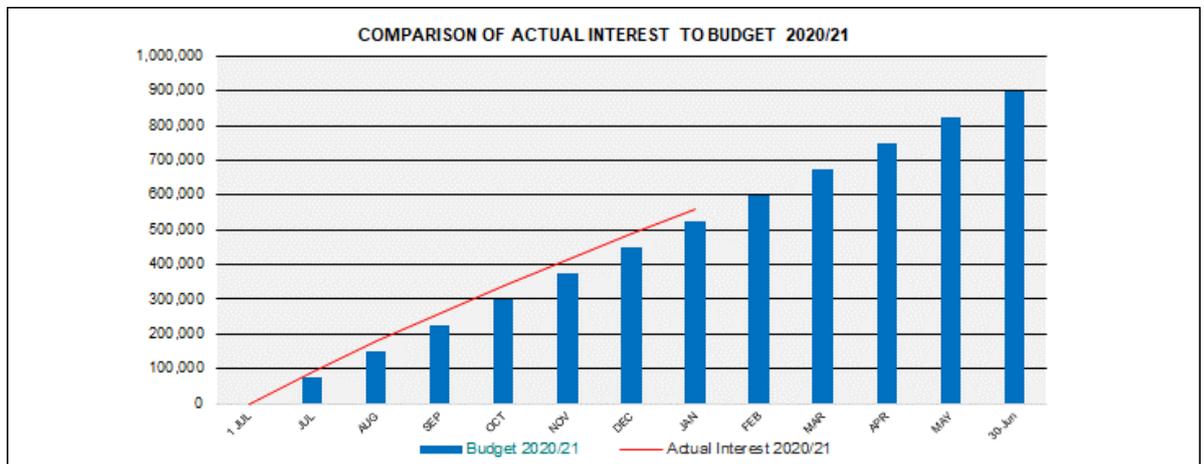
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



9.2 Investment Summary - January 2021

F. Investments held as at 31 January 2021

Purch Date	Issuer	Type	Rate	Final Maturity Date	Purch Value \$'000	Fair Value \$'000
20/09/04	National Australia Bank (ASX Listed)	Perpetual	1.3500%	Perpetual	1,788	1,788
17/06/16	Commonwealth Bank of Australia	FRN	1.0642%	17/06/21	1,000	1,000
30/06/16	Commonwealth Bank of Australia	FRN	1.0500%	30/06/21	1,000	1,000
03/08/17	Westpac Banking Corporation	FRN	1.1048%	03/08/22	2,000	2,000
18/08/17	Westpac Banking Corporation	FRN	1.0700%	18/08/22	1,000	1,000
06/02/18	Newcastle Permanent Bld Society	FRN	1.4200%	06/02/23	700	700
02/07/18	Teachers Mutual Bank Limited	FRN	1.3800%	02/07/21	700	700
30/07/18	Westpac Banking Corporation	FRN	0.9400%	31/07/23	1,000	1,000
31/07/18	Westpac Banking Corporation	FRN	0.9400%	02/08/23	1,000	1,000
06/09/18	Credit Union Australia	FRN	1.2700%	06/09/21	600	600
06/09/18	Newcastle Permanent Bld Society	FRN	1.4200%	06/02/23	1,000	1,000
10/09/18	AMP Bank	FRN	1.1000%	10/09/21	1,500	1,500
11/01/19	Commonwealth Bank of Australia	FRN	1.1459%	11/01/24	1,000	1,000
08/02/19	Westpac Banking Corporation	FRN	1.0710%	06/02/24	2,000	2,000
21/02/19	Newcastle Permanent Bld Society	FRN	1.0682%	22/02/21	2,000	2,000
22/02/19	Newcastle Permanent Bld Society	FRN	1.0682%	22/02/21	1,000	1,000
26/07/19	Commonwealth Bank of Australia	FRN	1.0609%	26/07/21	1,000	1,000
01/08/19	AMP Bank	FRN	1.1000%	10/09/21	2,000	2,000
26/08/19	AMP Bank	FRN	1.1000%	10/09/21	1,000	1,000
28/10/19	Bank of Communications	FRN	0.8999%	28/10/22	1,000	1,000
11/02/20	Auswide Bank	TD	1.6500%	04/02/21	2,000	2,000
26/02/20	Defence Bank Ltd	TD	1.6500%	23/02/21	1,000	1,000
03/03/20	Defence Bank Ltd	TD	1.6500%	02/03/21	1,000	1,000
05/03/20	My State Bank Ltd	TD	1.6500%	03/03/21	1,000	1,000
24/03/20	Defence Bank Ltd	TD	1.8500%	23/03/21	1,000	1,000
04/06/20	National Australia Bank	TD	0.9900%	18/05/21	3,000	3,000
04/06/20	Bank of China	TD	0.9500%	01/06/21	2,000	2,000
10/06/20	Australian Unity Bank	TD	1.0500%	08/04/21	1,000	1,000
10/06/20	Bank of China	TD	0.9200%	08/06/21	1,000	1,000
24/06/20	Bank of China	TD	0.9500%	23/06/21	2,000	2,000
29/06/20	Bank of Queensland	TD	1.0500%	22/06/21	1,000	1,000
29/06/20	Bank of Queensland	TD	1.0500%	28/06/21	2,000	2,000
30/07/20	Commonwealth Bank of Australia	TD	0.7200%	04/02/21	3,000	3,000
04/08/20	National Australia Bank	TD	0.8500%	28/07/21	2,000	2,000
04/08/20	National Australia Bank	TD	0.8500%	03/08/21	4,000	4,000
11/08/20	Bendigo & Adelaide Bank	TD	0.7500%	05/08/21	2,000	2,000
11/08/20	Bank of Queensland	TD	0.8500%	10/08/21	3,000	3,000
17/08/20	AMP Bank	TD	0.8000%	17/08/21	1,000	1,000
20/08/20	Westpac Banking Corporation	TD	0.7500%	21/07/21	4,000	4,000
27/08/20	Defence Bank Ltd	TD	0.9000%	26/08/21	1,000	1,000
31/08/20	Westpac Banking Corporation	TD	0.7600%	03/09/21	2,000	2,000
31/08/20	Suncorp-Metway Limited	TD	0.7000%	09/03/21	2,000	2,000
02/09/20	Suncorp-Metway Limited	TD	0.7000%	02/03/21	1,000	1,000
02/09/20	Bendigo & Adelaide Bank	TD	0.7000%	01/09/21	2,000	2,000
16/09/20	ME Bank	TD	0.6500%	16/03/21	1,000	1,000
08/10/20	Suncorp-Metway Limited	TD	0.5500%	14/04/21	1,000	1,000
14/10/20	Bendigo & Adelaide Bank	TD	0.6000%	13/10/21	2,000	2,000

9.2 Investment Summary - January 2021

Purch Date	Issuer	Type	Rate	Final Maturity Date	Purch Value \$'000	Fair Value \$'000
27/11/20	ME Bank	TD	0.5000%	30/03/21	1,000	1,000
27/11/20	IMB Bank	TD	0.4000%	30/03/21	2,000	2,000
30/11/20	ME Bank	TD	0.5000%	20/04/21	2,000	2,000
02/12/20	IMB Bank	TD	0.4000%	11/05/21	2,000	2,000
08/12/20	ME Bank	TD	0.4500%	27/04/21	1,500	1,500
10/12/20	IMB Bank	TD	0.4000%	04/05/21	1,000	1,000
16/12/20	Commonwealth Bank - Green	TD	0.4800%	15/12/21	1,000	1,000
22/12/20	Macquarie Bank Limited	TD	0.7000%	15/12/21	1,000	1,000
28/01/21	Commonwealth Bank - Green	TD	0.3700%	17/08/21	4,000	4,000
	Totals				88,788	88,788
	TD = Term Deposit	FRN = Floating Rate Note				

RECOMMENDATION

That Council notes the record of banking and investments for January 2021.

Attachment(s)

Nil

9.3 Policy (Review) - Investments

9.3 Policy (Review) - Investments

Section	Financial Services
Objective	To review the Investments Policy.

Background

The Investments Policy is reviewed annually, as a minimum, in accordance with the Office of Local Government's investment policy guidelines, to ensure it remains contemporary given changes that may occur to the economic and legislative environments.

Council's Investments Policy sets out the investment objectives and includes criteria to frame investment decisions, risk management parameters, and governance standards to ensure transparency, internal controls and performance management.

The scope of Council's investments is mandated under the NSW Local Government Act, through a Ministerial Investment Order, that constrains the type of investments to deposits and / or bonds in Federal, State or Local Governments and in Approved Deposit Taking Institutions under the Banking Act 1959.

Councils are not permitted to invest in prohibited investments such as equities and derivatives. The Investments Policy was last reviewed in February 2020.

Key Issues

- Environmental outcomes
- Whether the policy meets the requirements of Council and current legislation

Discussion

Ballina Environment Society (BES) representatives, Lyn Walker and Claudia Calliari, have, for a number of months, been making representations to Council through B Ward, Council meetings, by email and meetings with staff, seeking clarification as to why Council still has a significant percentage of its investment portfolio invested with fossil fuel aligned institutions, when Council's current investment policy states as follows:

Clause 13.1

*Where possible (and subject to obtaining a comparable return, **or a return within 0.05%**, and compliance with other investment policy parameters), the investing officer will place the investment with an institution which has been classified as non-fossil fuel aligned.*

Despite adopting a policy of investing with non-fossil fuel aligned institutions in 2015, Council's investment portfolio still typically has around 60%, or more, of the portfolio with fossil fuel aligned institutions.

9.3 Policy (Review) - Investments

The reason for this is that the fossil fuel aligned institutions are the major banks, who also have the highest credit ratings.

Council's Investments Policy requires a minimum of 40% of the investment portfolio to be with institutions with a credit rating of A- or higher (clause 12.3).

The only non-fossil fuel aligned, A- or higher rated bank, with investments currently held by Council, as per the previous report in this agenda, is Suncorp.

It is also not possible to place large amounts of the investment portfolio with one institution, such as Suncorp, as clause 12.3 of the Investments Policy states a maximum of 20% of the portfolio can be with an institution rated A- or higher, and 10% with an institution with a rating of BBB and BBB+.

The BES representatives have made comparisons to Waverley Council who are reporting a much higher percentage of their investments being held with non-fossil fuel lending institutions.

An extract from Waverley Council's investment report to their 16 February 2021 Ordinary meeting states as follows:

As at the end of January 2021, 71.4% of Council's portfolio was invested in non-fossil fuel lending ADIs and socially responsible investments, while fossil fuel lending ADIs accounted for 19.3% of the portfolio. The remaining 9.3% is invested with TCorp (page 81 of the Ordinary meeting agenda).

This statement could be seen as somewhat confusing in that what Waverley Council is doing is investing in "green investments" provided by banks such as the Commonwealth and Westpac, both of which are fossil fuel aligned institutions, and including these investments in the 71.4% figure.

The first attachment to this report is Waverley Council's "Environmental Commitments Report – January 2021", as per page 129 of their 16 February 2021 Ordinary meeting agenda (available on their website).

As per that attachment the current month figure shows 32.9% of the portfolio with non-fossil fuel aligned institutions (i.e. \$53,300,000 out of \$162,054,983).

However the last part of that table shows 38.6% of the portfolio is held in "Socially Responsible Investments", which includes \$25m with the Commonwealth Bank and \$33m with Westpac, which are fossil fuel lending institutions. The third institution listed is Bank Australia, which is a non-fossil fuel lending institution.

If the Waverley Council report focused entirely on non-fossil fuel aligned institutions, the 71.4% figure mentioned in the earlier paragraph in the report would actually reduce to 35.7% as \$58m would be eliminated from the non-fossil fuel aligned institutions.

The 35.7% is not too dissimilar to Council's percentages, and in effect the Waverley Council Investments Policy, has similar parameters to the Ballina Shire Council Investments Policy. However what they are also doing is investing in "green investments" with fossil fuel aligned institutions and treating these as "Socially Responsible Investments".

9.3 Policy (Review) - Investments

Similar information was reported to Council at the November 2020 Ordinary meeting and since that meeting finance staff have been examining opportunities to investment in “green deposits”, as classified by the Climate Bond Initiative, rather than focusing entirely on non-fossil fuel aligned investments, as that more restrictive approach has resulted in limited success to date.

As reported to the November 2020 Ordinary meeting, one option for identifying “green deposits” is investments that are certified by the Climate Bond Initiative (CBI) as meeting the Climate Bonds Standard criteria.

The CBI is “an investor-focused not-for-profit, promoting large-scale investment in low-carbon economy”, with more information available at their website (<https://www.climatebonds.net/region/australia>).

This approach of investing in “green investments” or “green deposits”, even though they may be held with a fossil fuel aligned institution, is a more constructive approach, as increased demand for these investments, can help to encourage fossil fuel aligned institutions to provide greater opportunities to invest in those funds. This, in turn, can help to change behaviour.

The strategy of trying to avoid fossil fuel aligned institutions is somewhat flawed when the institutions represent such a large share of the banking market, recognizing that Council’s own bank for transactional banking is the Commonwealth Bank.

The increased focus on “green investments” since November 2020 has already seen an improvement in environmental outcomes from the total investment portfolio, as outlined in the following table.

Month	% of Non-Fossil Fuel or Green
October 2020	33%
November 2020	37%
December 2020	40%
January 2021	44%

Based on this information it is recommended that Council’s Investments Policy have a focus on “green investments” as well as non-fossil fuel aligned institutions and a copy of the amended policy, with the proposed changes highlighted, is included as the second attachment to this report.

No other changes relating to the risk or investment parameters are recommended.

Delivery Program Strategy / Operational Plan Activity

The proposed changes to the Investments Policy align with CSP Outcome SP1 ‘Strong budget and economy’ and Delivery Program strategy HE.1 ‘Our planning considers past and predicted changes to the environment’.

Also the Review of the Climate Action Strategy and Review of Environmental Action Plan are major Delivery Program actions for 2020/2021, with the recommended policy change helping to provide improved environmental outcomes.

Community Consultation Policy

The Investments Policy will be exhibited for public comment. Any submissions will be reported back to Council.

Financial / Risk Considerations

Investment returns have significantly reduced since February 2020 as a result of the COVID-19 pandemic. This has resulted in lower interest rates and more limited investment opportunities.

Investment portfolio returns are expected to remain reasonably low, that is between 0.25% and 1.00% for at least 12 to 18 months, if not longer.

The Investments Policy maintains an investment portfolio that is conservative and comprises investments in institutions with high investment credit ratings, whilst allowing for flexibility for investment opportunities that enhance Council's financial returns.

Options

Council may accept or amend the proposed changes to the Investments Policy.

The recommendation is to support the proposed changes as it encourages Council to actively invest in products that are specifically marketed as ethical "green" investments in addition to investments held by non-fossil aligned financial institutions.

RECOMMENDATIONS

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

Attachment(s)

1. Waverley Council - Environmental Commitments Report - January 2021
2. Policy (Review) - Investments

9.4 Australia Day - Review

9.4 Australia Day - Review

Section	Communications
Objective	To review the Australia Day ceremony and awards for 2021 and to determine if there are to be any changes for 2022.

Background

Council coordinates an Australia Day event each year that includes a citizenship ceremony, an awards ceremony and a special guest address. This is a free public event where the community is encouraged to attend by a promotional campaign. The event concludes with a morning tea with the guest speaker, new citizens and award winners.

The purpose of this report is to review the 2021 event and confirm the preferred format for 2022.

Key Issues

- Award category review
- Event program

Discussion

Council completed a major review of the categories for the Australia Day Awards during 2019 adding the Environmental Award Category and changing the Local Hero to a Volunteer Award. The approved categories for the 2020 and 2021 program were:

- Young Citizen of the Year (30 years or under)
- Senior Citizen of the Year (60 years or over)
- Sports Award
- Volunteer Award
- Community Event of the Year
- Arts and Cultural Award
- Environmental Award

Council selects the Citizen of the Year from the nominations for all of the Award categories.

The 2021 event included a Welcome to Country performed by Aunty Julia Paden, a flag raising ceremony and a special address by James Bracey and Master of Ceremonies by Liz Ellis, AO. We welcomed 10 new citizens and celebrated 11 Australia Day Award recipients.

Community feedback and anecdotal evidence identified that the 2021 Australia Day program was well received.

Based on the positive response and number of nominations, continuation of the current award categories is recommended for 2022.

9.4 Australia Day - Review

This year there was a change in venue back to the Lennox Head Cultural Centre (LHCC). The upgrade of the facility enabled the 2021 Australia Day Awards to be undertaken in an air-conditioned environment.

In previous years Council has arranged a courtesy bus to assist members of the public with transportation to Lennox Head for the ceremony. In 2019 it was reported that only five people used this free service compared to approximately 20 persons in 2018.

Council promoted the availability of free transportation in the media release issued on 15 January 2021. In addition, Council staff contacted previous users of the bus. Council received one response requiring this service and a taxi was arranged for that individual.

Council's Australia Day Committee (consisting of all Councillors) was re-established at the 29 September 2016 Ordinary meeting (as part of the review of all Council committees with the newly elected Council), with the Committee having delegated authority to determine the award recipients for Australia Day. This process will again occur in September 2021 following the election.

Delivery Program Strategy / Operational Plan Activity

The Australia Day event is not specifically mentioned in the Delivery Program or Operational Plan, however relates to the Delivery Program Strategy:

CC2.1 - Create events and activities that promote interaction and education, as well as a sense of place

CC2.2 - Encourage community interaction, volunteering and wellbeing

Community Consultation Policy

Council has a history of organising Australia Day ceremonies and there is community expectation these ceremonies continue to recognise and celebrate the people in the Ballina Shire. An extensive consultation program is undertaken to encourage nominations.

Financial / Risk Considerations

The 2020/21 budget for the Australia Day event was \$23,000.

A further \$20,000 grant application from the Australia Day Council COVID safe program was also available. This additional funding assisted with meeting our COVID safety risk plan requirements, livestreaming the event, COVID marshalls, sanitizing and deep cleaning the facility.

Options

The options available relate to changing the Award categories, location and structure of the ceremony.

Council has, at times, changed the categories, with items such as the Volunteer Award and Environmental Award being a new category in 2020.

9.4 Australia Day - Review

Due to the categories undergoing an extensive review in 2019, together with the positive response received in 2020 and 2021, it is recommended that Council retain the current Award categories for 2022.

The LHCC has in recent years been the permanent location for the Australia Day Awards due to the excellent facilities and protection from adverse weather. LHCC is recommended for the 2022 event given the new refurbishments (including air conditioning) as Australia Day is typically a very hot day.

Council has previously provided a courtesy bus free of charge to encourage those without transport to attend the ceremony. The bus included pick up and drop off locations in Alstonville, West Ballina, Ballina and East Ballina.

In 2021 Council advertised the availability of free transportation and contacted previous users of the bus service. One person required a taxi to be provided. There was no feedback on the provision of a courtesy bus or provision of a taxi service.

Based on the above information, an option available to Council is to discontinue the courtesy bus. The recommendation is to discontinue this service based on the very low uptake.

RECOMMENDATIONS

1. That Council confirms the categories for the 2022 Ballina Shire Australia Day Awards are to remain unchanged, with citizen of the year selected from one of the categories; i.e.
 - Young Citizen of the Year (30 years or under)
 - Senior Citizen of the Year (60 years or over)
 - Sports Award
 - Volunteer Award
 - Community Event of the Year
 - Arts and Cultural Award
 - Environmental Award
2. That Council host the 2022 Australia Day event at the Lennox Head Community Centre due to the availability of air-conditioning.
3. That Council discontinue the provision of a courtesy bus for Australia Day due to the low uptake of users.

Attachment(s)

Nil

9.5 Legal Matters - Update

9.5 Legal Matters - Update

Section Governance

Objective To provide an update on litigation involving Council.

Background

This report provides an update on current legal matters to ensure that the community is informed on Council litigation.

Key Issues

- Type, outcomes and cost of litigation

Discussion

This report provides an opportunity to review current legal cases.

Details of the case(s) are as follows:

Council Solicitor	Parties	Description	Cost Estimate	Paid to Date
Parker and Kissane	Ballina Shire Council v The Beach	Land and Environment Court - Class 4 Civil Enforcement Proceedings	50,000	54,000
Comment At the April 2019 Ordinary meeting, Council resolved to grant consent to two development applications lodged by The Beach. Subsequently, a building information certificate was also issued. Class 4 proceedings were discontinued at the agreement of both parties. Council issued four infringement notices in relation to the building works undertaken on the site.				
Parker and Kissane	Palmlake Works Pty Ltd v Ballina Shire Council	Land and Environment Court – Class 1 Appeal Proceedings – Challenge deemed refusal of development application 2018/321	750,000	759,000
Comment DA 2018/321 was for an extension to an existing Seniors Housing Development (Palm Lake Resort) for 156 self-care dwellings, recreation facilities, car parking, infrastructure works, site filling and associated works. The applicant lodged Class 1 proceedings in the Land and Environment Court for a deemed refusal. A decision was handed down on 4 October 2019 with the amended development application approved with conditions. Council appealed the decision. The appeal was upheld on 29 April 2020. As part of the decision, it was ordered that the proceedings be remitted back to the original Commissioner for judgment. On 26 June 2020 the Commissioner ruled that the case would not be reopened. On 30 June 2020, Council received advice from the applicant discontinuing the proceedings. This concludes the matter except for the issue of costs, which Council's legal representative is pursuing.				

9.5 Legal Matters - Update

Council Solicitor	Parties	Description	Cost Estimate	Paid to Date
Parker and Kissane	Jeffrey Gibbs v Ballina Shire Council and North Coast Recycling Pty. Ltd.	Land and Environment Court - Class 1 Appeal Proceedings – Third Party Challenge to Consent Granted by the NRPP to development application 2017/600.	200,000	62,300
<p>Comment</p> <p>DA 2017/600 is a 'designated development' for the expansion of an existing resource recovery facility at Northcott Crescent in the Russellton Industrial estate.</p> <p>The application was granted consent by the Northern Regional Planning Panel in November 2019.</p> <p>The appeal was brought to the Court by a third party objector in February 2020.</p> <p>Council was the first respondent and North Coast Recycling Pty Ltd was the second respondent in the appeal.</p> <p>The matter was heard from 18 to 22 January 2021.</p> <p>On 12 February 2021 Council was advised that the appeal had been withdrawn.</p> <p>This means the Court proceedings are finalized and that North Coast Recycling Pty. Ltd. can rely on the planning consent to undertake the approved works and implement their updated operating conditions.</p>				
Lindsay Taylor Lawyers	Jason and Joanne White v Ballina Shire Council	Land and Environment Court - Class 1 Appeal Proceedings – Challenge Council's Refusal of development application 2018/381.	100,000	91,600
<p>Comment</p> <p>DA 2018/381 involves the decommissioning of an existing dwelling and construction of a new two-storey dwelling and swimming pool and the upgrading of an existing internal access way at 404 Old Byron Bay Road, Newrybar.</p> <p>Council refused the application at the December 2019 Ordinary meeting.</p> <p>A third party has been joined to the proceedings, with this party raising issues additional to those set out in Council's statement of facts and contentions.</p> <p>A Section 34 Conciliation Conference and hearing was held on 14 and 15 September 2020.</p> <p>The matter was not resolved at that time and the hearing resumed on 3 and 4 December 2020.</p> <p>The Commissioner reserved his decision and it is anticipated the decision will be handed down in the coming months.</p>				

9.5 Legal Matters - Update

Council Solicitor	Parties	Description	Cost Estimate	Paid to Date
Lindsay Taylor Lawyers	Griffani and Griffani v Ballina Shire Council	Land and Environment Court - Class 1 Appeal Proceedings – Challenge Council's refusal of development application 2019/30.	100,000	40,100
<p>Comment</p> <p>DA 2019/30 involves the erection of eight holiday cabins and the temporary use of the land for the purposes of wedding ceremonies. Council determined the application by way of refusal at the December 2019 Ordinary meeting.</p> <p>A third party (closest neighbour) joined the appeal and attended the Section 34 Conciliation Conference on 11 November 2020. The applicant had provided further material in the shape of turning circles and a traffic management plan, which was satisfactory to Council and its consultant traffic engineer. This was subject to agreement on the conditions.</p> <p>The third party was not in agreement with the further material, with additional issues raised as to permissibility in terms of the acoustic impact of the temporary use, and the use of the communal facility had also not been addressed. The draft conditions addressing some of these concerns were not acceptable to the third party.</p> <p>Further suggestions were made as to the possible relocation of the communal facility, closer to the tourist and visitor accommodation, in order to resolve the concerns of the third party. This was encouraged by the Senior Commissioner, as otherwise the third party would be forced to incur the cost of a full hearing. The third party was not willing to accept that the moving of the facility would resolve their concerns and insisted upon the removal of the facility and the reduction in tourist cabins from eight to three. The applicant rejected this.</p> <p>Subsequently, the Senior Commissioner terminated the conciliation conference. The proceedings were adjourned to allow the applicant to put on a notice of motion to amend the Griffani's application so that it incorporates the traffic management plan and changes to the access way, which are the basis for the resolution of the traffic issues from Council's perspective.</p> <p>On the 17 December 2020, the applicant was successful in obtaining leave of the Court to amend its development proposal. The applicant deleted the temporary use of the land for wedding ceremonies from the proposal. The amended application now before the Court relates only to the eight holiday cabins. The third party objector remains unsatisfied with the amended proposal and so the matter is set down for hearing on 22 – 24 June 2021.</p>				
Lindsay Taylor Lawyers	Intrapac Skennars Head Pty. Ltd. v Ballina Shire Council	Land and Environment Court - Class 1 Appeal Proceedings – Challenge to deemed refusal of modification application relating to developer contributions payable under conditions of consent for development application 2017/244.	250,000	205,100
<p>Comment</p> <p>The applicant has lodged an appeal in the NSW Land and Environment Court on the basis of deemed refusal of a modification to the development consent that would have the effect of reducing the developer contributions payable by Intrapac in relation to the Aureus development. The matter was part heard by the Court in November 2020. The appeal was subsequently dismissed by the Court on 8 January 2021 with an Order that the subject modification application to reduce the developer contributions be refused. Intrapac has subsequently lodged an application for appeal against the Court's decision. No date for hearing of the appeal has yet been set.</p>				

9.5 Legal Matters - Update

Council Solicitor	Parties	Description	Cost Estimate	Paid to Date
Parker & Kissane	Monica and Allan Anderson v Ballina Shire Council	Land and Environment Court - Class 1 Appeal Proceedings – Challenge to Council’s refusal of DA 2020/49.	50,000	12,400
Comment DA 2020/49 proposes subdivision of two existing rural zoned lots to create three lots, including one split lot. Council staff determined the application by way of refusal under delegated authority on 22 July 2020. On 22 October 2020 the applicant was granted leave by the Court to amend the proposed plans. The matter is set down for a Section 34 Conciliation Conference on 24 March 2021.				
Lindsay Taylor Lawyers	Planners North vs Ballina Shire Council	Land and Environment Court – Class 1 Appeal Proceedings – Challenge deemed refusal of development application DA 2020/192 for a 300 home Manufactured Home Estate, River Street, West Ballina	250,000	43,400
Comment Development application 2020/192 is for the establishment of a 300 home manufactured home estate at 550-578 River Street, West Ballina, including extensive earthworks and drainage works. Shortly after re-exhibition of an amended application, the applicant lodged Class 1 proceedings in the Land and Environment Court for a deemed refusal of the development application. A Section 34 Conciliation Conference was held in the Court on 12 November 2020. The matter has been set down for hearing on 3 - 7 May 2021. It is anticipated the applicant will shortly seek leave of the Court to further amend their development application.				

Delivery Program Strategy / Operational Plan Activity

Legal cases are linked to Delivery Program strategies such as:

HE3.2 - Match infrastructure with development to mitigate any impacts on the environment

HE3.3 - Minimise negative impacts on the natural environment

Community Consultation Policy

This report is provided in open Council to ensure the community is informed on legal matters involving Council. If Council wishes to discuss any matters of detail it may be necessary to resolve into confidential session to ensure any legal advice is not provided in open session.

Financial / Risk Considerations

This section provides an update on legal costs for recent years and for the current financial year to early November.

9.5 Legal Matters - Update

Table 1 – Legal Expenditure 2017/18 to 2020/21

Description	2017/18	2018/19	2019/20	2020/21
DA 2016/184, 2018/616 - CURA A - Planners North / Northern Rivers Land Solutions – Intrapac	832,100	78,400	337,000	3,600
Seabreeze Caravan Park	104,500	0	0	0
DA 2017/244 - Skennars Head – Aureus – Intrapac	1,100	31,100	28,000	144,600
DA 2017/557 - Byron Highlander (Function Centre)	2,800	9,500	0	0
DA 2017/321 – 34 Willowbank Drive (Michael Young)	0	22,600	0	0
DA 2017/600 – 19-21 Northcott Crescent (Gibbs)	0	0	7,000	42,700
DA 2017/707 - 5 Rayner Lane (Ardill Payne)	0	9,300	37,000	0
Ballina Sands – Newrybar Swamp Road	4,000	22,100	15,000	0
The Beach House	0	31,600	16,000	6,000
DA 2018/189 – 4 Page Court (Millar)	0	0	6,000	0
DA 2018/321 - Palm Lake	0	256,600	497,000	6,700
DA 2018/381 - 404 Old Byron Bay Road (White)	0	900	22,000	69,300
404 Old Byron Bay Road (Kenny NCAT)	0	0	0	7,600
DA 2018/597 – Water Extraction	0	6,400	0	0
DA 2019/30 – 43 Tuckombil Lane (Griffani)	0	0	17,000	22,300
DA 2019/170 – 937/987 Wardell Road (Veronesi)	0	0	0	11,200
DA 2020/49 – 38 Newrybar Swamp Road (Anderson)	0	0	0	12,400
DA 2020/192 – Gem Life (Planners North)	0	0	0	43,400
DA 2020/568 – Midgen Flat Road	0	0	0	7,300
Misc including insurance and planning agreements	22,700	34,600	60,000	14,200
Total Actual Expenditure	967,200	503,100	1,042,000	391,300
Legal Expenditure Budgets	1,005,000	290,000	1,036,000	325,000
Expenditure Budget Result – Surplus / (Shortfall)	37,800	(213,100)	(6,000)	(66,300)
Legal Actual Income from Costs Recovered / Fines	108,000	61,000	157,000	510,000
Legal Income Budget	85,000	70,000	140,000	550,000
Income Budget Result – Surplus / (Shortfall)	23,000	(9,000)	17,000	(40,000)
Net Income and Expenditure Budget Result	60,800	(222,100)	11,000	(106,300)

As per this summary \$391,300 has been expended to date out of a total legal expenditure budget of \$325,000.

Legal costs recovered are \$510,000 out of a budget of \$550,000. This large recovery figure is due to the costs recovered from the CURA Intrapac Property Pty. Ltd. litigation.

Legal expenditure can vary significantly from year to year as shown in the following table, which provides a ten year summary of actual results, with the last three years having been exceptionally high and 2020/21 continues that recent trend.

Table 2 – Legal Expenditure – Ten Year Period 2010/11 to 2019/20 (\$'000)

Year	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Expense	710	136	149	266	103	88	353	967	503	1,042
Income	353	8	19	34	5	20	90	108	61	157
Net	357	128	130	232	98	68	263	859	442	885

Contract Disputes

Contract disputes, can at times involve legal action, and there is currently one major on-going dispute in respect to contractual obligations as follows:

- Haslin Constructions – Ballina Wastewater Treatment Plant Design

9.5 Legal Matters - Update

Council has not awarded completion of this contract as the works are not considered to be defect free. The Contractor disputes this position and the issues were referred to Expert Determination.

The Expert Determination report was decided substantially in Council's favour. As the value of the works considered by the Expert is in excess of \$500,000 this determination is non-binding on the parties. This dispute is now being litigated in the Supreme Court. Council is the defendant in this matter.

Legal and related expenditure on this dispute to date is approximately \$595,000 as per the following summary. These figures exclude office based staff time, as that time is not directly charged to the dispute.

Table 3 – Haslin Dispute – Expenditure for 2016/17 to 2020/21

Description	2016/17	2017/18	2018/19	2019/20	2020/21	Totals
Maddocks Lawyers	258,800	40,800	27,300	144,900	26,100	497,900
Expert Determination	27,500	57,100	12,200	0	0	96,800
Total	286,300	97,900	39,500	144,900		594,700

Council last considered a comprehensive report regarding this matter at the February 2020 Ordinary meeting. Following this meeting Council has responded to further hearing preliminaries, however Council has also again indicated to Haslin we would agree to participate in commercial settlement negotiations or mediation. As part of their defence, Haslin commenced a cross claim with a key subcontractor.

The proceedings have again been delayed by several months due to the process of filing the required statements of cross claim by those parties. The delay has not been an additional cost to Council and the joining of the third party is potentially advantageous to Council's position.

Council has continued to press for a mediation process to be conducted prior to the commencement of the hearing. Haslin has now agreed to participate in the mediation, however originally this agreement was subject to their subcontractor being a party to the mediation.

The subcontractor has not agreed to this, at this point in time, although their participation still remains a possibility (and is preferred from Council's perspective).

There is now agreement by Haslin to Council's position that the mediation should proceed, with or without the subcontractor's agreement. The mediation is arranged for March 2021.

In the event Council and Haslin reach an agreement and the subcontractor does not attend the mediation, Haslin will be able to continue their cross claim and Council would no longer be a party to the proceeding.

Options

This report is provided for public information.

9.5 Legal Matters - Update

RECOMMENDATION

That Council notes the contents of this legal matters – update report.

Attachment(s)

Nil

9.6 Financial Review - 31 December 2020

9.6 Financial Review - 31 December 2020

Section	Financial Services
Objective	To provide a quarterly review of the 2020/21 financial year budget based on the known results to 31 December 2020.

Background

In accordance with Clause 203 of the Local Government (General) Regulations, the Responsible Accounting Officer of a council must, not later than two months after the end of each quarter, prepare and submit to the council a budget review statement that shows a revised estimate of the income and expenditure for that year. This report provides the review for the second quarter of the 2020/21 financial year.

Key Issues

- Variations to the budget and financial performance of Council

Discussion

The purpose of this report is to provide information on known budget variances as at 31 December 2020. The format of the report complies with the Quarterly Budget Review Statement Guidelines set down by the Office of Local Government (OLG).

To comply with these guidelines an Operating Statement, Capital Budget, Cash and Investment Statement, Key Performance Indicators, Contractors, Consultants, Legal Information and Certification by the Responsible Accounting Officer are required.

Commentary on the variations is provided after the tables. A brief overview of the information provided in the report is as follows:

Section One – General Fund Long Term Financial Plan

This section provides an overview of the General Fund providing a high level summary of the Ten Year Long Term Financial Plan.

Section Two - Operating Income and Expenditure Budgets 2020/21

These tables outline the 2020/21 operating income and operating expenditure budgets for the Funds (General, Water and Wastewater).

Section Three - Capital Budgets 2020/21

Outlines the 2020/21 capital expenditure budgets.

Section Four - Cash and Investment Statement

Provide details of the projected movements in the cash reserve balances.

Section Five - Key Performance Indicators

The ratios provide an indication of the financial health of the organisation.

Section Six - Contractors/Consultants/Legal Expenses

Details specific expenses incurred and contracts entered.

Section Seven – Certification

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

Section One – General Fund Long Term Financial Plan

The following tables provide an overview of how the General Fund Long Term Financial Plan (LTFP) has changed since the September 2020 quarterly budget review, as reported to the November 2020 Ordinary meeting.

LTFP Forecasts September 2020 Review (\$'000)

Year	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30
Operating Income	67,055	71,603	74,636	76,368	78,074	79,891	82,013	84,250	86,344	88,603
Operating Expenses	75,035	75,934	78,006	79,929	81,440	82,547	83,844	85,528	87,200	88,441
Result (Deficit)	(7,981)	(4,331)	(3,370)	(3,561)	(3,366)	(2,656)	(1,831)	(1,278)	(856)	162
WC Result	(854)	(844)	(755)	(523)	(271)	17	341	647	1,074	1,444
WC Balance	3,854	3,009	2,255	1,732	1,460	1,477	1,818	2,466	3,540	4,984

LTFP Revised Forecasts December 2020 Review (\$'000)

Year	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30
Operating Income	71,395	72,558	74,964	76,705	78,410	80,233	82,357	84,597	86,693	88,955
Operating Expenses	78,942	76,117	77,812	79,525	81,017	82,179	83,485	85,178	86,831	88,046
Result (Deficit)	(7,547)	(3,559)	(2,849)	(2,820)	(2,606)	(1,946)	(1,128)	(581)	(138)	910
WC Result	(820)	(475)	(366)	(191)	68	365	698	1,013	1,447	1,823
WC Balance	3,888	3,413	3,047	2,856	2,924	3,289	3,987	4,999	6,447	8,270

The future year forecasts indicate the General Fund not reaching an operating surplus until 2029/30. It is necessary to continue to restrain and reduce operating expenditure (i.e. service levels) in order to ensure the General Fund reaches a healthy operating position.

The following section provides commentary in relation to the forecast changes impacting on the General Fund.

Section Two – Operating Income and Expenditure Budgets 2020/21

General Fund – Operating Income and Expenses

This section deals with the General Fund operations. The **Forecast Operating Result as at December** is a loss of \$7,546,900. This compares to a forecast loss of \$7,980,500 as at September as reported to the November Council meeting.

9.6 Financial Review - 31 December 2020

The estimated movement in **Unrestricted Working Capital** has improved slightly, with a forecast deficit as at **December** now \$819,700. This compares to a forecast deficit of \$854,400 as at September 2020.

The next two tables detail operating income and operating expenses including recommended variations to budget.

General Fund – Operating Income (\$'000)

Operating Income	Original Budget	Sept Budget	Approved Changes	Revised Budget	Changes for Approval	Dec Budget	Actual to Dec
Strategic Planning	165	444	0	444	0	444	144
Development Services	552	1,222	0	1,222	0	1,222	825
Building Services	1,611	2,061	0	2,061	100	2,161	1,167
Env and Public Health	539	599	0	599	66	665	202
Public Order	213	213	0	213	10	223	108
Open Spaces	870	899	0	899	36	935	561
NRCG Gallery	56	56	0	56	6	62	39
Open Spaces Buildings	0	0	0	0	0	0	0
Sub Total	4,006	5,494	0	5,494	218	5,712	3,046
Asset Management	270	270	0	270	6	276	155
Stormwater and Env Protect	396	465	0	465	2	467	406
Roads and Bridges	1,007	1,018	0	1,018	0	1,018	777
Ancillary Transport Services	676	828	0	828	0	828	376
Transport for NSW	1,040	963	0	963	0	963	482
Emergency Services	179	287	0	287	(56)	231	221
Quarries and Sandpit	68	68	0	68	0	68	48
Landfill and Resource Mgmt	6,030	6,737	0	6,737	1,300	8,037	3,838
Domestic Waste Mgmt	8,298	8,330	0	8,330	37	8,367	7,888
Sub Total	17,964	18,966	0	18,966	1,289	20,255	14,191
Governance	30	30	0	30	(30)	0	0
Communications	15	35	0	35	0	35	28
Financial Services	194	194	0	194	18	212	81
General Purpose Revenues	31,048	30,489	0	30,489	22	30,511	26,694
Information Services	141	201	0	201	30	231	112
People and Culture	127	127	0	127	33	160	152
Property Management	2,089	2,066	0	2,066	250	2,316	1,288
Airport	2,795	2,795	2,478	5,273	0	5,273	2,495
Facilities Management	442	448	0	448	16	464	227
Library Services	110	110	0	110	4	114	171
Swimming Pools	1,020	1,020	0	1,020	0	1,020	549
Tourism	51	51	0	51	11	62	41
Fleet Mgmt and Workshop	5,029	5,029	0	5,029	0	5,029	2,455
Admin Centre and Depot	0	0	0	0	0	0	0
Sub Total	43,091	42,595	2,478	45,073	354	45,427	34,293
Total Operating Income	65,061	67,055	2,478	69,533	1,861	71,394	51,530

General Fund – Operating Expenses (\$'000)

Operating Expenses	Original Budget	Sept Budget	Approved Changes	Revised Budget	Changes for Approval	Dec Budget	Actual to Dec
Strategic Planning	642	1,329	0	1,329	5	1,334	313
Development Services	1,958	2,008	0	2,008	277	2,285	1,163
Building Services	1,537	1,587	0	1,587	0	1,587	739
Env and Public Health	1,909	2,371	0	2,371	64	2,435	799
Public Order	601	605	0	605	18	623	321
Open Spaces	4,331	5,044	0	5,044	(10)	5,034	2,267
NRCG Gallery	378	414	0	414	6	420	204
Open Spaces Buildings	793	805	0	805	39	844	476
Sub Total	12,149	14,163	0	14,163	399	14,562	6,282
Asset Management	1,487	1,520	0	1,520	6	1,526	682
Stormwater and Env Protect	1,056	1,212	0	1,212	106	1,318	568
Roads and Bridges	3,510	3,546	0	3,546	(150)	3,396	1,880

9.6 Financial Review - 31 December 2020

Ancillary Transport Services	1,991	2,026	0	2,026	(9)	2,017	723
Transport for NSW	963	811	0	811	0	811	308
Emergency Services	518	626	0	626	0	626	309
Quarries and Sandpit	42	42	0	42	3	45	45
Landfill and Resource Mgmt	5,920	6,122	0	6,122	879	7,001	2,997
Domestic Waste Mgmt	8,303	8,402	0	8,402	412	8,814	3,843
Sub Total	23,790	24,307	0	24,307	1,247	25,554	11,355
Governance	992	1,048	0	1,048	0	1,048	877
Communications	442	562	0	562	4	566	285
Financial Services	382	360	0	360	0	360	251
General Purpose Revenues	0	0	0	0	0	0	0
Information Services	2,572	2,666	0	2,666	90	2,756	1,896
People and Culture	132	179	0	179	78	257	278
Property Management	1,352	1,448	0	1,448	70	1,518	817
Airport	3,641	3,611	831	4,442	0	4,442	2,181
Community Facilities	1,663	1,714	0	1,714	16	1,730	851
Library Services	1,563	1,563	0	1,563	0	1,563	793
Swimming Pools	1,846	1,846	0	1,846	0	1,846	758
Tourism	541	541	0	541	25	566	206
Fleet Mgmt and Workshop	3,072	3,072	0	3,072	0	3,072	1,756
Admin Centre and Depot	(69)	(95)	0	(95)	0	(95)	40
Sub Total	18,129	18,515	831	19,346	283	19,629	10,989
Total Operating Expense	54,068	56,985	831	57,816	1,929	59,745	28,626
Result Before Dep	10,993	10,070	1,647	11,717	(68)	11,649	22,904
Depreciation and Non-Cash	15,382	18,052	(230)	17,822	1,375	19,197	9,599
Net Operating Result	(4,389)	(7,982)	1,877	(6,105)	(1,443)	(7,548)	13,306

A material adjustment to the Net Operating Result for the General Fund is a review of the Depreciation and Non-Cash line item.

For the General Fund, the actual depreciation charge for 2019/20 as reported in the Financial Statements was \$16,909,000. The 2020/21 adopted forecast for depreciation was \$15,382,000.

It was noted in the September quarterly review that a detailed review of the depreciation forecasts would be completed as part of this December quarterly budget review.

A review of forecast depreciation on an asset class basis has been undertaken, with total adjustments resulting in an increase of \$1.375 million for the General Fund.

This review of the depreciation charge causes a significant deterioration in the forecast Net Operating Result for the General Fund, which otherwise would have significantly improved.

The major depreciation expense increases are for Roads and Bridges, \$440,000; Open Spaces Buildings \$350,000; Fleet \$300,000; Sportsfield Buildings \$120,000 and Footpaths \$150,000.

There were some offsetting decreases such as Domestic Waste Vehicles \$80,000 and Commercial Buildings \$65,000.

The increase for Roads and Footpaths relates to the revaluation of roads and other transport assets, undertaken in 2019/20, which resulted in an increase in the net fair value of these assets.

The revaluation, together with the roads year to date capitalisation of \$11.7m, has resulted in a significant increase to the depreciation expense forecast.

9.6 Financial Review - 31 December 2020

Also included in the 2020/21 year to date capitalisation is the Woolgoolga to Ballina Roads Handover Stage 1, totalling \$5.8m.

Year to date capitalisation of buildings and structures of \$1.2m and plant and equipment of \$1.3m has been reflected in the depreciation forecast review and has resulted in an increase in depreciation expense for those asset classes.

Based on the current work-in-progress capital projects balance of \$31.8m and December 2020 budget of capital works of \$42.8m, it is expected that the depreciation expense will continue to increase in 2021/22 and the trend will continue in future years.

The ever expanding asset base, and associated increase in the annual depreciation expense, makes it a continual struggle for Council to fund the renewal of infrastructure, in a timely manner.

Other large adjustments to the Operating Result before Depreciation include an increase to legal expenses of \$300,000. This unfavourable adjustment is funded from reserves, which had been put aside in the September 2020 quarterly budget review, following payment of costs by Intrapac Pty. Ltd.

This means that this adjustment is unfavourable to the Operating Result but does not impact on the working capital position.

Significant adjustments have been made to the forecasts for Landfill and Resource Management (LRM) and Domestic Waste Management (DWM).

The adjustments to LRM impact favourably on the Operating Result, whilst the adjustments to DWM impact unfavourably on the Operating Result.

As the results of these business units flow through to their reserves, the adjustments also do not impact on the working capital position.

General Fund Working Capital Forecast (\$'000)

Item	Original Budget	Sept Budget	Approved Changes	Revised Budget	Changes for Approval	Dec Budget	Actual to Dec
Working Capital (Deficit)	(780)	(854)	(0)	(854)	34	(820)	N/A

Working capital is a measure of short-term liquidity and as a rule Council aims to target a break-even result for the General Fund. This year has an exceptionally high deficit due to the COVID-19 pandemic.

Comments on the larger budget variations are as follows. The adjustments shown in the tables are inclusive of all amendments and the comments do not account for minor budget changes.

General Fund - Operating Income

Planning and Environmental Health Division

Development Services

Large increases to income budgets were made in the September quarterly review, as the adopted budgets had been conservatively set based on the unknown impact of the COVID-19 pandemic.

No adjustments to income budgets are proposed for this review, with actual income now on trend with budget.

Building Services

Large increases to income budgets were made in the September quarterly review.

The income for this section is still trending above budget, with a further \$100,000 increase proposed in this review.

The adjustments bring total budgeted operating income for this section to \$2,161,000.

Environmental and Public Health

Council has been awarded grant funding of \$255,453 under the Marine Estate Management Funding (MEMS) awarded by the NSW Government Local Land Services.

From this funding, an operating budget of \$66,000 is allocated to the Public and Environmental Health section, to be used for riparian rehabilitation on private lands.

From the balance of this funding, capital budgets of \$189,500 have been raised within the Roads and Bridges section.

Public Order

Budgeted income for Companion Animal Registrations has been increased by \$10,000, to \$44,000 for this year, based on trend.

The budget had been set lower for this year, but actual income is comparable to the prior year.

Open Spaces

Budgeted income for Seven Mile Beach 4WD permits has been increased by a further \$15,000 to \$90,000, based on trend. This is further to an increase of \$20,000 that was made in the September quarter review.

The budgeted income for Event Income/Filming Applications has been increased by \$15,000, to \$30,000 for this year. This is to bring the budget to meet actual incomes received, with amounts received this year in relation to the production of Nine Perfect Strangers and Eden.

Budgeted income for Mobile Vending on Public Land has been increased by \$3,800, to \$6,800, and Income for Leases Missingham Vendors has been increased by \$3,000, to \$6,000, to meet actual incomes received.

These budgets had been set lower for this year, but actual income is comparable to the prior year.

A budget of \$2,200 has been raised for this year for Contributions received for Memorial Park Seats, based on amounts received.

This income is infrequent and unpredictable, hence budgets are only raised on receipt of income.

The budget for income from Community Event Signage has been reduced by \$2,500 to \$500 for this year. Based on the limited income received for the year to date, it would appear that this budget was set too high for this year which has been impacted by the COVID-19 pandemic.

Northern Rivers Community Gallery

A new income budget of \$3,000 is raised for grant funds received from Regional Arts NSW from the Regional Arts Fund Relief program. The purpose of this funding was for Creative Lifelong Learning Programs.

An offsetting expenditure budget has also been raised for this, utilised by the Gallery for the continued employment of the casual Creative Producer and Artist Facilitator.

The budget for Ignite income has been increased by \$3,000 to \$11,000, based on income received.

Civil Services Division

Asset Management

A new operating income budget of \$6,600 has been created, with an offsetting operating expenditure budget, for grant funding to be received under the Country Passenger Transport Infrastructure Grants Scheme (CPTIGS).

Funding under this scheme is for the construction or upgrade of bus stop infrastructure.

The total sum of grant funding to be received is \$28,600.

This grant funding has been split into \$6,600 as an operating component and \$22,000 as a capital component.

Council only capitalises expenditure on these specific assets if the works exceed \$10,000 per asset.

The expected expenditure of \$6,600 relates to small value works to be completed to a number of shelters.

Stormwater and Environmental Protection

The budget for stormwater annual charges has been increased by \$2,000, to \$399,900, to match actual income.

Emergency Services

A letter from the NSW Rural Fire Service dated 23 December 2020 has been received confirming a total Hazard Reduction Grant of \$8,316 for 2020/21.

Council's adopted hazard reduction income and expenditure budgets were \$64,000, based on expectations of proposed expenditure being reimbursed.

The hazard reduction eligibility requirements have undergone review by the NSW Rural Fire Service, with works that would previously have been eligible no longer the case. This latest advice requires a reduction of \$55,700 to the income budget. The expenditure/program of works is now undergoing review.

No adjustment to the expenditure budget of \$64,000 has been made in this quarter, however it is anticipated that a revision to the expenditure budget will occur in the next quarterly budget review.

Landfill and Resource Management (LRM)

A revision of LRM income and expenditure budgets has been undertaken for the current year with no on flow of changes to future years, as they will be reviewed as part of the long term financial plan (LTFP) review completed for the March Finance Committee meeting.

Income budgets are increased by \$1,300,000 in total. Expenditure budgets, noted later in this report, have been increased by \$879,000, resulting in a net increase in the transfer to LRM reserves of \$421,000.

Waste disposal fees (external customers) increased by \$700,000 to \$1,500,000, and waste disposal fees for inert waste has increased by \$100,000 to \$900,000.

There has been continued higher than anticipated gate fee income due to sustained significant increases in residential and commercial customer numbers at the waste management facility, couple with commencing the receipt of commercial waste from local collection contractors.

Waste disposal fees Council (income to LRM and expense to DWM) increased by \$320,000, to \$2,500,000.

There has been increased waste volumes generated from significant growth in residential development and population.

This has been coupled with increased tourism visitation population and associated increased waste volumes generated during peak holiday periods.

Council (internal) waste disposal fees increased by \$50,000 to \$750,000, with an increase in waste material deposited at the waste management centre generated from capital works and operational programs.

Budgeted recycling revenues has been increased by \$130,000 in total.

The budgeted income for Return and Earn (CDS Scheme) has been revised from \$100,000 to \$190,000, with higher than anticipated returns for the container deposit material that is processed under contract at the recycling facility in Chinderah.

Budgeted income for metal recyclables sales has been revised from \$80,000 to \$120,000, with an increase in the global commodity value for iron which has had a positive impact on scrap metal commodity value.

Domestic Waste Management (DWM)

A revision of DWM income and expenditure budgets has been undertaken for the current year with no on flow of changes to future years, as they will be reviewed as part of the long term financial plan (LTFP) review completed for the March Finance Committee meeting.

Income budgets increased by \$36,500 in total. Expenditure budgets, noted later in this report, have been increased by \$412,000, resulting in a net decrease in the transfer to DWM reserves of \$375,500. Annual charges income has increased by \$36,500 based on actual levied.

Corporate and Community Division

Governance

Adopted budgets had included \$30,000 income from a Statewide Bonus Refund, a refund historically typically received by Council. Unfortunately, for the first year, due to COVID-19 and insurance claim history, no councils received this bonus this year.

Financial Services

The forecast income for Section 603 certificates has been increased by \$18,000, to \$90,000, based on trend. The adopted budget was conservative, but actual incomes generated are proving to be on par and slightly higher than the previous year.

General Purpose Revenues

Forecast income for rates has been increased by \$21,700 to \$25,742,700, to meet actual rates levied.

Information Services

An income budget of \$30,000 has been raised, being contributions of \$22,000 and \$8,000, respectively, from the water and wastewater funds. These contributions are for an asset management integration project, for which a \$90,000 expenditure budget has been raised.

People and Culture

Increases to budgeted income of \$26,700 for Long Service Leave contributions and \$7,000 for Statecover Workers Compensation Refund are to match budgets to amounts received.

Property Management

A comprehensive review of the income and expenditure budgets of Council's commercial properties has been completed for this review, with a large number of adjustments proposed.

A number of income budgets had been revised down for the adopted budgets, amidst the uncertainty of the economic impacts of the COVID-19 pandemic.

With two quarters of this financial year now behind us, it is pleasing to note that a number of incomes are exceeding those budgeted amounts.

Budgeted lease incomes for Council's investment properties have been increased by \$212,000 in total. Increases relate to Wigmore Arcade lease income of \$192,000, Wigmore Arcade outgoings recovered of \$40,000 and Fawcett Street Café lease income of \$11,000. These increases are offset slightly by a decrease for Norfolk Homes lease income of \$25,000 and ARC Building lease income of \$6,000.

Budgeted lease incomes for Council controlled properties on Crown Land have been increased by \$38,300 in total. These increases are for Old Tintenbar Council Chambers of \$31,300 and for the Old Ballina Library of \$7,000. Other lease/licence income has stayed the same in total.

Increases to budgeted income are noted for Waterways Structure lease income of \$2,500, Commercial/Industrial Land leases of \$2,000 and Footpath/Airspace lease income of \$3,700.

These increases are offset by a reduction in the budget for Commercial Use of Footpaths of \$8,000, as Council has resolved not to apply these charges for the remainder of this financial year.

All of the above budget adjustments impact on the transfers to the Community Infrastructure Reserve, Property Development Reserve or the Crown Properties Reserve.

Community Facilities

Community facility incomes have been revised up by a net \$16,500.

The forecast income for the Ballina Indoor Sports Centre has been increased by \$10,000, with a revised total budget of \$101,000. Stadium income was increased by \$20,000 and Casual Room Hire was decreased by \$10,000, based on trending for the year to date.

Forecast income for the Ballina Surf Life Saving Club has been increased by \$6,000, with a revised total budget of \$81,000. The increase was to the forecast Kiosk and Café Rent, from \$36,000 to \$42,000. This rent was subject to concessions in the first part of this financial year, but is now back to full terms.

Forecast income for the Alstonville Cultural Centre has been increased by \$2,500 to a revised income of \$22,500. The estimated income for the later part of this financial year relates to the agreement entered into with Byron Studios, which is variable dependent on passive or active use.

The agreement entered does defer the amount payable on the first three months (January to March 2021) until the 2021/22 financial year. However for budgeting and financial reporting purposes, this income will still be recognised (as a debtor) for the 2020/21 year.

Forecast income for the Richmond Room hall hire has been decreased by \$2,000, to \$13,000 based on trend.

Library

The budgeted income for the Library Subsidy received from the Library Council of NSW has been increased by \$4,000 to \$114,000 to match the funds received for the year.

Tourism

Grant funding of \$25,000 has been confirmed from the Tourism Australia Business Events Boost Program.

This funding, which will also have a cash Council co-contribution of \$16,500, is to be used for the delivery of three identified activities.

Activity one is for the development of a 'one stop shop' business events webpage. Activity two is for the creation of video assets and virtual site visits of venues and business events. The third activity is the creation of a suite of still photography and digital image library.

Budgeted income for Co-Operative Advertising has been reduced by \$19,000, to \$7,000, which is the amount of income received to date with no further income expected this financial year. The original budget had included \$15,000 for expected selling opportunities for adjoining councils at the new BP highway service centre, however these have not eventuated to date due to the restricted advertising from the pandemic.

Budgeted income for Souvenir Sales has been increased by \$5,000 to \$25,000, based on trend.

General Fund - Operating Expenses

Planning and Environmental Health Division

Strategic Planning

A new budget of \$10,000 has been raised for the Biodiversity Policy / Strategy. This expenditure is funded from Strategic Planning reserves.

The Professional Services budget has been reduced by \$5,000, to \$10,000, based on expenditure to date.

Development Services

The September quarterly budget review noted \$490,000 transferred to reserves as a result of costs awarded to Council.

Also reported to the November 2020 Ordinary meeting, in the Legal Matters Update report, was that there were a number of cases underway and it was expected that the legal expenditure budget would be exceeded, requiring a transfer back from reserves at a later time.

Based on costs incurred and committed to date, an increase of \$300,000 to the legals budget is proposed this quarter, to bring the total budget to \$600,000, funded from the legals reserve.

Savings of \$23,000 have been identified within other expenditure budgets, with the budget for advertising reduced by \$20,000, to \$4,000, and the budget for conferences reduced by \$3,000, to \$3,000.

Building Services

No adjustments are proposed to expenditure budgets for this quarter.

Salary budgets were increased in the September quarterly review to meet the high workload requirements in this section. Casual resources are being engaged where available.

Environmental and Public Health

Council has been awarded grant funding of \$66,000 under the MEMS funding, to be used for riparian rehabilitation on private lands. This represents a new expenditure item.

The conferences budget has been reduced by \$2,000 to \$2,000.

Public Order

Salary budgets are increased by \$20,000, to \$500,000, with the increase for this year to fund transition to retirement arrangements within the section.

The conferences budget has been reduced by \$2,000 to \$2,000.

Open Spaces

Savings have been identified within Open Spaces budgets, to partly offset a number of expenditure increases within the Open Spaces Building budgets, noted later in this report.

The budget for community property investigations has been reduced by \$5,000, to \$5,000, and the budget for Tree Repairs on Private Property has been reduced by \$5,000, to \$4,000.

Northern Rivers Community Gallery

As noted in the income section of this report, an expenditure budget of \$3,000 has been raised offsetting the grant funding received from Regional Arts NSW. This funding has been utilised for continued employment of the casual Creative Producer and Artist Facilitator.

The expenditure budget for Ignite Studios has also been increased by \$3,000 to partially reinstate the previous years' budget to ensure the Gallery can meet its monetary commitment for upcoming grant programs.

This increase is offset by the increase to operating income for Ignite Studios.

Open Spaces Buildings

The budgets for Open Spaces Buildings have been increased by a net \$39,000.

The budgets for Picnic Tables/Shelters maintenance and repairs has been increased by \$26,000, to \$60,000. The budget for Electric BBQs cleaning and maintenance has been increased by \$19,000, to \$57,000. These revised budgets are now at the same level as the previous year's actual spend.

The budget for public toilet vandalism has been increased by \$3,000, to \$42,000, as expenditure incurred to date is trending high.

This budget may also require a further increase in the next quarterly budget review.

A saving of \$3,000 has been identified for the Fawcett Park/Riverwalk Arcade cleaning budget, which has been revised down to \$3,000, based on review of actual expenditure from this year and last year.

A budget of \$6,000 had been adopted for the Fawcett Park/Riverwalk Arcade maintenance. This budget has not been utilised this year as yet, so has been transferred to reserves for future maintenance.

Civil Services Division

Asset Management

As noted in the income section of this report, an operating expenditure budget of \$6,600 has been created for small scale upgrade works to be completed on bus shelters, funded by grant income under the Country Passenger Transport Infrastructure Grants Scheme (CPTIGS).

Stormwater and Environmental Protection

This year's budgets for Open Drain Maintenance and Stormwater Drainage Maintenance have been increased by \$75,000 and \$25,000, to \$238,000 and \$141,000, respectively. This combined increase of \$100,000 has been funded by offsetting reductions to various roads operating budgets.

A new operating budget of \$6,000 has been created for Tanamera Drain Vegetation Maintenance. This amount has been transferred from stormwater capital budgets, as the amount is for ongoing maintenance of bush regeneration and the budget had been incorrectly classified as capital.

Roads and Bridges

Operating budget of \$100,000 in total has been transferred to the Stormwater section to fund required increases to stormwater maintenance budgets. The reductions made were for Urban Road Maintenance \$40,000, to \$267,000; Gravel Road Maintenance \$40,000, to \$593,000; and Rural Road Maintenance \$20,000, to \$84,000.

A further operating budget of \$49,500 has been transferred from Gravel Road Maintenance to roads capital budgets, for the required Council co-contribution for MEMS grant funding.

Ancillary Transport Services

Adopted budgets include \$39,000 for Wharves and Jetties General Maintenance. Based on expenditure for the year to date, expected savings of \$9,000 have been identified, with this budget revised to \$30,000 for this year.

Quarries and Sandpit

The budget for quarry maintenance has been increased by \$3,000, to \$6,000, for this year only.

Additional costs were incurred in December, including plant hire, in cleaning up the front of the Tuckombil Quarry to improve the maintenance of the site.

This increase in budgeted expenditure reduces the budgeted transfer to Quarry Reserve.

Landfill and Resource Management (LRM)

Expenditure budgets increased by a net \$879,000.

The forecast expenditure for transport of mixed waste has been increased by \$700,000 to \$2,300,000.

The forecast expenditure for bulk waste exportation and concrete and demolition waste has been increased by \$109,000 to \$1,000,000.

The budget for the transfer, preparation and loading of inert waste has been increased by \$26,000 to \$110,000.

These increases, more than offset by increases to gate fee income, are due to increase in volume of waste managed at the facility.

Supervision costs for the Ballina Transfer Station have been increased by \$37,000 to \$170,000, with higher costs resulting from the increase in customer numbers and volumes of waste.

Bailing Facility operation costs have been increased \$17,000 resulting from requirements for additional shed maintenance works post removal of the waste baler.

A new budget of \$15,000 has been raised for the payment of the Container Deposit Scheme (CDS) refund to Tenterfield Shire Council (TSC).

TSC deposit their kerbside recycling at Ballina Shire Council's waste facility. This is then bulked up with our materials and transported to the Polytrade Material Recycling Facility.

With TSC now entered into an agreement, these materials are eligible for the CDS refund. This budget is for the passing on of this CDS refund received by Council, back to TSC.

The cleaning budget has been increased by \$8,000 to \$20,000, with increased office cleaning requirements and frequency due to the COVID-19 pandemic.

Savings have been identified in the budget for green waste loading and transportation, with this budget reduced by \$33,000 to \$100,000, resulting from a new transport contract.

Domestic Waste Management (DWM)

Expenditure budgets increased by a net \$412,000.

As noted within the discussion of LRM income, gate fees charged by the waste centre for kerbside collection (income to LRM and expense to DWM) increased by \$320,000, to \$2,500,000. The budget for the recycling of domestic urban and rural has been increased by \$60,000 to \$540,000. The budget for the kerbside collection rural has been revised by \$45,000 to \$280,000.

The above increases have been due to increases in collection service numbers and waste volumes stemming from significant growth in residential development and population. This has been coupled with increased tourism visitation population and associated increased waste volumes generated during peak holiday periods.

An increase of \$30,000 to DWM office salaries, to \$470,000 has been proposed, with the reallocation of a portion of the Supervisor Waste salary allocated to DWM for tasks associated with the delivery of DWM services.

A new budget of \$30,000 for organic bin purchases has been created. The supply and delivery of organic bins was previously outsourced to Solo as a component of the collection contract. This contract was renewed this financial year and Council brought this service in house to improve customer service and realise operational efficiencies.

Savings have been realised for plant repairs, with a decrease to budget of \$73,000, due to the new fleet requiring less repairs.

Corporate and Community Division

Communications

The budget for advertising has been increased by \$10,000 to \$20,000, with costs incurred to date exceeding the original adopted budget. Partially offsetting this, the budget for postage has been reduced by \$6,000 to \$26,000.

Information Services

A new budget of \$90,000 is proposed for the asset management integration project. This expenditure is for the implementation of an Assets and Works Management system, provided by Council's software supplier, along with the consulting fee associated with the project.

This project is a long outstanding high priority and addresses internal audit recommendations.

The overall asset management framework in Council remains cumbersome and labour intensive and the implementation of this software is designed to generate operational efficiencies across a number of sections.

Proactive asset management and accurate depreciation modelling is a critical component of Council's financial management and service delivery.

It is anticipated that this project will commence in early February and continue through the calendar year.

This budget is being funded as \$22,000 contribution from the wastewater fund, \$8,000 contribution from the water fund and \$60,000 from the Corporate and Community Legal/Audit/Resources reserve. This allocation of costs between the funds reflects the approximate proportions of asset values for the funds.

People and Culture

The budget for Workers Compensation has been increased by \$78,000 to \$513,000, to meet known costs for this year. These costs include \$68,000 payable as an adjustment to the 2019/20 premium and a \$9,700 top up adjustment to the 2020/21 policy.

Property Management

The budget for Property Assessment and Evaluation has been increased by \$4,000 to \$15,000 to cover costs incurred this year.

As noted in the income section of this report, a detailed review has been required for Council's commercial properties. This has resulted in a required increase for some operating budgets, as noted below.

Wigmore Arcade operating budgets are increased by \$6,500 in total. The budget for Building Maintenance is increased by \$5,000, to \$15,000 and the budget for Insurance is increased by \$1,500, to \$9,500.

The original adopted budget for Wigmore's Building Maintenance, of \$10,000, was significantly lower than historical budgets.

The increase to the Wigmore insurance budget is to meet actual costs incurred.

Fawcett Street Café operating budgets are increased by \$10,000, with the budget for Building Maintenance increased by \$10,000, to \$12,000. The current year costs have included \$9,700 plumbing for the rectification of roofing works.

Tamar Street operating budgets are increased by \$2,700, with the budget for insurance increase to meet the actual costs incurred.

The budget for maintenance of Council owned other commercial properties has been increased by \$5,000 to \$15,000. The original adopted budget, of \$5,000, was significantly lower than historical budgets.

The budget for maintenance and repairs for Old Tintenbar Council Chambers is increased by \$7,000 to \$15,000. This increase is required due to the identified need for major works to be completed, necessitated as this is an ageing building.

A budget of \$9,500 has been raised for the rates payable for Wollongbar Estate. This requires a budget as the land is still on hand for this year.

As with the income adjustments, the above budget adjustments impact on the transfers to the Community Infrastructure Reserve, Property Development Reserve or the Crown Reserves Reserve.

Flat Rock Tent Park (FRTP) operating budgets are proposed to have an increase of \$25,000 in total.

The budget for FRTP Maintenance Contractors has been increased by \$15,000 to \$20,000. Costs incurred include upgrading of internet connections including new masts, fire hose reel works and the installation of an early warning system for evacuation procedures.

The budget for FRTP Manager's Residence has been increased by \$8,000 to \$11,000. Additional painting and maintenance works were undertaken in preparation of new managers. The budget for FRTP General Maintenance has been increased by \$2,000 to \$10,000, based on trend.

Adjustments to Flat Rock Tent Park budgets impact on the transfer to the Flat Rock Reserve.

Community Facilities

Community facility expenses have been revised up by a net \$16,000.

Expenditure budgets for the Lennox Head Cultural Centre (LHCC) have been increased by \$20,000.

The budget for LHCC cleaning contracts has been increased by \$10,000 to \$57,000 and the budget for LHCC maintenance has been increased by \$5,000 to \$40,000.

9.6 Financial Review - 31 December 2020

The original adopted budgets had been set low, in view of the COVID-19 pandemic. The revised budgets are in line with the prior year actual costs indexed.

The budget for LHCC office furniture and equipment has been increased by \$5,000 to \$7,000, to cover expenditure incurred which included new chairs.

This increase has been funded from a transfer of budget from the capital budget for the Lennox CWA Hall, amended from \$25,000 to \$20,000.

Gallery maintenance and painting budgets sit within the Community facilities section.

The budget for the Gallery painting has been increased by \$4,000 to \$12,000. This increase has been offset by a decrease to the halls maintenance budget.

Expenditure budgets for the Alstonville Cultural Centre have been decreased by \$7,000, with the budget for electricity amended from \$10,000 to \$3,000.

The electricity expenses are now the responsibility of Byron Studios whilst operating under the current agreement.

The public halls insurance budget has been increased by \$2,000 to \$14,000, to meet actual costs incurred.

Tourism

A new expenditure budget, of \$33,900 has been raised for the Tourism Australia Business Events Boost Program.

This budget is funded by grant funding of \$25,000 and a transfer of \$8,900 from the Tourism Promotions budget.

In addition to the budget of \$33,900 within the Tourism section, a further \$7,600 will be spent on this program, with that amount to be costed directly to the Airport Promotions budget.

The total cash expenditure for the projects for the tourism section and airport combined will come to \$41,500, in accordance with the funding agreement.

Water Operations

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

The following table details the forecast operating result for the Fund.

Water - Statement of Operating Income and Expenses

Item	Original Budget	Sept Budget	Approved Changes	Revised Budget	Changes for Approval	Dec Budget	Actual to Dec
Operating Income	13,657	13,423	0	13,423	61	13,484	5,949
Operating Expenses (excl. dep)	11,268	11,330	0	11,330	0	11,330	5,496
Operating Result Before Dep	2,389	2,093	0	2,093	61	2,154	453
Depreciation and Non-cash	1,570	2,270	0	2,270	0	2,270	1,135
Net Operating Result	819	(177)	0	(177)	61	(116)	(682)

The **Forecast Operating Result** (inclusive of depreciation) **as at December** is a deficit of \$116,000, an improvement of \$61,000 from the forecast deficit of \$177,000 as reported to the November meeting.

Future year forecasts show the Water Fund Operating Result as returned to surplus.

A recent review of the Water Fund depreciation expense has been completed. The forecast of \$1,570,000, as adopted, is considered to be a best estimate of the depreciation expenses for this year. No changes to the forecast are proposed.

Forecast operating income has been increased by a very moderate \$61,000. This adjustment is to the forecast for residential water access, bringing the budget to agree to actuals. The revised budget for residential water access charges is \$3,508,200.

No changes are proposed for the forecasts for non-residential water access, as these appear on trend, being 50% through the year. The budget for non-residential water access charges is \$745,000.

No adjustments have been proposed for water consumption income forecasts. These are potentially very variable estimates, however appear to be reasonably on trend for the period to date. Total budgets for water consumption income are \$8,220,000.

Forecast operating expenses have remained the same in total, with a number of adjustments which net out to nil.

Budgets for reservoir maintenance and reservoir operations have been increased by \$70,000 and \$30,000, respectively.

The revised budgets are \$125,000 and \$52,000, respectively.

Budgets for service connections maintenance and mains maintenance have been decreased by \$58,000 and \$50,000, respectively. The revised budgets are \$322,000 and \$580,000, respectively. These adjustments are based on how the actual expenditure to date is trending.

The budget for contributions to General Fund has been increased by \$8,000. This is for a contribution towards the Information Services Business Process Alignment Works Management Project (implementation of the Assets and Works Management).

Wastewater Operations

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

The following table details the forecast operating result for the Fund.

Wastewater- Statement of Operating Income and Expenses

Item	Original Budget	Sept Budget	Approved Changes	Revised Budget	Changes for Approval	Dec Budget	Actual to Dec
Operating Income	20,602	20,881	0	20,881	209	21,090	17,785
Operating Expenses (excl. dep)	13,383	13,603	0	13,603	0	13,603	6,362
Operating Result Before Dep	7,219	7,278	0	7,278	209	7,487	11,423
Depreciation and Non-cash	3,750	4,420	0	4,420	80	4,500	2,250
Net Operating Result	3,469	2,858	0	2,858	129	2,987	9,173

The **Forecast Operating Result** (inclusive of depreciation) **as at September** is a surplus of \$2,987,000, an improvement of \$129,000 from the surplus forecast of \$2,858,000 as reported to the November Council meeting.

An adjustment to the Net Operating Result for the Wastewater Fund is a review of the Depreciation and Non-Cash line item.

A recent review of forecast depreciation for the wastewater fund has been undertaken, with a small increase of \$80,000, to \$3,830,000, proposed.

This review of the depreciation charge causes a deterioration in the forecast Net Operating Result for the Wastewater Fund.

Forecast operating income has been increased by a \$210,000.

Adjustments of \$140,000 and \$20,000 has been made to the forecast for residential wastewater access and non-residential access charges, the fund's most significant income source, bringing the budget to agree to actuals.

The revised total budget for access charges is \$18,570,000.

The budget for consumption charges for residential recycled water has been increased by \$50,000 to \$375,000, based on trending of actuals to date.

Forecast operating expenses have remained the same in total, with a number of adjustments which net out to nil.

The budget for mains maintenance has been decreased by \$100,000, to a revised budget of \$645,000.

Budgets for treatment scheduled maintenance and treatment operations have been decreased by \$40,000 and \$30,000, respectively.

The revised budgets are \$486,000 and \$1,348,000, respectively.

Budgets for energy costs and pumping station maintenance have been increased by \$75,000 and \$50,000, respectively. The revised budgets are \$1,206,000 and \$766,000, respectively.

These adjustments are based on how the actual expenditure to date is trending.

The expenditure budget for rental properties owned by the Wastewater Fund has been increased by \$20,000, to \$36,000.

This required increase relates to 70 Fishery Creek Road, which required works prior to relisting the property for occupation.

9.6 Financial Review - 31 December 2020

Works included repairs for a major water leak in the bathroom, the replacement of garage doors, repairing of fencing and some carpet replacement.

The budget for contributions to General Fund has been increased by \$22,000.

This is for a contribution towards the Information Services Business Process Alignment Works Management Project (implementation of the Assets and Works Management).

Section Three – Capital Budgets 2020/21

This section of the report looks at capital expenditure.

General Fund - Capital Budget - Source and Application of Funds

Capital Funding / Expenditure	Original Budget	Sept Budget	Approved Changes	Revised Budget	Changes for Approval	Dec Budget	Actual to Dec
General Fund Funding							
General revenue	7,259	7,163	(678)	6,485	43	6,528	
Reserves	12,692	16,994	(2,802)	14,192	270	14,462	
Loans	10,900	11,400	(4,500)	6,900	0	6,900	
Section 7.11 contributions	5,136	5,574	(1,692)	3,882	0	3,882	
Grants and contributions	10,499	12,334	(1,565)	10,769	312	11,081	
Total Funding	46,486	53,465	(11,237)	42,228	625	42,853	
General Fund Expenditure							
Planning and Environmental Health Division							
Environment and Public Health	895	1,220	0	1,220	0	1,220	993
Public Order	20	20	0	20	0	20	0
NRCG Gallery	0	91	0	91	0	91	4
Open Spaces –Parks /Reserves	3,479	3,624	(1,175)	2,449	0	2,449	406
Open Spaces - Sporting Fields	600	1,260	261	1,521	100	1,621	755
Open Spaces Buildings	160	299	270	569	0	569	151
Strategic Planning	0	143	0	143	0	143	35
Civil Services Division							
Asset Management	0	50	0	50	22	72	50
Stormwater and Env Protection	1,048	1,432	0	1,432	(6)	1,426	257
Roads and Bridges	22,233	24,149	(5,152)	18,997	239	19,236	5,582
Ancillary Transport Services	1,839	2,469	380	2,849	0	2,849	1,282
Water Transport and Wharves	0	180	(150)	30	0	30	0
Transport for NSW	77	140	0	140	0	140	37
Emergency Services	900	925	(700)	225	0	225	45
Waste Management	505	530	0	530	0	530	11
Corporate and Community Division							
Property	4,440	4,872	0	4,872	25	4,897	665
Flat Rock Tent Park	20	55	0	55	0	55	25
Ballina-Byron Gateway Airport	4,405	5,720	(4,000)	1,720	250	1,970	100
Community Facilities	1,689	1,790	(312)	1,478	(5)	1,473	824
Swimming Pools	400	302	0	302	0	302	313
Fleet and Plant	2,727	3,194	(465)	2,729	0	2,729	321
Admin Centre and Depot	924	1,000	(194)	806	0	806	49
Total Capital Expenditure	46,361	53,465	(11,237)	42,228	625	42,853	11,905

General Fund

Council reviewed the capital works program at the January 2021 Ordinary meeting. Further adjustments to capital budgets are as follows.

Planning and Environmental Health Division

Open Spaces

A capital expenditure budget of \$100,500 has been created for the Ballina Community Men’s Shed. The total expenditure for this project is \$150,000. This project is fully grant funded through the Stronger Country Communities Fund (Round 2). An amount of \$49,500 was received, by grant funding, in the 2018/19 financial year. The remaining expenditure, and associated grant funding, is to be completed this financial year.

This shed, which is being built on Council controlled land, will be treated as a dedicated asset to Council on completion, that is, the value of construction will be recorded as a Council asset.

An offsetting capital income budget of \$100,500 has also been raised for this year.

Civil Services Division

Asset Management

A new capital budget of \$22,000 relates to the capital component of the bus shelter works to be completed, funded by grant income under the Country Passenger Transport Infrastructure Grants Scheme (CPTIGS). This budgeted expenditure is for two new bus shelters.

Stormwater and Environmental Protection

Budgets decreased by \$6,000, being a transfer to operating budgets as follows:

Works	Adjustment (\$)	Comments
Stormwater Tanamera Drain	-6,000	Transfer of budget to New Operating Budget for Tanamera Regeneration Works. These funds are for the ongoing maintenance of bush regeneration and had been incorrectly classified as a capital budget.
Total	-6,000	

Roads and Bridges

Budgets increased by a net total of \$239,000. The changes are as follows:

Works	Adjustment (\$)	Comments
Gap Rd segment 130	66,100	New budget, funded by MEMS grant (a total of \$189,500 MEMS funding allocated to the Roads and Bridges section plus a total Council co-contribution of \$49,500 reallocated from road operating budgets) allocated to Gap Rd seg 130, Newports Lane seg 10 and Sandy Flat Rd seg 20.
Newports Lane segment 10	93,800	As above.
Sandy Flat Rd segment 20	79,100	As above.
Chesworth Lane Dust Seal	15,000	Transfer of budget from Rural Road Reseals. Revised budget of \$135,000.
Rural Road Reseals	-15,000	Transfer of budget to Chesworth Lane Dust Seal. Revised budget of \$469,000.

Works	Adjustment (\$)	Comments
Ballina Bypass	-12,000	Transfer of budget to Barlows Rd seg 20. Revised budget of \$146,000.
Old Bagotville Rd	75,000	New budget, funded from the Woolgoolga to Ballina (WTB) budget.
Mass Haul Roads	53,800	New budget, funded from the Woolgoolga to Ballina (WTB) budget.
Back Channel Rd	110,000	New budget, funded from the Woolgoolga to Ballina (WTB) budget.
Wardell Rd and Lumleys Lane	90,500	New budget, funded from the Woolgoolga to Ballina (WTB) budget.
Wollongbar to Ballina (WTB) Local Road Haulage Route Funding	-329,300	Allocation of WTB funds to specific jobs as noted above.
Total	+239,000	

Corporate and Community Division

Property

A new capital budget of \$25,000 has been proposed for expenditure incurred for the installation of two new air conditioning units at the Tamar Street property. These costs are over Council's asset capitalisation threshold, and are capital costs rather than maintenance costs.

This budget is funded from the Property Development Reserve.

Ballina-Byron Gateway Airport

A report to the Commercial Services Committee meeting held in December 2020 discussed required capital budgets for the Apron Upgrades and Baggage Area.

A total budget of \$1,600,000 was identified for the Apron Upgrades and Concrete Pads. It is anticipated that \$200,000 of this will be expended in the 2020/21 year, and hence a budget is raised for this amount. The remainder of this expenditure proposed for 2021/22.

A total budget of \$2,100,000 was identified for the Terminal Baggage Area Expansion. It is anticipated that \$50,000 of this will be expended in the 2020/21 year, and hence a budget is raised for this amount. The remainder of this expenditure is proposed for 2021/22.

Facilities Management

The capital budget for the Lennox CWA Hall has been reduced from \$25,000 to \$20,000. This reduction was made to offset an increase to the Lennox Cultural Centre operating budget, noted above in the operating expenses section of this report.

Water Fund

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

Capital Funding / Expenditure	Original Budget	Sept Budget	Approved Changes	Revised Budget	Changes for Approval	Dec Budget	Actual to Dec
Water Fund Funding							
Reserves	2,611	2,329	453	2,782	0	2,782	
Section 64 contributions	0	52	163	215	0	215	
Total Funding	2,611	2,381	616	2,997	0	2,997	
Water Fund Expenditure							
Main Renewal	470	876	268	1,144	0	1,144	899
Reservoirs	0	322	0	322	0	322	3
Water pump and bores	0	52	0	52	0	52	0
Trunk mains	0	32	0	32	0	32	4
Treatment Plant	1,708	548	0	548	0	548	29
Plant	123	123	0	123	0	123	0
Connections	300	300	185	485	0	485	0
Other	10	128	163	291	0	291	243
Total Capital Expenditure	2,611	2,381	616	2,997	0	2,997	1,391

Council reviewed the capital works at the January 2021 Ordinary meeting. No further adjustments are proposed.

Wastewater Fund

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

Capital Funding / Expenditure	Original Budget	Sept Budget	Approved Changes	Revised Budget	Changes for Approval	Dec Budget	Actual to Dec
Wastewater Fund Funding							
Reserves	2,400	2,741	(90)	2,651	0	2,651	
Section 64 contributions	5,134	3,880	(1,319)	2,561	0	2,561	
Total Funding	7,534	6,621	(1,409)	5,212	0	5,212	
Wastewater Fund Expenditure							
Pumping stations	988	912	(250)	662	0	662	129
Treatment Plants	4,564	3,394	(1,425)	1,969	0	1,969	80
Trunk Mains	0	0	0	0	0	0	0
Mains renewals	1,000	1,171	(620)	551	0	551	16
Service Connection	0	0	0	0	0	0	17
Plant	191	422	0	422	0	422	249
Reuse program	775	600	(40)	560	0	560	16
Other	16	122	926	1,048	0	1,048	953
Total Capital Expenditure	7,534	6,621	(1,409)	5,212	0	5,212	1,460

Council reviewed the capital works at the January 2021 Ordinary meeting.

Further adjustments to capital budgets are as follows:

Works	Adjustment (\$)	Comments
DAF Shed Refit	+15,000	New budget, funded from Wastewater Treatment Plant Ballina (Minor Works).
Wastewater Treatment Plant Ballina (Minor Works)	-15,000	Transfer of budget to above. Revised 2020/21 budget of \$9,000.
Total	Nil	

The new budgeted expenditure relates to the relocation of the fitters workshop into the DAF (Dissolved Air Flootation) shed.

Section Four – Cash and Investment Statement

The next table shows the projected (30 June 2021) externally and internally restricted reserves.

Forecast Restricted Reserves as at 30 June 2021 (\$'000)

Title	After Carry Forwards Budget	Sept Budget	Approved Changes	Revised Budget	Changes	Sept Budget
Externally Restricted						
Section 7.11	13,463	12,376	1,692	14,145	0	14,145
Domestic Waste Management	1,207	1,163	0	1,163	(375)	788
Section 64 Water	10,812	10,812	(163)	10,649	0	10,649
Water	9,441	10,026	(453)	9,573	61	9,634
Section 64 Wastewater	5,116	6,416	1,319	7,735	0	7,735
Wastewater	5,321	5,456	90	5,546	209	5,755
Total Externally Restricted	45,360	46,249	2,485	48,811	(105)	48,706
Internally Restricted						
Council Elections	300	300	0	300	0	300
Financial Assistance Grant	2,418	2,418	0	2,418	0	2,418
Legal/Audit/Revaluations	401	395	0	395	(60)	335
Employee Leave Entitlements	2,994	2,994	0	2,994	0	2,994
Risk Management/Insurance	181	181	0	181	0	181
Community Infrass Reserve	2,129	2,024	1,400	3,424	(27)	3,397
Property Development Reserve	601	345	0	345	177	522
Wigmore Arcade	496	496	0	496	0	496
Crown Properties Rental	40	40	0	40	31	71
Flat Rock Tent Park	206	206	0	206	(25)	181
Airport	(260)	(203)	1,146	943	(250)	693
Community Facilities	179	179	469	648	0	648
Library Special Projects	190	190	0	190	0	190
Plant Renewal/Replacement	(84)	(84)	(35)	(119)	0	(119)
Administration Centre and Depot	0	0	269	269	0	269
Bushfire Recovery	0	0	300	300	0	300
Strategic Planning Studies	394	351	0	351	(10)	341
Sec 7.11 Plan Reviews	385	385	0	385	0	385
Public Art	89	89	0	89	0	89
Quarries Baseline Survey	43	43	0	43	0	43
Healthy Waterways	383	383	0	383	0	383
Coastal Management Plans	115	115	0	115	0	115
Other PEHD	87	68	0	68	0	68
Legal Services	0	490	0	490	(300)	190
Vegetation Works	202	217	0	217	0	217
Other Open Spaces	74	74	919	993	6	999
Sports Fields	73	73	0	73	0	73
Cemeteries	315	315	0	315	0	315
Stormwater Capital	226	226	0	226	0	226
Stormwater / Environ Mgmt Plans	362	262	0	262	0	262
Bypass Funds	3,372	3,295	0	3,295	0	3,295
Roadworks	1,153	1,153	553	1,706	0	1,706
Other Civil	75	25	0	25	0	25
Ancillary Footpaths	169	294	30	324	0	324
Boat Ramps and Infrastructure	145	25	75	100	0	100
Rural Fire Service	30	30	0	30	0	30
Quarries	738	738	0	738	(3)	735
Landfill, Resource Management	512	1,011	0	1,011	421	1,432
Total Internally Restricted	18,733	19,220	5,126	24,269	(40)	24,229
Total Restricted	64,093	65,469	7,611	73,080	(145)	72,935

Statements

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

2. As per the investments summary for December 2020, funds invested amounted to \$91,788,300. All restricted monies are included in these investments.
3. Cash has been reconciled to the bank statement as at 31 December to the amount of \$3,321,424.
4. Actual year to date cash and investments amounted to \$95,109,724 at 31 December 2020.

This amount includes cash at bank of \$3,321,424 and funds invested of \$91,788,300 which has been reconciled to bank statements and investment reports.

Comment on Cash and Investment Position

The changes in this report decrease the reserves by a net \$145,000, resulting in the current forecast restricted reserves of \$72.935 million.

All changes to reserves made as part of this review have been noted earlier in this report within either 'Section One-Operating Income and Expenditure' or 'Section Two – Capital Budgets'. The larger changes made as part of this review, of \$10,000 or more, are summarised as follows.

Domestic Waste Management

There is a decrease of \$375,500 to this reserve representing a deterioration in forecast operating result.

Water Reserves

Net reserves increased by \$61,000 being the net of adjustments made to operating budgets within this report.

Wastewater Reserves

Net reserves increased by \$209,000 being the net of adjustments made to operating budgets within this report.

Corporate and Community Division Legal/Audit/Resource Reserves

An amount of \$60,000 has been utilised towards the Information Services Business Process Alignment Works Management Project (implementation of the Assets and Works Management).

Community Infrastructure Reserve

There is a decrease of \$27,100 to this reserve, being \$25,000 funding for the Tamar Street property's air conditioning and \$2,100 increased budget for insurance.

Property Development Reserve

There are a number of adjustments that have impacted on this reserve:

- Wigmore Arcade increase to income of \$232,000, offset by increase to expenditure of \$6,500 (overall positive)
- Footpaths and Airspace increase to income of \$3,700 (positive)
- Waterways Structures increase to income of \$2,500 (positive)
- Commercial and Industrial Land increase to income of \$2,000 (positive)
- Norfolk Homes income decrease of \$25,000 (negative)
- Wollongbar Estate expenditure increase of \$9,500 for rates (negative)
- Commercial Use of footpaths decrease to income of \$8,000 (negative)
- ARC building decrease of \$6,000 (negative)
- Other Council owned commercial properties increase to expenditure of \$5,000 (negative)
- Property Assessment and Evaluation increase to expenditure budget of \$4,000 (negative)

Crown Properties Reserves

There is a net increase of \$31,300 to this reserve.

There is increased income of \$31,800 for the Old Tintenbar Council Chambers and \$6,500 for the Old Ballina Library, offset by an increase of \$7,000 to the expenditure budgets for the Old Tintenbar Council Chambers.

Flat Rock Tent Park

Net reserves decreased by \$25,000, being the net of adjustments made to operating budgets within this report.

Airport Reserves

Net reserves decreased by \$250,000, being the adjustments for capital expenditure projects being brought forward into the 2020/21 year.

Strategic Planning

This reserve has a decrease of \$10,000, to fund expenditure for the biodiversity policy / strategy.

Legal Services

Increase to the legal expenses budget, of \$300,000, has been funded from this reserve.

Landfill and Resource Management (LRM)

There is an increase of \$421,000 to this reserve being an improvement in the operating result.

Section Five - Key Performance Indicators

This section of the report takes selected financial benchmarks and compares the 30 June 2019 and 2020 ratios with the forecast at December to 30 June 2021.

The performance indicators have a short term focus, which suits the quarterly review.

Each ratio typically contains numerous variables and the forecast should be viewed as a guide only.

Key Performance Indicators - Description

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

Measured: as a ratio

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

Indicator type: Financial Position

Benchmark: >1.5:1 (NSW Code of Accounting Practice)

2. **Operating Performance Ratio** – Total continuing operating revenue (excluding capital grants/contributions and fair value adjustments) less operating revenue (excluding capital items and profit or loss on sale) as a percentage of continuing operating revenue (less capital items and fair value adjustments).

Measured: as a ratio

Purpose: this percentage measures whether the Council is sustainable in terms of its operating result.

Council should not be recording recurring operating deficits or funding operating results from capital revenue.

Indicator type: Financial Performance

Benchmark: = > 0: 1 (NSW Code of Accounting Practice)

3. **Debt Service Cover Ratio** – Operating result (excluding fair value adjustments, capital grants/contributions, depreciation/amortisation, interest expense and profit or loss on sale) as a percentage of loan interest and capital payments.

Measured: as a ratio

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

Indicator type: Financial Position

Benchmark: >2:1 (NSW Code of Accounting Practice)

Benchmark Indicators – General Fund

1. Unrestricted Current Ratio – General Fund

Benchmark: >1.5:1

2018/19	2019/20	2020/21 Dec
Actual	Actual	Estimate
3.18:1	2.51:1	1.87:1
Pass	Pass	Pass

Comment

The General Fund is expected to continue to meet this benchmark, although it is noted that there has been a deterioration in this ratio in comparison to 2019/20.

The calculation of this ratio is based on the assumption that all expenditure identified, such as the capital works, in the 2020/21 budgets will be expended in that year, but in reality some deferrals to the following year may occur, and that would improve the resulting ratio.

2. Operating Performance Ratio – General Fund

Benchmark: >0

2018/19	2019/20	2020/21 Dec
Actual	Actual	Estimate
3.11%	-1.88%	-6.83%
Pass	Fail	Fail

Comment

This is a key ratio for “Fit for the Future” assessments and has historically been a difficult benchmark to achieve. The ratio is affected by many variables.

The General Fund failed this benchmark in 2019/20. The current LTFP forecasts that this benchmark will not be met until 2023/24.

The strategy to improve this ratio is to continue to closely monitor, maintain and even reduce operating expenses and increase income.

3. Debt Service Cover Ratio – General Fund

Benchmark: > 2

2018/19	2019/20	2020/21 Dec
Actual	Actual	Estimate
4.03	3.59	2.87
Pass	Pass	Pass

Comment

The strategy to continue to meet the benchmark is to limit further borrowings, unless matched by offsetting revenues, and strengthen the operating result by a combination of increasing income and decreasing expense. Based on the current projections in the LTFP, the General Fund is forecast to pass the benchmark, both for the current year and for future years.

Benchmark Indicators - Water

1. Unrestricted current ratio - Water

Benchmark: >1.5:1

2018/19	2019/20	2020/21 Dec
Actual	Actual	Estimate
94.28:1	81.76:1	59.76:1
Pass	Pass	Pass

Comments

The ratio meets the benchmark comfortably as the Fund has reasonable reserves and no debt.

2. Operating Performance Ratio - Water

Benchmark: > 0

2018/19	2019/20	2020/21 Dec
Actual	Actual	Estimate
15.47%	8.14%	4.33%
Pass	Pass	Pass

Comments

The Water Fund has achieved a positive operating performance ratio and this trend is expected to continue for future years, although has deteriorated as the forecast surplus is lower than previous years.

3. Debt Service Cover Ratio - Water

Benchmark: >2

2018/19	2019/20	2020/21 Dec
Actual	Actual	Estimate
0.0	0.0	0.0
N/A	N/A	N/A

Comments

The Fund has no external borrowings.

Benchmark Indicators - Wastewater

1. Unrestricted current ratio - Wastewater

Benchmark: >1.5:1

2018/19	2019/20	2020/21 Dec
Actual	Actual	Estimate
0.89:1	1.45:1	0.82:1
Fail	Fail	Fail

Comments

This ratio is expected to improve and meet the benchmark in 2021/22.

2. Operating Performance Ratio - Wastewater

Benchmark: >0

2018/19	2019/20	2020/21 Dec
Actual	Actual	Estimate
12.18%	12.95%	14.16%
Pass	Pass	Pass

Comments

The Water Fund has achieved a positive operating performance ratio and this trend is expected to continue for future years.

3. Debt Service Cover Ratio - Wastewater

Benchmark: > 2

2018/19	2019/20	2020/21 Dec
Actual	Actual	Estimate
1.30	1.43	1.81
Fail	Fail	Fail

Comments

This ratio will fail the benchmark for several years due to the extremely high level of borrowings.

The forecast is that the ratio will gradually improve year on year as the operating surplus continues to grow, with current projections in the LTFP indicating that the fund will meet the benchmark in 2024/25.

Section Six – Contractors/Consultants/Legal Expenses

Contractors

New contracts entered into during the quarter that meet the definition are detailed in the table below.

9.6 Financial Review - 31 December 2020

Contractor Name	Purpose	Amount (GST Incl)	Award Date	Duration of Contract	Incl in Budget Yes/No
Hazell Bros (Qld) Pty Ltd	Construction Airport Boulevard	\$5,376,100	18/12/20	7 months	Yes
Rapiscan Pth Ltd	Supply of Body Scanning and Luggage X-Ray	\$449,100	15/12/20	3 months	Yes
Advanced Concrete Engineering Pty Ltd	Basalt Court Reservoir – Access Upgrade and Maintenance	\$271,200	7/12/20	15 months	Yes

Consultants

The Office of Local Government defines a consultant as:

A consultant is a person or organisation engaged under contract on a temporary basis to provide recommendations or high level specialist or professional advice to assist decision making by management. Generally it is the advisory nature of the work that differentiates a consultant from other contractors.

Total expenditure to 31 December 2020 on consultants that meet this definition is as follows.

Item	Expenditure YTD (excl GST)	Included in Budget Y/N?
Consultancies	\$545,900	Yes

Legal Expenses

The next table summarises the expense incurred to the end of December 2020 on legal fees.

For the purposes of the report legal fees have been included where there is a dispute situation.

This includes for example recovery of rates not paid but excludes processing of infringement notices (no dispute at this point) and amounts paid to legal firms that may be related to the creation of a lease or sale of land.

Item	Expenditure YTD (excl GST)	Included in Budget Y/N?
Legal Fees	\$341,500	Yes*

**This report proposes an increase of \$300,000 to the budgets for legal expenses.*

Section Seven - Certification

The following statement is made in accordance with clause 203(2) of the Local Government (General) Regulations 2005.

It is my opinion that the Quarterly Budget Review Statement for Ballina Shire Council for the quarter ended 31 December 2020 indicates that Council's projected financial position at 30 June 2021 will be satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

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



Signed Linda Coulter, Responsible Accounting Officer

Delivery Program Strategy / Operational Plan Activity

The content of this report relates directly to the financial sustainability of Council.

This is identified within Council's adopted Delivery Program, under Direction 4: Engaged Leadership.

EL2.1g - Pursue compliance with the Fit for the Future Program.

Community Consultation Policy

This report has been prepared to inform the community of budget variations. Staff have been consulted in the preparation of this report.

Financial / Risk Considerations

This report informs Council of actual financial results to date in comparison to budget.

Options

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

RECOMMENDATION

That Council notes the contents of the December 2020 Quarterly Budget Review and approves the changes identified within this report.

Attachment(s)

Nil

10. Civil Services Division Reports

10. Civil Services Division Reports

Nil Items

11.1 Notice of Motion - Lennox Village Vision Project - Lennox Park Shelter

11. Notices of Motion

11.1 Notice of Motion - Lennox Village Vision Project - Lennox Park Shelter

Councillor

Cr Eoin Johnston

I move

1. That the adopted Lennox Village Vision Concept Plan be amended to retain the weather shed / pavilion in Lennox Park due to its historical significance and cultural value within the local community.
2. That Council receive a report on the option of restoring this structure, as much as possible, to its original condition, using contemporary materials, as part of the Lennox Village Vision project.

Councillor Comments

Lennox Head is a village shaped by its intrinsic connection with the ocean and surf culture which is inherent in Australia's coastal lifestyle.

The pavilion was built in 1945 and has been used by thousands of people over the years for many reasons. It has protected belongings from the rain, sheltered families from the heat and hosted many a late night chat amongst friends.

Other well-known towns and suburbs along the coast have recognised the value of preserving such a structure so as to provide a glimpse into the character and history of a bygone era.

The Lennox park component of the Lennox Village Vision project is not yet funded by Council, and prior to undertaking any works it is reasonable to understand the cost of restoring this structure to its original condition, as much as possible.

Staff Comments

The Lennox Village Vision (LVV) project has been on-going for many years, more recently commencing in 2018.

Prior to exhibition of the Draft Concept Plans 1,953 responses to engagement activities had been received with an additional 112 being received during public exhibition via written submission and via an online feedback form. Council adopted the concept plan for Lennox Village Vision at the August 2020 meeting, which included removal of the existing brick shelter as part of the design outcomes.

The community design charrette determined that the place they wanted Lennox Reserve Park to be was:

Predominantly passive green space for day to day recreation and low impact community events.

11.1 Notice of Motion - Lennox Village Vision Project - Lennox Park Shelter

During the design charrette there was no clear group direction from these discussions on the preference for removal or retention of the brick shelter.

Based on the community design charrette, and the submissions received before and during the exhibition process, reasons for removal and retention can be summarised as follows.

Reasons for removal	Reasons for retention
Opening up the park views, improving the outlook/blocks views from the street and businesses towards the ocean	Cultural relevance as an informal meeting place
Room available for better and new amenities (toilet and change room)	Personal significance attached to memories
A bigger and uncluttered open space for events	Sheltered picnic destination which provides for larger groups to gather
Poor aesthetic / unsightly / barely used. Open spaces section have reported that they have repeated issues with anti-social behaviour in these shelters which results in additional maintenance and cleaning.	Based upon current submissions and observations of social media post exhibition, some community members associate the shelter with fond memories of when they were younger. The shelter is used at Christmas time as a montage photo opportunity.
The only remaining original parts of the shelter are the floor slab and brick walls which have been rendered. The original tile roof was replaced with colourbond sheeting after storm damage. Retaining the shelter in its current condition is not an option. As a minimum structural repair works would be required to the roof as there is evidence of deterioration of non-stainless steel fixings.	The shelter is used by some people as a sheltered place to wait for the bus although it is not ideally positioned to support the existing or new bus bay location in terms of visibility (the new plans would provide another new protected location to wait for the bus)
Whilst the shelter may have personal value to some members of the community it is not "heritage listed".	This is one of the only public buildings which were part of the original urban fabric of Lennox Head village centre remaining.
The current furniture placement does not allow for compliant accessibility circulation. The placement and design of furniture would need to be reconsidered to make it compliant which would likely result in a reduction in furniture provision.	Based upon current submissions and observations of social media post exhibition, some community members associate the shelter with fond memories of when they were younger. The shelter is used at Christmas time as a montage photo opportunity.

COUNCILLOR RECOMMENDATIONS

1. That the adopted Lennox Village Vision Concept Plan be amended to retain the weather shed / pavilion in Lennox Park due to its historical significance and cultural value within the local community.
2. That Council receive a report on the option of restoring this structure, as much as possible, to its original condition, using contemporary materials, as part of the Lennox Village Vision project.

Attachment(s)

Nil

11.2 Notice of Motion - Cumbalum Interchange

11.2 Notice of Motion - Cumbalum Interchange

Councillor

Cr Meehan

I move

That Council seek a deputation meeting with the Minister for Transport and Roads NSW Andrew Constance, to discuss the construction of north (off) and south (on) ramps at the Cumbalum - Pacific Motorway interchange and traffic capacity in Ballina generally, as a Regional Growth Centre. That the Minister for Regional Transport and Roads Paul Toole, also be informed.

Councillor Comments

With the completed construction off the Pacific Motorway, we are at the point in time where Transport NSW (formerly RMS) have stated that further enhancement works such as these on/off ramps will be examined.

Ballina Shire Council must be on the front foot in achieving this outcome for our community, particularly those of the expanding Ballina Heights, Banyon Hills residential areas.

Many will say that a full interchange should have occurred with the initial interchange construction and is now urgently needed for reasons of public safety, drive time and road congestion, as more vehicles are forced to travel through the built up areas of Ballina.

A dialogue should be commenced with the Minister to enhance his and the Government's understanding of this required road infrastructure and the associated issues.

The current half interchange is unsatisfactory in terms of:

- Safety - Motorists continue to do illegal and dangerous U-turns on the motorway heading north, in order to exit at the interchange. These U-turns often involve driving through vegetation planted on the grass median strip area. It is simply a matter of time before a high speed collision occurs.
- Drive Time - Motorists who cannot exit the motorway at Cumbalum heading north, and who cannot enter the motorway heading south, are forced to drive through the built up area of Ballina, adding a minimum of 10 minutes to every trip.
- Traffic Congestion - This large number of vehicles then adds to the traffic congestion experienced in Ballina every morning and afternoon, particularly on Tamarind Drive, Kerr Street and River Street.

Our community are continually commenting and communicating on this issue. Many are highly concerned. We must act for them now.

11.2 Notice of Motion - Cumbalum Interchange

COUNCILLOR RECOMMENDATION

That Council seek a deputation meeting with the Minister for Transport and Roads NSW Andrew Constance, to discuss the construction of north (off) and south (on) ramps at the Cumbalum - Pacific Motorway interchange and traffic capacity in Ballina generally, as a Regional Growth Centre. That the Minister for Regional Transport and Roads Paul Toole, also be informed.

Attachment(s)

Nil

11.3 Notice of Motion - Housing Affordability Strategy

11.3 Notice of Motion - Housing Affordability Strategy

Councillor

Cr Smith

I move

That as part of the development of the housing affordability strategy, which is an action in the 2020/21 Operational Plan, Council examine the option of creating a consultative group, consisting of key housing stakeholders, to inform the strategy and to provide on-going input and feedback into the implementation of the strategy.

Councillor Comments

Housing Affordability in Ballina Shire has always been an issue, however, these last 12 months we've seen the issue been significantly exacerbated during COVID-19.

There are numerous reports in the media and anecdotal stories of people being kicked out of rentals because of the significant jump in rent that can now be achieved, only to find themselves being completely outpriced out of the market and forced to seek housing outside of our shire.

This is also an issue for young families trying to buy their first home, with the starting price for a family home often exceeding the capacity of the typical wages that can be achieved in regional areas.

Despite what the some suggest, supply and demand has very little effect on the affordability of housing stock, Ballina shire has a substantial proportion of supply thanks to good long term strategic planning.

Housing affordability is complex, and as a council we need to pool together stakeholders, resources and ideas to help improve the situation in Ballina Shire.

The intention of this motion is to do that as part of the existing proposed Housing Affordability Strategy with a potential outcome of creating something similar to the Port Ballina Taskforce in the long term, to actively meet and work with other stakeholders in the shire who are also working towards the same outcome, to maximise our resources, capabilities and to hopefully make a difference.

COUNCILLOR RECOMMENDATION

That as part of the development of the housing affordability strategy, which is an action in the 2020/21 Operational Plan, Council examine the option of creating a consultative group, consisting of key housing stakeholders, to inform the strategy and to provide on-going input and feedback into the implementation of the strategy.

Attachment(s)

Nil

11.4 Notice of Motion - Bulwinkel Park, Alstonville

11.4 Notice of Motion - Bulwinkel Park, Alstonville

Councillor

Cr Cadwallader

I move

That Council allocate \$25,000 from the \$382,000 allocated to community halls / facilities / BBQs and shade shelters, through the Local Roads and Community Infrastructure (LRCI) Program, to the removal of the existing structure and provision of a new shelter and seating at Bulwinkel Park, Alstonville.

Councillor Comments

Members of the community and representatives from the Bulwinkel Landcare Group have been seeking Council support for a number of years in respect to improving facilities at this park. The park is listed in the Ballina Local Environmental Plan 2012 as a heritage item, however the existing structure can be removed subject to the submitting of a development application and planning consent being obtained. A heritage consultant has completed a Statement of Heritage Impact and Conservation Policy for Council with regard to the proposed demolition and upgrade of facilities and this can guide the development application assessment process.

The need for this process to be completed has continued to delay any works at the park and with funding available through the LRCI Program, now is a good opportunity to provide some much needed improvements to this park.

Staff Comments

The LRCI program descriptions are fairly broad and if this is a preferred priority for Council, funding can be allocated to this project.

COUNCILLOR RECOMMENDATION

That Council allocate \$25,000 from the \$382,000 allocated to community halls / facilities / BBQs and shade shelters, through the Local Roads and Community Infrastructure (LRCI) Program, to the removal of the existing structure and provision of a new shelter and seating at Bulwinkel Park, Alstonville.

Attachment(s)

Nil

11.5 Notice of Motion - Fossil Fuel Divestment

11.5 Notice of Motion - Fossil Fuel Divestment

Councillor

Cr Jeff Johnson

I move

1. That Council resolves to stop investing in financial institutions that support the fossil fuel industry.
2. That when existing cash term deposits expire they are to be invested in financial institutions with a secure credit rating that doesn't support or have investments in the fossil fuel industry.
3. That Council informs the financial institution when divesting the reason for changing institutions.

Councillor Comments

I first moved a motion in November 2015 calling on the Council to divest its investments from fossil fuel aligned financial institutions. This motion was supported by the majority of Councillors.

In December 2015 Council's investment report stated that 57% of investments were with institutions that were considered to be fossil fuel aligned, that is, institutions that provided finance to the fossil fuel industry.

In November 2020, five years after Council formally resolved to divest, Council had 64% of its investments with fossil fuel aligned institutions.

This is despite the divestment strategy being Council policy. I see this as a clear failure particularly given that Ballina Council supported my motion to join at least 71 other local councils in declaring a Climate Emergency in November 2019. I wonder how the other 71 councils are doing with their investment ratios.

Now I understand that Council needs to invest ratepayers money in secure financial institutions and aim for the highest interest rate possible. I also feel that It is long overdue that one of the big four banks divested itself from supporting the fossil fuel industry.

I'm sure if one of the big banks did this, then they would see a flood of money being injected into them by local councils (worth billions of dollars), large investors and superannuation funds.

Ballina, along with all coastal communities will be significantly impacted by sea level rise and the predicted increase in the severity of storms and tidal surge. We are already seeing many streets on Ballina Island and beyond being partially submerged during king tides.

Recently we have seen the Federal Coalition Government supporting the creation of a new mega coal mining region in Queensland, which was also supported by the Queensland Labor Government.

11.5 Notice of Motion - Fossil Fuel Divestment

We are also seeing an expansion of the Coal Seam Gas industry in other States despite wide spread opposition from local communities.

Money talks and money can walk. It's time that the local government sector played a bigger role in ending the finance for new fossil fuel ventures and did its bit to help Australia become carbon neutral by 2050 or earlier.

This current motion is consistent with previous resolutions of Ballina Shire Council. Here are a few spanning over 12 years.

Previous motions

I moved in November 2015 that Council

1. *Divest its term investment portfolio from all fossil fuel aligned financial institutions.*
2. *That as Council's current term investments expire with fossil fuel aligned financial institutions that these funds are re-invested only with non-fossil fuel aligned financial institutions with the following conditions.*
 - a) *the investment is compliant with Council's investment policy*
 - b) *the investment rate of interest is comparable or better than those offered by Fossil Fuel aligned financial institutions*
3. *Include in our monthly investment report the state of our divestment from fossil fuel aligned financial institutions.*

Since then Council has acknowledged that we are in a climate emergency when I moved the following in November 2019.

1. *That Council declares we are in a state of climate emergency that requires urgent action by all levels of government.*
2. *That Council notes that at least 71 Local Government areas in Australia have already declared a 'Climate Emergency'.*
3. *That Council acknowledges Ballina Shire is likely to be substantially affected by climate impacts, particularly sea level rise, bushfires, drought and floods.*
4. *That Council calls upon the State and Federal Governments to declare a climate emergency, and to back this up with legislated programs to drive emergency action to reduce greenhouse gas emissions and meet the lower of the Paris Agreements or a maximum 1.5 degree warming.*
5. *That Council writes to all NSW and Federal Government MP's advising them of Council's resolution and urging them to acknowledge a climate emergency and to act with urgency to address the crisis.*
6. *That Council receives a report on potential impacts on Ballina Shire and adaptations that could be considered.*

11.5 Notice of Motion - Fossil Fuel Divestment

7. *That Council notes that a recent Bureau of Meteorology (BoM) and CSIRO report, State of the Climate states that 'Australia's climate has warmed by just over 1 degree C since 1910.*

And way back in November 2008 I moved the following, which was also carried.

That Ballina Shire Council as an organization aims to become carbon neutral.

Staff Comments

The Investments Policy review report, earlier in this agenda, addresses the difficulties in increasing the percentage invested with non-fossil fuel aligned institutions, primarily due to the fossil fuel aligned institutions being the major banks, who have the superior credit and risk ratings.

Council will need to substantially amend the risk parameters in the current Investments Policy to achieve the target of 100% of the investment portfolio being invested in non-fossil fuel aligned institutions.

COUNCILLOR RECOMMENDATIONS

1. That Council resolves to stop investing in financial institutions that support the fossil fuel industry.
2. That when existing cash term deposits expire they are to be invested in financial institutions with a secure credit rating that doesn't support or have investments in the fossil fuel industry.
3. That Council informs the financial institution when divesting the reason for changing institutions.

Attachment(s)

Nil

11.6 Notice of Motion - Fossil Fuel Divestment - LGNSW and ALGA

11.6 Notice of Motion - Fossil Fuel Divestment - LGNSW and ALGA

Councillor

Cr Johnson

I move

That Council submit the following motion to the next LGNSW and ALGA conferences:

1. That LGNSW, ALGA and other local government State Associations, jointly develop a campaign / strategy that encourages all local government councils across Australia to place their investments and loans with non-fossil fuel aligned banking institutions.
2. This campaign / strategy is to examine options that will encourage one or more of the major banks to stop lending to the fuel fossil industry, by highlighting the opportunities that may exist for such a bank, through local government, as an industry, placing their investments and loans with that bank, particularly when the total investments and loans held by local government is valued in the billions of dollars.

Councillor Comments

The NSW State Government yourcouncil website (www.yourcouncil) states that for 2018/19 NSW councils held \$13.5 billion in cash and investments. This highlights the opportunity that councils across Australia have, to work together and to change the lending behaviour for one or more of the major banks.

COUNCILLOR RECOMMENDATION

That Council submit the following motion to the next LGNSW and ALGA conferences:

1. That LGNSW, ALGA and other local government State Associations, jointly develop a campaign / strategy that encourages all local government councils across Australia to place their investments and loans with non-fossil fuel aligned banking institutions.
2. This campaign / strategy is to examine options that will encourage one or more of the major banks to stop lending to the fuel fossil industry, by highlighting the opportunities that may exist for such a bank, through local government, as an industry, placing their investments and loans with that bank, particularly when the total investments and loans held by local government is valued in the billions of dollars.

Attachment(s)

Nil

12. Advisory Committee Minutes

12. Advisory Committee Minutes

Nil Items

13.1 Mayoral Meetings

13. Reports from Councillors on Attendance on Council's behalf

13.1 Mayoral Meetings

Councillor David Wright

Activities I have attended, or propose to attend, as at the time of writing this report, since the January 2021 Ordinary meeting are as follows:

<u>Date</u>	<u>Function</u>
1/2/21	Briefing – 73 Plateau Drive Wollongbar
2/2/21	Meeting – Local Government Minister – Chambers
2/2/21	Port of Ballina Taskforce
3/2/21	Extraordinary Meeting
3/2/21	Briefing – Ballina Heights Commercial Area
7/2/21	Commemoration Park Market
9/2/21	Byron Studios – Welcome to Country
10/2/21	Local Traffic Committee
10/2/21	Funding Announcement – Airport Security – Kevin Hogan
10/2/21	Newrybar Village – Sewer
10/2/21	Briefing – Future Gallery Operations
12/2/21	Meeting – Byron Studios
12/2/21	NRJO Board Meeting – Zoom
14/2/21	Commemoration Park Markets
16/2/21	Audit and Risk Committee
17/2/21	Wardell Progress Association
18/2/21	Gallery Opening
19/2/21	Sod Turning – Airport Boulevarde
21/2/21	Commemoration Park Markets
21/2/21	Ballina Markets
23/2/21	Shark Management Forum
23/2/21	Lions Youth of the Year – RSL
25/2/21	Council Meeting
26/2/21	Ballina Office Opening – Alder Constructions
28/2/21	Commemoration Park Markets

RECOMMENDATION

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

Attachment(s)

Nil

14. Confidential Session

14. Confidential Session

Nil Items