

Agenda

Ordinary Meeting **27 May 2021**

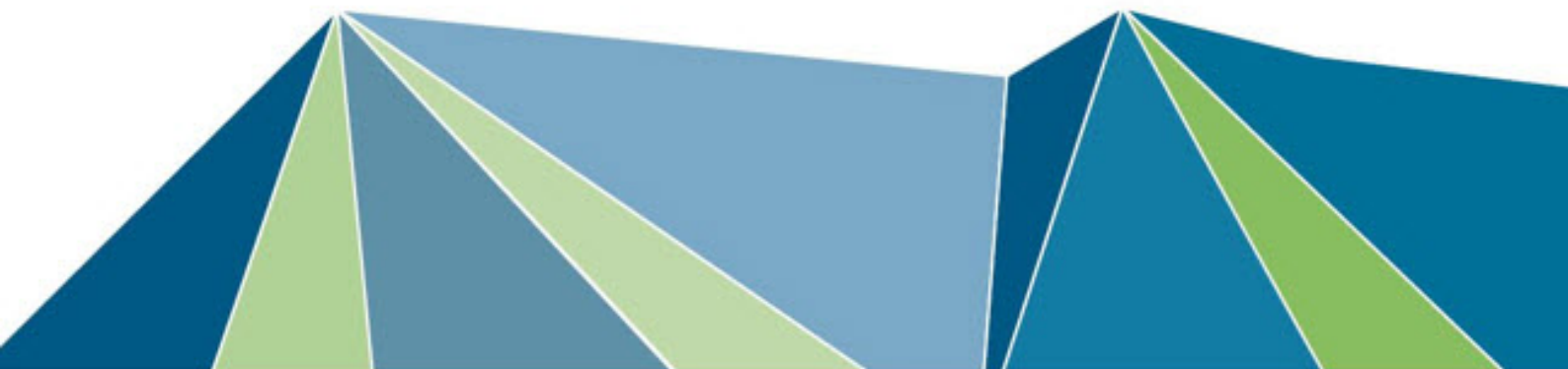
An Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **27 May 2021 commencing at 9.00am.**

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.

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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.

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- 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.

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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

An apology has been received from Cr Nathan Willis.

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 22 April 2021 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 22 April 2021.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 DA 2019/376 - 348 Rous Road, Rous Mill

8. Planning and Environmental Health Division Reports

8.1 DA 2019/376 - 348 Rous Road, Rous Mill

Applicant	Newton Denny Chapelle
Property	Lot 3 DP 579576, 348 Rous Road, Rous Mill
Proposal	Erection of two greenhouses to be used to propagate potted plants, six shade house structures, two work sheds, 13 rainwater tanks, extensive earthworks, access driveways, vegetation removal, landscaping and other associated works.
Effect of Planning Instrument	The land is zoned RU1 Primary Production under the provisions of the Ballina LEP 2012.
Locality Plan	The subject land is depicted on the locality plans in Attachment 1 and Figure 1.

Introduction

DA 2019/376 relates to a proposal for the erection of six shade houses, erection of two greenhouses, two work sheds, 13 water tanks and to carry out earthworks for the purposes of the proposed facilities on land at 348 Rous Road, Rous Mill. The applicant is Newton Denny Chapelle (NDC).

The purpose of this report is to seek Council's determination of the subject application given the nature of the proposal and submissions received.

To assist Council in determining this application, this report provides an assessment of 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 4.

Full details of the proposed development as set out by the applicant can be found in the (revised) Statement of Environmental Effects (SEE) dated 21 September 2020 (available from Council's DAs online portal).

The intended use of the land is a wholesale nursery to propagate potted plants. The proposed nursery development is appropriately characterised as intensive plant agriculture (horticulture) which is permissible, without development consent, in the RU1 zone.

The proposed structures and ancillary earthworks are characterised as farm buildings, which are permissible, with development consent in the RU1 zone.

Earthworks are proposed over approximately 5.2 hectares of the site together with two greenhouses with an area of approximately 2.6 hectares, two work sheds with an area of 0.53 hectares, six shade houses with an area of approximately 1.237 hectares and 13 aboveground rainwater tanks.

Given the scale and nature of the proposed development, as the land is mapped as State Significant Farmland and is zoned RU1 Primary Production, it is considered that the proposal will result in unacceptable adverse impacts, including sterilisation of State Significant Farmland and inconsistency with the existing and desired rural character and amenity of the area.

The proposal is also inconsistent with some of the aims and objectives of State Environmental Planning Policy (Primary Production and Rural Development) 2019, the Ballina Local Environmental Plan 2012 (BLEP 2012) and the Ballina Shire Development Control Plan (DCP 2012).

Numerous submissions were received following public exhibition of the original proposal and the amended proposal.

The submissions raise significant issues in relation to character, amenity, visual impacts and alienation of prime agricultural land.

In summary, it is considered that the proposal is unsatisfactory on its planning merits and accordingly refusal of the application is recommended.

Background

The Development Application was lodged with Council on 11 June 2019. The estimated cost of the development is \$2 million. The Development Application Form indicates that the development proposal is not integrated development.

This has been confirmed by the National Resource Access Regulator (NRAR).

The original application was placed on public exhibition from 10 July 2019 to 25 July 2019.

On 21 October 2019 Newton Denny Chapelle (NDC) advised that NRAR had advised that the overland flow path in the central portion of the site is not a mapped watercourse.

On this basis, the development is not integrated development under the Water Management Act 2000.

In response to Council's request for further information dated 5 November 2019, the applicant submitted additional information to Council on 21 September 2020 including an updated Statement of Environmental Effects and Plans.

On 16 December 2020, further information was received from the applicant relating to ecology, stormwater and site access.

The updated Statement of Environmental Effects including plans and additional information dated 16 December 2020 was publicly exhibited from 27 January 2021 to 11 February 2021.

Description of the Subject Site

The subject land is Lot 3 DP 579576, 348 Rous Road, Rous Mill.

The site is shown in Attachment 1 and Figure 1.



Figure 1: Aerial Image of Subject Site – 348 Rous Road, Rous Mill.

The land has an area of 9.526 hectares and a frontage to Rous Road of approximately 230m. The land is currently used for grazing and contains a dwelling house and farm buildings.

The property is adjoined by rural zoned properties supporting rural dwellings and agricultural activities, particularly horticultural activities.

An overland flow path is located within the central portion of the site that conveys water from east to west during significant rainfall events. This path does not provide any connection to the dam located in the north-west corner of the site.

Advice was sought from NRAR regarding the status of this flow path.

Given it is not mapped as being a stream and is considered an overland flow path, NRAR advised a controlled activity approval is not required in this instance.

Surrounds

The subject land is located in a rural locality that is characterised by a mix of smaller rural allotments (primarily lifestyle) and larger rural allotments (cropping and grazing). The site is located approximately 500m to the east of Rous Mill.

The location of the subject land and its spatial relationship with adjoining land uses is shown in Attachment 1 and Figure 1.

Details of Proposal

The development proposal involves the use of the land as a wholesale nursery for the propagation of potted plants, including the construction of greenhouses, shade houses, work sheds, earthworks and ancillary work, comprising the following key elements:

1. Carrying out earthworks (cut and fill) over approximately 5.2 hectares of the site to accommodate the proposed greenhouses, work sheds and tank pads. A maximum cut of approximately 5.6m is proposed in the south eastern corner of the site and a maximum fill of approximately 3.9m is proposed within the central western portion of the site. Approximately 42,509m³ of cut is proposed and approximately 39,142m³ of fill is required, resulting in an excess of approximately 3,367m³ of material. Three terraced retaining walls are also proposed along part of the western boundary.
2. Install a bridge and culverts under the proposed new eastern access driveway within the existing depression.
3. Construct two greenhouses with a total area of approximately 26,400m² (2.6 hectares) and a height above ground level (existing) of up to 8.5m. The greenhouses will be constructed with a steel frame, with either a white Canvacon (polyethylene-based polyfabric) or clear plastic depending on the shading level required. No artificial lighting or mechanical ventilation is required.
4. Construct two proposed work sheds with a total area of approximately 5,308m² and a height of up to 6.5m above ground level (existing).

The work sheds will be constructed with Colorbond Trimdek external cladding of a low reflective colour such as Pale Eucalypt chosen to blend in with the landscape and used for the storage of machinery associated with the horticultural use of the site, general storage and also as the packing shed, together with general machinery storage and staff amenities/facilities

5. The construction of six shade houses towards the rear of the site with a total area of approximately 12,370m². The structures will be semi-permanent, either black or green and will be similar to shade netting used for orchards. The structures will be less than 4m above ground level (existing) and no earthworks are proposed to install the structures.
6. Installation of 13 (8 x 2.1ML and 5 x 1ML) aboveground water tanks. The 2.1ml water tanks will have a height of 5m and a diameter of 23.305m. The smaller tanks will have a height of 5m and diameter of 11.652m. Depending on availability, the colour of these tanks will either be black, green or grey.
7. Construction of a new crossover and two way, access driveway on the western side of the site.
8. Construction of a loading/unloading area and onsite parking for 32 vehicles.
9. Removal of 33 native trees.

10. Landscape planting adjacent to the site boundaries including retention of the Tallowood trees fronting Rous Road and planting a 10m wide native hedge or shrubs adjacent to the Tallowood trees for the full frontage of the site, excluding the existing and proposed driveways. Landscape planting is also proposed for the remaining boundaries of the site.
11. No expansion of the existing farm dam is proposed.
12. Removal of the existing farm shed is proposed.
13. Installation of three signs. The signs are wall signs with dimensions of 9.7m W x 1.6m H and have an area of approximately 15.52m². The signs are less than 8 metres in height and are not located within 250 metres or visible from a classified road. The applicant contends that "*Given the location of the signs and extensive landscaping proposed along the Rous Road frontage, these signs are unlikely to be able to be seen from the road network*". The signs will be located on the south elevation of Work Sheds 1 and 2 and the east elevation of Work Shed 1.
14. Operational details are summarised as follows:

Stormwater from the hardstand areas of the site will be captured and conveyed into the storage tanks and reused as required. Overflow from the tanks will be directed to the existing farm dam located in the northwest corner of the site as depicted in the Plan Set at Attachment 2.

Effluent disposal from the staff amenities will be disposed of within the southern portion of the site as described in the On-site Wastewater Management Report accompanying the SEE.

A new onsite effluent system will be constructed to service the existing dwelling as identified in the On-site Wastewater Management Report accompanying the SEE.

The use of the greenhouses will be for the purposes of growing potted plants for wholesale distribution to nurseries and retail outlets. The greenhouses can be easily adapted to grow a range of plants including potted plants as proposed, tomatoes, cucumbers and the like.

The existing dwelling will be occupied by the onsite farm manager (and family, if applicable) who is responsible for the day to day running of the site. Generally, the equivalent of approximately 30 full time staff will be employed at the site on a seasonal basis.

Operating hours will be generally Monday to Friday between 7.00am and 4.00pm with deliveries during normal business hours. On occasion, the farm manager and additional staff may be required to work outside these hours as per any working horticultural enterprise.

Rainwater tanks will be installed to capture rainwater runoff from the proposed greenhouses and hardstand areas. The water captured will be utilised to water the plants in accordance with the Closed Water System Plans at Attachment 2.

The greenhouses utilise a closed water system where rainwater is captured from the roof and directed into rainwater storage tanks. Water will then be sent for UV sterilisation and then stored in a treated rainwater tank.

The treated water will be sent to a fertigation unit for dosing and will be then stored in irrigation storage tanks ready for application on the plants. The used irrigation water will be collected by a back to drain sump and stored in the irrigation drain water tank which will be then sent to sterilisation tanks to begin the cycle again.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The original application was placed on public exhibition (first exhibition) from 10 July 2019 to 25 July 2019. Twelve submissions were received (including one confidential submission).

The amended Development Application was re-exhibited (second exhibition) from 27 January 2021 to 11 February 2021. Eight submissions were received.

Copies of the submissions are included as Attachments 3 and 5.

Key issues raised in the submissions and comments on those issues are as follows:

1. Alienation of prime agricultural land;

Comment

The RU1 zoning and zone objectives indicate that the land is prime agricultural land.

In addition, under the Northern Rivers Farmland Protection Project (30 September 2005), the land is mapped as State Significant Farmland.

The Environmental Planning and Assessment Act, 1979 Section 9.12 Local Planning Direction No. 5.3, Farmland of State and Regional Significance on the NSW Far North Coast contains the following objectives:

- (1)(a) To ensure that the best agricultural land will be available for current and future generations to grow food and fibre,
- (b) To provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and
- (c) To reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.

Subclause 4 of the Direction provides that:

“A Planning Proposal must not:

- (a) Rezone land identified as State Significant Farmland for urban or rural residential purposes.*
- (b) Rezone land identified as Regionally Significant Farmland for urban or rural residential purposes.*
- (c) Rezone land identified as Significant Non-contiguous Farmland for urban or rural residential purposes.”*

While Section 9.12 Directions apply to Planning Proposals (i.e. land zoning) rather than Development Applications, Direction 5.3 is relevant in the context of this DA in that it identifies the subject land as State Significant Farmland on the relevant Farmland Protection Project Final Map 2005 (Map 4) and Objective (a) of the Direction requires that the best agricultural land will be available for future generations to grow food and fibre.

The proposed earthworks, given their extent and depth will, in effect, permanently sterilise approximately 54% of the land from cultivation for food and fibre.

It is acknowledged that the greenhouses could, in the future, be used for the production of food and fibre, rather than potted plants and to that extent, the site itself would still be capable of achieving Objective (a) of Direction 5.3.

It is likely that future food and fibre will increasingly be produced in greenhouses as they provide a controlled environment in terms of climate, more efficient pest control, reuse of water, less reliance on rainfall, less risk with hazards such as hail, less dust and loss of topsoil as a result of conventional cultivation farming methods and less use of greenhouse gases as occurs with conventional cultivation methods.

However, the proposed development could be located on land other than State Significant Farmland, such as land zoned RU2 Rural Landscape.

In summary, whilst the development will permanently sterilise the use of the natural soils on the site, it will not permanently alienate the land from intensive primary production of food and fibre.

2. Magnitude of earthworks;

Comment

As indicated above, the proposed earthworks will extend over approximately 54% of the site and involve cuts of approximately 5.6m and fills of approximately 3.9m.

In the context of the site and locality generally, the magnitude of earthworks is significant and will impact on the landscape and rural character of the area. Following construction of the greenhouses, the disturbed area will be largely obscured by the proposed structures, however should the greenhouses cease to be used (and removed) in the future, for all practical purposes it would be very difficult to reinstate the site to its original land form, including existing topsoil.

3. Volume and quality of stormwater runoff into Youngman's Creek; Discharge of irrigation water containing phosphorous and nitrogen into Youngman's Creek, Tuckean floodplain and Richmond River and resulting water quality impacts;

Comment

Based on the operational details of the development the proposed stormwater management measures, it is unlikely that the quality and quantity of stormwater runoff into Youngmans Creek and beyond will result in significant impacts.

Council's Environmental Health Officer and Development Engineer have reviewed the proposed operational arrangements and raised no objections, subject to appropriate conditions.

In addition, the NRAR has advised that the proposal does not trigger the integrated development provisions under the Water Management Act, 2000.

4. Bulk, scale, siting and colour of the greenhouses and the impacts on the landscape and scenic quality of the locality;

Comment

Based on the height and colour (white greenhouses) of the structures, they will inevitably have a significant impact on the landscape, scenic quality and rural character of the locality.

Whilst the proposed landscaping will provide some screening and softening of visual impacts, because of the scale of the greenhouses in particular, it is unlikely that the perimeter planting will significantly mitigate those impacts.

5. Impacts on the rural character and amenity of the locality;

Comment

The locality is characterised by a mix of small rural allotments (primarily lifestyle) and large rural lots used for cropping and grazing including horticulture. Existing structures in the locality comprise mainly dwellings and farm buildings.

The aerial photograph at Attachment 1 provides an overview of the existing character of the area and the spatial relationship between the site and its surrounds.

As indicated in relation to Issue 4 above, given the scale, siting, extent, cladding (and colours) of the proposed greenhouses in particular, the development will be incompatible with the existing rural character of the area.

However, as indicated in response to Issue 1 above, food or fibre production in greenhouses is likely to be the way of the future and will inevitably result in significant changes in the existing rural character of the locality generally.

6. Work sheds are very large and given their use they should be characterised as an agricultural produce industry rather than ancillary to horticulture;

Comment

It is acknowledged that the work sheds are of considerable scale (approximately 5,308m²). The term “agricultural produce industry” is defined in BLEP 2012 as follows:

“agricultural produce industry means a building or place used for the handling, treating, processing or packing, for commercial purposes, of produce from agriculture (including dairy products, seeds, fruit, vegetables or other plant material), and includes wineries, flour mills, cotton seed oil plants, cotton gins, feed mills, cheese and butter factories, and juicing or canning plants, but does not include a livestock processing industry.”

Given the intended uses of the proposed sheds, as described above, it is considered that they are not appropriately characterised as an agricultural produce industry.

Rather, they are ancillary to the dominant purpose being farm sheds to be used for the purposes of horticulture.

7. Removal of native vegetation;

Comment

The Application involves removal of 33 native trees to enable the earthworks to be carried out and the structures to be erected.

On 16 December 2020, a Biodiversity Assessment was provided which concludes that a Biodiversity Development Assessment Report (BDAR) is not required based on a test of significance for:

- Koalas and Koala habitat
- Atlas Rainforest Beetle
- Rainforest Habitat

Additional landscape plantings are proposed which will assist in offsetting the trees to be removed.

8. Impacts on groundwater including drawdown;

Comment

Based on the development described in the Details of Proposal Section of this Report, groundwater will not be used as a water supply source for the project. Comments in relation to water quality are provided at Issue 3.

9. Inconsistent with BLEP2012 objectives and RU1 zone objectives;

Comment

Consistency with the aims of BLEP 2012 and the objectives of the RU1 zone are addressed in the matters for consideration of this report and in the Section 4.15 Development Assessment Report at Attachment 4.

8.1 DA 2019/376 - 348 Rous Road, Rous Mill

In summary, it is considered that the proposed development is inconsistent with the some of the aims of BLEP 2012 and objectives of the RU1 zone.

10. Increased traffic and road safety issues.

Comment

Council's Development Engineer has assessed the proposal and has raised no issues in relation to traffic and parking, subject to the imposition of appropriate conditions.

Matters for Consideration

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

The proposal has been assessed as being inconsistent with the Ballina Local Environmental Plan 2012, Council's DCP 2012, State Environmental Planning Policy (Primary Production and Rural Development) 2019 and State Environmental Planning Policy No. 64 – Advertising and Signage.

The assessment has identified the following key issues which are elaborated upon for Council's information and consideration. Further matters are addressed in the Section 4.15 assessment report.

This report should be read in conjunction with the Section 4.15 assessment report (Attachment 4).

Applicable Planning Instruments

Ballina Local Environmental Plan 2012

Ballina Local Environmental Plan 2012 (BLEP2012) is the principal Planning Instrument regulating land use within the Ballina Local Government Area. Under the provisions of this Plan the subject land is zoned RU1 Primary Production as indicated in Figure 2.

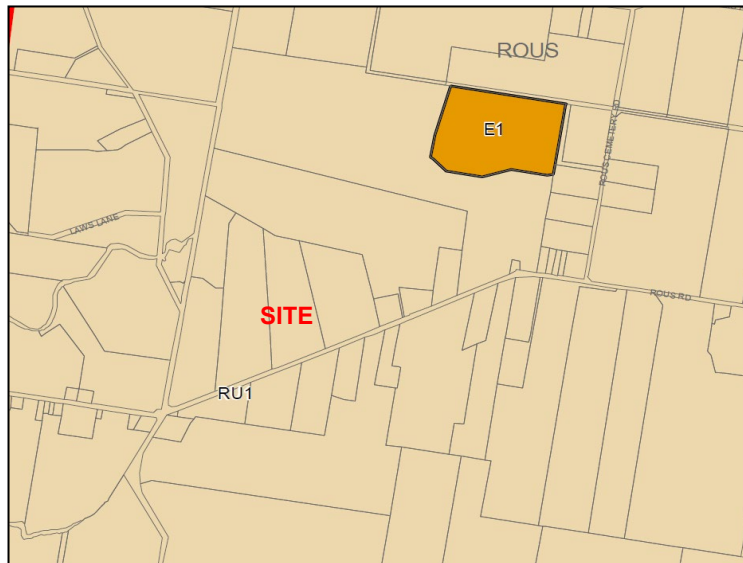


Figure 2 – Zoning Map

The Land Use Table and Zone Objectives are reproduced as follows:

“Zone RU1 Primary Production

1 Objectives of zone

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

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home-based child care; Home occupations; Intensive plant agriculture

3 Permitted with consent

Airstrips; Animal boarding or training establishments; Aquaculture; Boat launching ramps; Boat sheds; Car parks; Cellar door premises; Cemeteries; Dual occupancies; Dwelling houses; Environmental facilities; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Helipads; Home businesses; Home industries; Home occupations (sex services); Information and education facilities; Intensive livestock agriculture; Jetties; Markets; Mooring pens; Moorings; Open cut mining; Recreation areas; Recreation facilities (outdoor); Roads; Roadside stalls; Rural industries; Rural supplies; Rural workers' dwellings; Sewerage systems; Signage; Tourist and visitor accommodation; Turf farming; Water recreation structures; Water supply systems

4 Prohibited

Advertising structures; Backpackers' accommodation; Hotel or motel accommodation; Serviced apartments; Any other development not specified in item 2 or 3”

Based on the description of the proposed development (Section 3 of the revised SEE), growing of potted plants would be characterised as “intensive plant agriculture” which is defined as follows:

“intensive plant agriculture means any of the following—

(a) the cultivation of irrigated crops for commercial purposes (other than irrigated pasture or fodder crops),

(b) horticulture,

(c) turf farming,

(d) viticulture.

Note. Intensive plant agriculture is a type of agriculture—see the definition of that term in this Dictionary.”

“Horticulture” is defined as follows:

“horticulture means the cultivation of fruits, vegetables, mushrooms, nuts, cut flowers and foliage and nursery products for commercial purposes, but does not include a plant nursery, turf farming or viticulture.

Note. Horticulture is a type of intensive plant agriculture—see the definition of that term in this Dictionary.”

Development for the purposes of “intensive plant agriculture” and “horticulture” is permissible, **without** development consent, in the RU1 zone.

“Farm building” is defined as follows:

“farm building means a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.”

Development for the purposes of “farm building” is permissible, with development consent.

The intended use of the land as a wholesale nursery is defined for the purposes of the BLEP 2012 as ‘intensive plant agriculture’ and ‘horticulture’ which do not require the prior development consent of Council. However, it is the structures comprising ‘farm buildings’, ancillary earthworks and other associated works including vegetation removal that does require development consent.

Development for the purposes of signage is permissible, with development consent. The signage is ancillary to the dominant purpose, being the farm sheds and horticulture.

Whilst the proposed development is either permissible, with development consent or permissible, without development consent, the development proposal has to be assessed against the relevant aims and objectives of State Environmental Planning Policy (State and Regional Development) 2011, BLEP 2012 and DCP 2012.

As indicated in the Section 4.15 Assessment Report at Attachment 4, it is considered that the development is inconsistent with some of the aims and objectives contained in these Plans.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Clause 2.31 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 permits development for the purposes of farm buildings without development consent subject to compliance with relevant standard including maximum floor areas.

In summary, the proposed greenhouses and work sheds, are not exempt development under the Codes SEPP because the floor area exceeds 1,000m² (proposed approximately 31,710m² – 3.17 hectares).

State Environmental Planning Policy No. 64 – Advertising and Signage

Clause 8 of the Policy requires signage to be consistent with the aims and objectives of the Policy in Clause 3 and the assessment criteria in Schedule 1. Because of the scale of the signage it is likely to be incompatible with the desired amenity and visual character of the area.

In addition, it is inconsistent with the matters for consideration in Schedule 1 of the Policy in that it will impact on the character of the area and will result in visual impacts on the landscape and scenic quality of the area.

Ballina Development Control Plan 2012

The proposed development is inconsistent with some of the relevant requirements of the DCP 2012.

Chapter 7 – Rural Living and Activity

Part 2 Chapter Planning Objectives

The proposal generally complies with the overarching objectives of this chapter with the exception of Objectives (a) and (b) which are in the following terms:

- “a. Protect agricultural land, particularly land that is identified as ‘State significant’ or ‘regionally significant’ farmland as referenced in the Northern Rivers Farmland Protection Project, from inappropriate development;*
- b. Preserve rural resources by ensuring that land is not effectively sterilised by being developed or encroached upon by urban or other incompatible uses;”*

In summary, the development will sterilise approximately 5.2 hectares of the site from food and fibre production based on conventional cultivation methods.

Chapter 8 – Signage

The proposed signage is considered to be inconsistent with the development controls in Section 3.4.3 for rural zones in that it will not maintain rural amenity and will not be compatible with the rural landscape because of the size of the signage, however the signs will be partially screened by other structures and landscaping.

In addition, three wall signs are proposed whereas the DCP only allows two wall signs per premises.

Internal Referrals

The application was referred to relevant Council technical officers across several disciplines for assessment.

Council’s Development Engineer has raised no objections to the proposal, subject to the imposition of appropriate conditions.

Council’s Building Surveyor has raised no objections to the proposal, subject to the imposition of appropriate conditions.

Council’s Environmental Health Officer has raised no objections to the proposal, subject to the imposition of appropriate conditions.

The Ecological Assessment dated 16 October 2020 addresses potential ecological impacts including an assessment against the Biodiversity Conservation Act 2016, a Test of Significance and a revised Landscape Plan.

The Biodiversity Conservation Act Assessment identifies trees to be removed and trees to be retained. The Report states that:

“The proposal would result in the minor loss of planted fruit trees and rainforest trees. A small row of planted Tallowwood in the north of the site will be retained as well as a planted Tallowwood windrow at the site entry fronting Rous Road. Potential impacts to koalas are largely limited to the potential for minor disturbance from tree clearing and nursery development. Loss of planted rainforest and fruit trees would not result in any significant reduction of foraging or refuge resources in a local context.

On this basis it would be highly unlikely that an adverse effect on the life cycle of the koala would occur such that a viable local population of the species is likely to be placed at risk of extinction.”

In summary, the Assessment concludes that:

“It is unlikely that the local population of koala, atlas rainforest beetle or low land rainforest would be placed at significant risk of extinction as a result of the proposal.”

Council’s Ecologist has raised no objections to the amended development proposal.

A copy of the revised Landscape Plan (Plan 2, Reference 180625, 24 November 2020) is provided at Attachment 2.

Perimeter planting is proposed to soften visual impacts and the existing Tallowwood trees adjacent to Rous Road are to be retained. A 10m wide hedge (Lillypilly or similar – native hedge or shrubs 3m to 4m in height) will be provided adjacent to the existing Tallowwood trees to further soften visual impacts.

Options

Option One – Approval with Conditions

This option is not recommended for the reasons outlined in the report. In the event that Council resolves to approve the Development Application, applicable planning, engineering and environmental conditions will be applied to the determination notice.

Option Two – Refusal

Council could determine the application by way of refusal.

This option is recommended given that the assessment has concluded that the development is likely to have significant adverse impacts and is inconsistent with a number of applicable planning objectives.

The reasons for refusal are set out in the recommendations.

Option Three – Deferral

Council may defer determination of the application in order to seek additional information.

This option is not recommended as sufficient and suitable information has been provided by the applicant and the technical assessment is complete.

Conclusion

The proposed development, because of its size and the extent of earthworks proposed, will have significant impacts which can be mitigated to some extent. However, sterilisation of 5.2 hectares of State Significant Farmland, visual impacts and impacts on the landscape and rural character of the area will result from the development.

The proposed development has been assessed and consideration has been given to all the relevant matters listed in Section 4.15 of the Environmental Planning and Assessment Act 1979, including the provisions of the Ballina Local Environmental Plan 2012, the Ballina Shire Development Control Plan 2012, relevant SEPPs and submissions made in response to the exhibition of the application.

Having regard for the outcomes of the assessment, on balance, it is recommended that the application be determined by way of refusal for the reasons in the recommendation.

RECOMMENDATIONS

That Development Application 2019/376 for erection of two greenhouses to be used to propagate potted plants, six shade house structures, two work sheds, 13 rainwater tanks, extensive earthworks, access driveways, vegetation removal, landscaping and other associated works at No. 348 Rous Road, Rous Mill be **REFUSED** for the following reasons.

1. The proposal is inconsistent with the following aims of State Environmental Planning Policy (Primary Production and Rural Development) 2019:

- “(a) to facilitate the orderly economic use and development of lands for primary production,*
- (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,*
- (c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,”*

2. The proposed development is inconsistent with or does not achieve the following provisions of BLEP 2012.

- (i) Clause 1.2 – Aims of the Plan

“(2) The particular aims of this Plan are as follows—

- (a)(vi) responsible and efficient use of resources,
- (c) to achieve the objectives of the land use zones set out in Part 2 of this Plan,
- (d) to promote the orderly and efficient use of land having regard to the social and environmental characteristics of the land,

- (ii) The RU1 zone objectives

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To maintain the rural, cultural and landscape character of the locality.*
- *To enable development that is compatible with the rural and environmental nature of the land.”*

3. The proposed development is inconsistent with the following provisions of DCP 2012:
 - (i) Chapter 2, Section 3.1.2 Planning Objective (c):
"c. Protect significant environmental and natural resources."
 - (ii) Chapter 7, Part 2 Chapter Planning Objectives (a), (b), (e) and (f).
"a. Protect agricultural land, particularly land that is identified as 'State significant' or 'regionally significant' farmland as referenced in the Northern Rivers Farmland Protection Project, from inappropriate development;
b. Preserve rural resources by ensuring that land is not effectively sterilised by being developed or encroached upon by urban or other incompatible uses;
e. Encourage development of a scale and nature which will not adversely impact on the existing amenity of the area;
f. Maintain or improve cultural and environmental values of rural land; and"
4. The proposed development will be inconsistent with the established rural character and amenity of the locality.
5. The proposed development will have an adverse impact on the landscape and scenic values of the locality.
6. The proposed development will sterilise State Significant Farmland and is inconsistent with the objectives of the Environmental Planning and Assessment Act 1979, Section 9.12, Direction No. 5.3.
7. The proposed signage is inconsistent with DCP 2012, SEPP 64 and is likely to have an adverse impact on the landscape and rural character of the locality.
8. Approval of the application would be inconsistent with the public interest.

Attachment(s)

1. Locality Plan
2. Plans
3. Public Submissions
4. Section 4.15 Assessment
5. Confidential Submission

8.2 DA 2020/878 - 25 Dress Circle Drive, Lennox Head

8.2 DA 2020/878 - 25 Dress Circle Drive, Lennox Head

Applicant	Mr M K Saul
Property	Lot: 1 SP: 47384, Units 1 & 2, 25 Dress Circle Drive LENNOX HEAD
Proposal	Alterations and additions to an existing Dual Occupancy
Effect of Planning Instrument	The land is zoned R3 Residential Medium Density under the provisions of the Ballina LEP
Locality Plan	The subject land is depicted in Figure 1.

Introduction

Council is in receipt of a Development Application for alterations and additions to an existing attached dual occupancy located at 25 Dress Circle Drive Lennox Head (Figure 1).

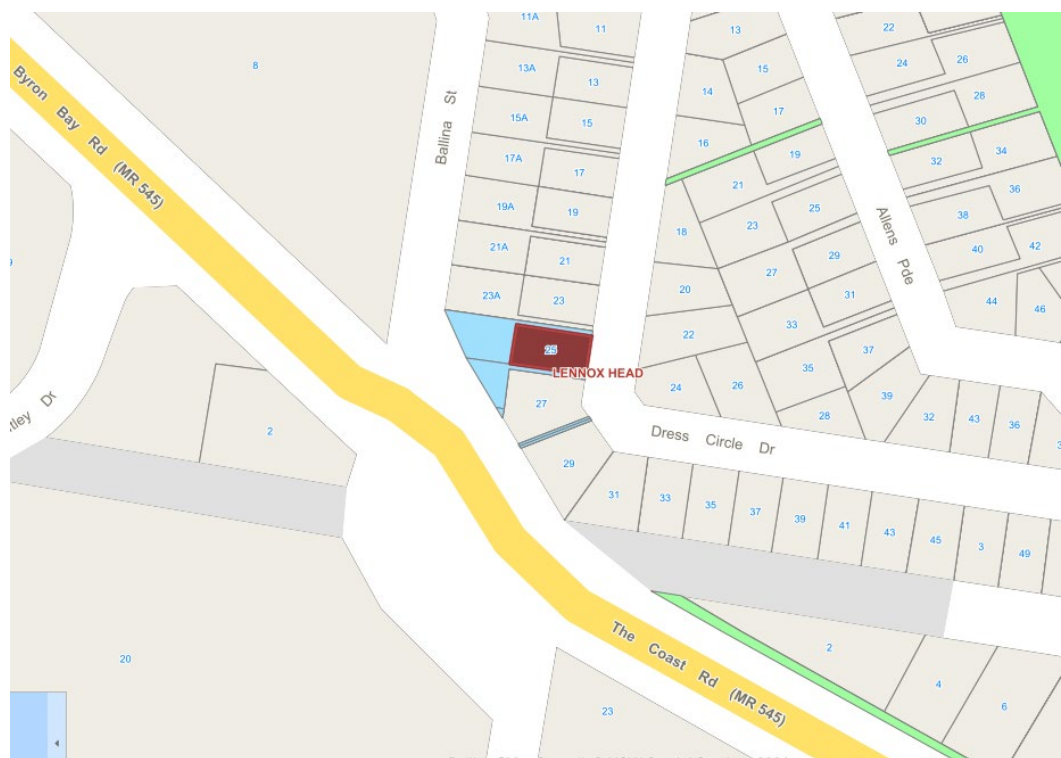


Figure 1: Site Locality Plan 25 Dress Circle Drive Lennox Head

This application is being reported to Council for determination as the proposed alterations and additions result in an increase in the gross floor area of the existing building and the resultant Floor Space Ratio (FSR) exceeds the FSR development standard prescribed by Clause 4.4(2a) of the Ballina LEP 2012 (BLEP) by more than 10%.

8.2 DA 2020/878 - 25 Dress Circle Drive, Lennox Head

In making its determination of the application, Council is to consider the full proposal and not just the FSR variation.

In particular, matters relating to parking, building lines and privacy are addressed in this report with to respect the provisions of the Ballina Development Control Plan 2012 (DCP).

Details of Proposal

Alterations and additions to the building are currently underway. This work which includes the raising of the floor level of Unit 1 to allow a garage to be provided below that unit has been approved under a Complying Development Certificate by a privately Registered Certifier.

To satisfy the criteria for Complying Development the works approved by the Complying Development Certificate only includes the internal works, but does not include the provision of a new garage below the level 1 unit or a small extension of the existing garage to Unit 2.

The form of the building prior to works commencing under the Complying Development Certificate is depicted below.



All external works, including alterations to the windows, doors and external walls form part of the works subject to this Development Application as well as the installation of a lift and alterations to the subfloor areas to create the additional parking and a new terrace to the first floor of Unit 1.

The works also include removal of the extensive and prominent external stairs to the street frontage, with access being provided to level 1 by a new internal stairway and to the upper level (level 2) by the new internal lift.

Relevant external plans of the proposal are provided in Figures 2, 3, 4, 5 and 6.

Full plans, including floor plans and details of privacy screens are included as Attachment 1.

8.2 DA 2020/878 - 25 Dress Circle Drive, Lennox Head

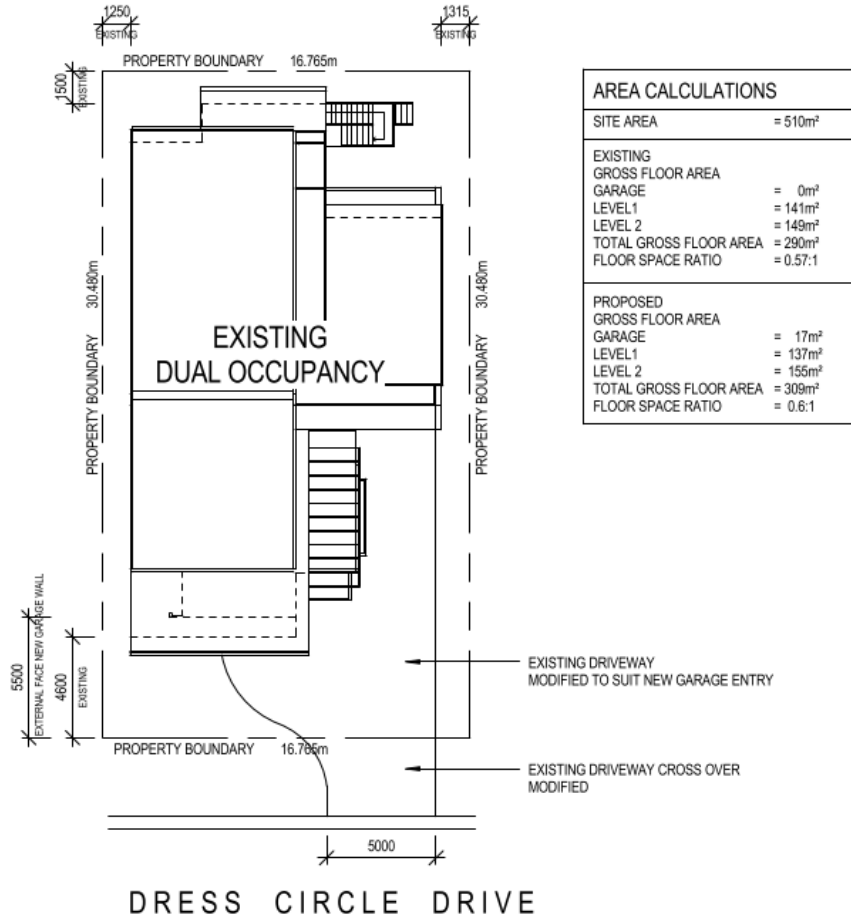


Figure 2: Site and Floor Area Calculations

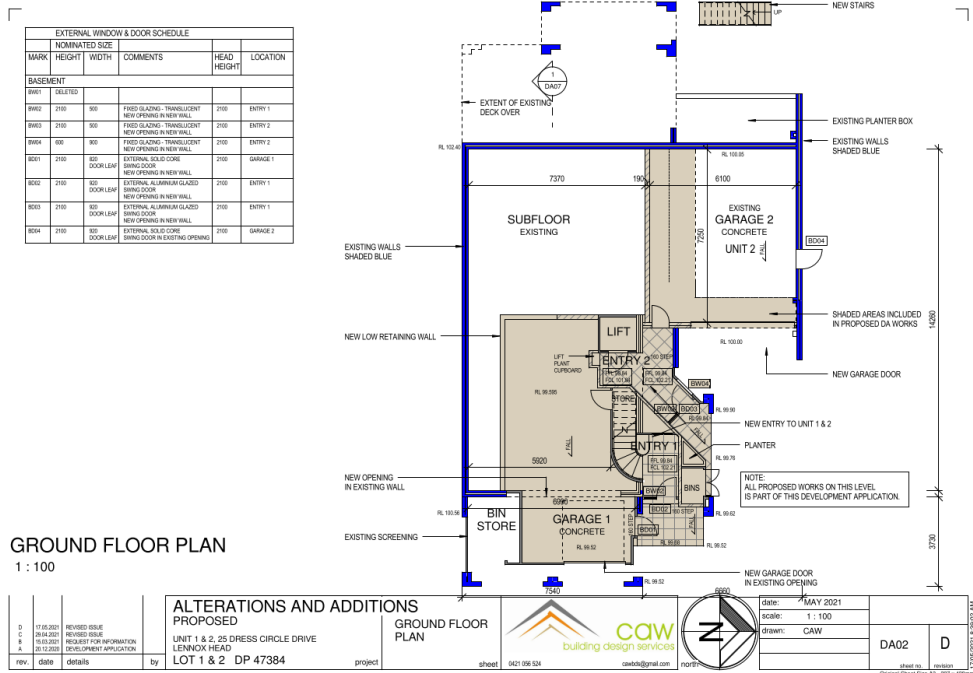


Figure 3: Ground Floor Plan

8.2 DA 2020/878 - 25 Dress Circle Drive, Lennox Head

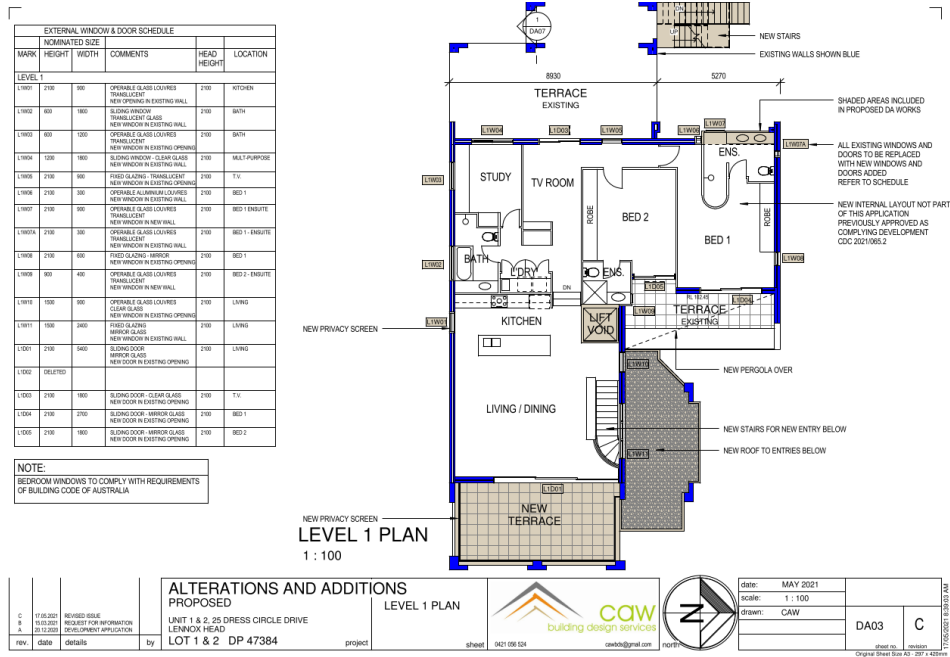


Figure 4: Level 1 Plan



Figure 5: East and West Elevations

8.2 DA 2020/878 - 25 Dress Circle Drive, Lennox Head

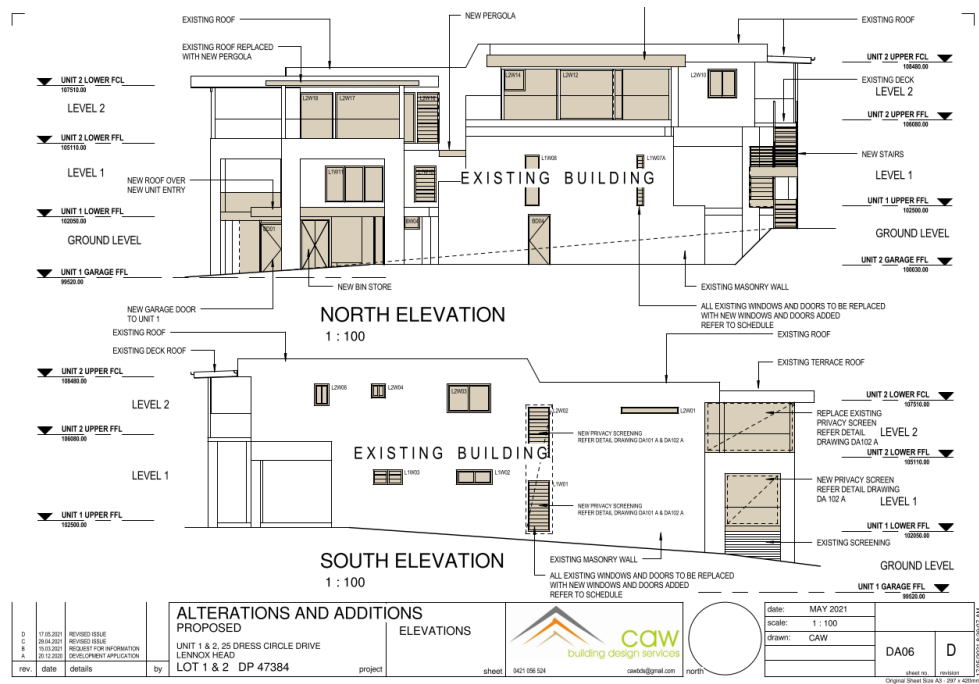


Figure 6: North and South Elevations

Reportable Political Donations

Details of known reportable political donations are as follows:

Nil.

Public Exhibition

The application has not been publicly notified as it was considered that the development will not create any unreasonable impacts on surrounding properties.

The applicant has provided submissions in support of the proposal from the owner/occupiers of five nearby properties (including those adjacent to the site).

These submissions are included in Attachment 2.

Report

Section 4.15 of the Environmental Planning and Assessment Act 1979, sets out the heads of consideration in determining a development application.

This report should be read in conjunction with the full DA Assessment under Section 4.15 contained in Attachment 3.

In determining this application, the following matters from the Section 4.15 assessment are of particular relevance.

The provisions of any environmental planning instrument

The subject land is zoned R3 Medium Density Residential under the BLEP 2012.

Dual Occupancies are permissible in this zone.

The proposal seeks a variation to the Floor Space Ratio (FSR) numeric development standard of 0.5:1 set out in Clause 4.4 of the BLEP 2012.

The existing building has a FSR of 0.57:1, or a 14% variation.

The proposed alterations and additions result in a FSR of 0.6:1 or a 20% variation.

The applicant's Clause 4.6 Variation request is included as Attachment 4.

The history of the building is that it was approved as a predominantly single storey dwelling with a garage underneath in 1979.

In 1993 a second storey was added to change the use to be a dual occupancy.

Part of this work also included the inclusion of a free standing carport at the front of the building and a deck without a roof to the upper floor unit.

At some point, following this approval, a roof has been added to the upper floor deck.

In 2003 alterations and additions were approved, which included a new bedroom and deck at the rear of the building, new stairs and a new deck and pergola and carport structure at the front of the property.

The applicant's main points in support of the variation are:

- The completed dual occupancy will be compatible with the existing bulk, scale and character in the locality.
- The bulky structure currently accommodating stairs to Unit 1 and 2 will be removed and replaced with enclosed stairs.
- The proposal will not alter the existing height, building footprint, minimum building lines or setbacks.
- The surrounding dwellings will not be impacted by altering existing views, overshadowing or adversely impact existing privacy.
- The proposal includes a significant cosmetic renovation that will improve the existing streetscape.
- The additional areas that increase the GFA are within the building footprint.

Changes to the GFA and FSR are depicted in Figures 7 and 8.

8.2 DA 2020/878 - 25 Dress Circle Drive, Lennox Head

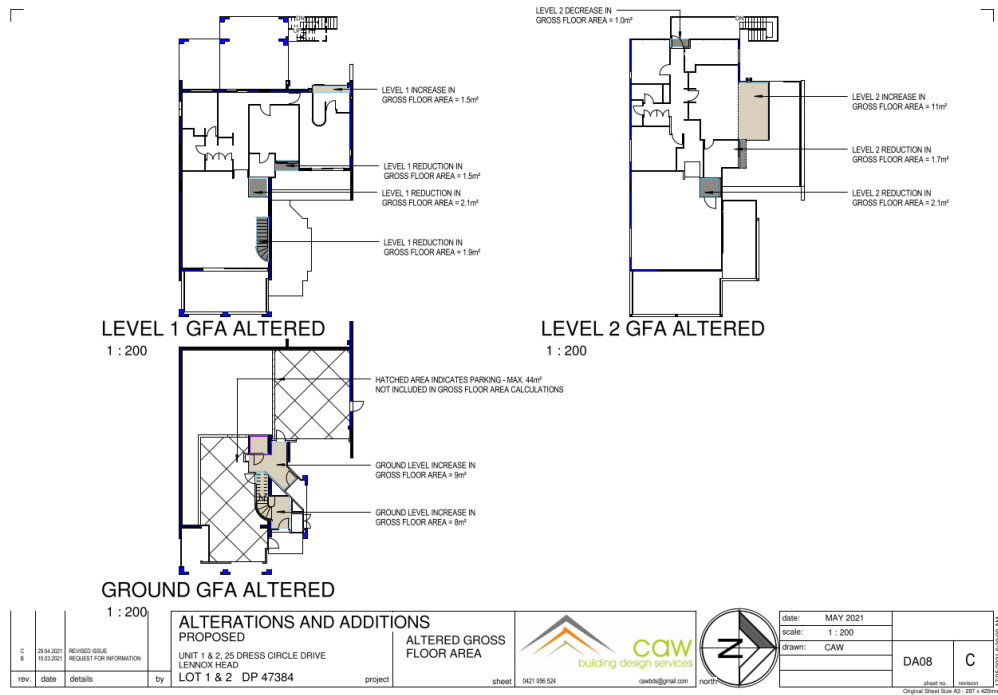


Figure 7: Altered Gross Floor Area Details

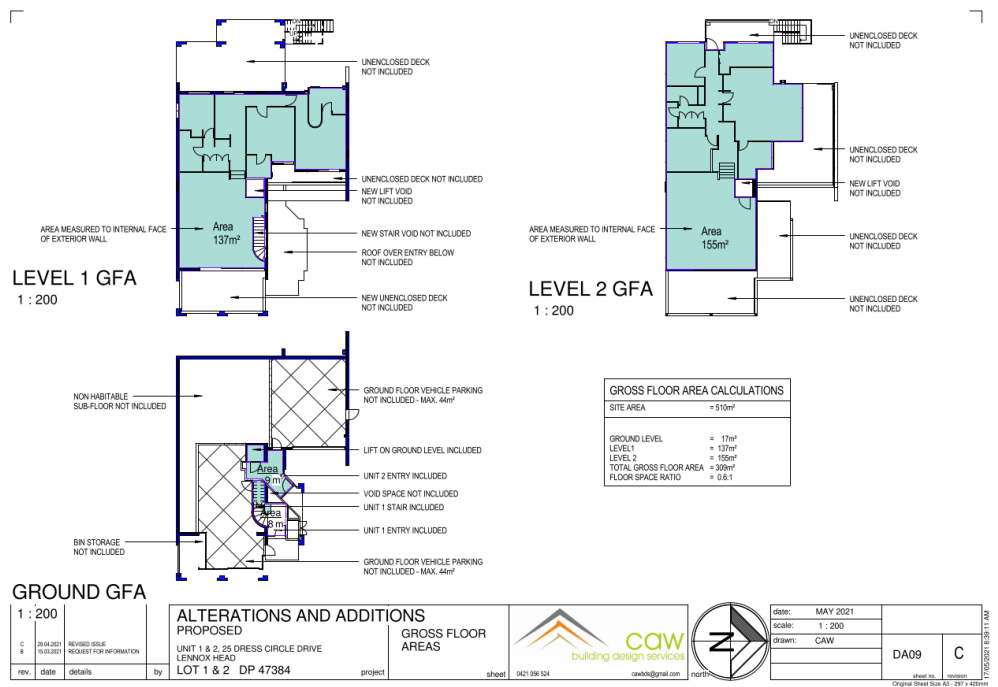


Figure 8: Areas Comprising Gross Floor Area

While the increase to the GFA are within the footprint they do involve enclosing an area that is approved as an unenclosed carport.

This area is currently screened with timber slats and may add slightly to the existing degree of bulk, although this is behind the building line.

Of significant note is the proposed removal of the bulky stairs to the front and northern side of the building. Although not evident in the two dimensional plans, this will greatly reduce the bulky appearance of the building.

An assessment of the bulk and streetscape has been provided by the applicant, which also references three development applications and other buildings in Lennox Head that consist of three storey residential buildings. This information is included as Attachment 5.

The streetscape assessment does not indicate whether or not these development applications comply with the FSR and other relevant development standards. However, a review of the referenced development applications has revealed that these were all assessed as having a compliant FSR.

It is acknowledged that there are many other three storey residential buildings in Lennox Head. However, three storey buildings are generally only acceptable when they meet the principal development standards and controls such as FSR, building lines, parking and having no adverse impacts in relation to views, shadowing and streetscape.

In this particular case, despite the FSR variation, the proposal is not expected to result in unreasonable adverse impacts on the existing and future amenity of adjoining properties and the landscape quality of the locality.

Following discussions with the applicant, the building now also complies with the applicable building line and parking provisions (after initial proposals sought variations in relation to these provisions).

Determining whether compliance with the FSR development standard is unreasonable or unnecessary in this particular circumstance is guided by Clause 4.6 of the BLEP 2012 (See Section 4.15 assessment attached) and the five considerations arising from the Land and Environment Court (as summarised in *Wehbe v Pittwater Council 2007*).

These considerations in relation to the variation sought to the floor space ratio are addressed as follows.

1. The FSR development standard has not been abandoned or destroyed by Council's actions in granting consents in this locality in the past. Although the locality contains many three storey developments, dual occupancies and buildings that have building envelope encroachments, these are generally not supported where developments do not meet other principal development standards or controls contained in the LEP/DCP such as overall height, building line, building envelopes and privacy.
2. The underlying objective or purpose of the FSR standard is to limit building density, and in conjunction with the building envelope and building line controls, limit bulk and scale and adverse impacts on adjoining properties and the street scape.

This is relevant to the development and compliance should be achieved where it is practical to do so.

The general bulk and scale of the existing building and any building envelope encroachments are set and unable to be easily reduced.

There is no breach of building line control and compliant and improved parking is proposed over what currently exists. In addition, the overall bulk and scale will be reduced by the removal of the front stairs.

3. The underlying objective of the purpose of the FSR provisions will not be defeated or thwarted if compliance with the FSR were to be required, or if it were to be required for there to be no increase in FSR.

However, due to the existing building already being well over the FSR, the minor increase in FSR is not seen as sufficient grounds on its own to warrant refusal.

The exceedance of the FSR is considered reasonable to permit a design that provides for the appearance of a less bulky building when viewed from the street and adjoining properties.

4. Requiring strict compliance with the FSR development standard is unreasonable in this instance due to the size and configuration of the existing building and the improvements being made to the overall scale of the building as a result of the proposed changes.
5. The objectives of the FSR development standard will be still achieved by the non-compliant design.

Having regard for the above, the requested variation to the Floor Space Ratio standard applicable to the subject land is reasonable.

Provisions of Council's DCP

An assessment of the proposal against the relevant provisions of the DCP, in particular Chapter 4 – Residential and Tourist Development, identified that the proposal is in the main compliant. However, in its original submitted form it did not comply with the controls or satisfy the objectives for Building Lines, Vehicular Access and Parking, and Privacy as well as the exceedance of the Floor Space Ratio standard.

Since the proposal was submitted, discussions have been had with the applicant and amended plans have been provided whereby the proposed garages have been altered so that they now comply with the Building Line and Vehicular Access and Parking, controls.

In addition to this, details of privacy screens have also been included to the level 1 and level 2 decks to comply with the applicable privacy controls.

Parking and Building Lines

In justifying the proposal the applicant refers to it being *entirely consistent with the existing approved dual occupancy given the alterations and additions will not alter the existing height, building footprint, minimum building lines or setbacks to Dress Circle Drive, as approved.*

The proposed Garage 1 will now have a setback of 5.5m, being the minimum setback for a garage where the building line is less than 5.5m

This lot and others in this locality have a building line of 4.6m, which is the setback to the columns of the existing building.

The DCP controls for parking stipulate that each dwelling is to have two parking spaces, one of which has to be covered and behind the building line. The proposal complies with this control.

Privacy

The western deck to level 2 is existing and is small in size and not directly accessed from a living area.

As such its use would be limited to a small number of people for short periods of time and is more akin to a landing serving the stairs.

The existing northern deck to level 2 is being reduced in area by the enlargement of a bedroom.

This deck is within 3m of the northern boundary, however the adjoining land in that location is the driveway of the adjoining lot and no other work is proposed to this deck other than replacement of the deteriorated members.

A new terrace is proposed to the eastern side of the Level 1 unit. A 1.8m high vertical garden is proposed as a privacy screen the end of this terrace that is adjacent to the southern side boundary.

A similar garden wall is proposed to the end of the existing level 2 eastern deck.

These eastern decks are adjacent to an access handle to Council owned land and the driveway of the adjoining lot. They are also forward of the dwelling on the adjoining lot.

As such, occupants of this deck are unlikely to be looking rearward, away from the views, when it is in use.

A review of the files for the alterations and additions approved in 2003 has revealed that the previous owners of the adjoining property to the south had originally objected to a privacy screen being constructed on the level 2 eastern deck. This was due to their concerns of it affecting their north easterly views.

However, during construction, these owners requested the screen be installed as their views were blocked by the building structure and they felt that the use of the deck would impact on the privacy to their balconies.

Therefore, it seems appropriate to have privacy screening to both of these eastern decks as well as the southern windows of the living areas as proposed.

The DCP requires that details of privacy screening are to be provided at Development Application stage. Privacy screening to ensure any privacy screening measures are adequate.

These details have been provided and are adequate to achieve a suitable screening outcome.

Options

Option One – Approval with Conditions

Council could approve the application as submitted with the application of standard conditions of consent for dual occupancy developments. This option is the recommended approach.

Option Two - Refusal

Council could refuse the application as submitted on the basis the proposal exceeds the Ballina Local Environmental Plan 2012 development standard for the FSR. This option is not recommended as the proposed development is reasonable having particular regard for the nature of the existing structure and that the proposed alterations and additions will likely result in an improved built form.

Option Three - Deferral

Council may defer determination of the application to seek additional information. This option is not recommended as sufficient information has been provided by the applicant and the technical assessment is complete.

Conclusion

While the proposal will result in an increase in the FSR of the building, the applicant has reduced the extent of the increase by moving walls inward in some places. The additional parking to the ground floor is excluded from the calculation of the FSR. The removal of the bulky stairs to the front of the building and modernising of the balustrades and external features will result in a building with substantially more aesthetic appeal.

Aside from the FSR variation and building envelope encroachments resulting from the existing building, the proposed works are consistent with the provisions of the DCP. It is recommended that DA 2020/878 be approved with the application of standard conditions for this type of development.

RECOMMENDATIONS

1. That the variation to the Floor Space Ratio development standard in Clause 4.4 of the BLEP 2012 be granted for DA 2020/878.
2. That DA 2020/878 for alterations and additions to a Dual Occupancy be **APPROVED** subject to the application of standard conditions for this type of development.

Attachment(s)

1. Plan Set
2. Submissions in Support of the Proposal
3. Section 4.15 Assessment
4. Clause 4.6 Variation Request - Ardill Payne & Partners - 30 April 2021
5. Clause 4.6 Variation - Bulk, Scale and Streetscape Assessment - Appendix A

8.3 Land Classification - Western Side of Hutley Drive North Extension

8.3 Land Classification - Western Side of Hutley Drive North Extension

Section	Strategic Planning
Objective	To determine the future use of residue land following completion of the Hutley Drive North extension road works.

Background

Council at the October 2019 Ordinary meeting considered a report relating to the Part V assessment of the northern extension of Hutley Drive to Byron Bay Road.

At that meeting Council approved the Hutley Drive North extension subject to planning, engineering and environmental measures.

Council also resolved to receive a report on options to categorise the residual land on the west side of the road (Part Lot 1 DP 1270999) as community land and develop appropriate concept plans.

Council at the 17 December 2020 Ordinary meeting considered future land use options for the subject land and resolved to receive a briefing on this matter.

A Councillor briefing was held on 31 March 2021.

The following report contains some of the information previously considered by Council at its 17 December 2020 meeting together with some additional information following the briefing.

The purpose of this report is to determine a preferred approach to the use and management of the land for implementation.

Key Issues

- Preferred land use for residue land following completion of road works
- Optimum community outcomes

Discussion

Council's purchase of 9 Byron Bay Road, Lennox Head (Lot 2 DP 620838) was finalised in March 2018.

Lot 2 had an area of 9,735m² and at the time of acquisition was zoned RU1 Primary Production under the provisions of Ballina LEP 2012.

Prior to the purchase of Lot 2, Council at the July 2017 Ordinary meeting endorsed the preparation of a planning proposal to rezone this lot to a R2 Low Density Residential zone and apply a 600m² minimum lot size.

8.3 Land Classification - Western Side of Hutley Drive North Extension

This rezoning, which eventually also included the Telstra site on the corner of North Creek Road and Byron Bay Road, was finalised in November 2019 as Amendment No. 41 to Ballina LEP 2012.

Following the purchase of Lot 2, Council resolved to classify the land as operational land at the April 2018 Ordinary meeting.

Lot 2 was acquired by Council to facilitate the construction of Hutley Drive North and its connection with Byron Bay Road. Land not required for road purposes was proposed to become available for subdivision, or for other Council purposes.

Subsequently land on the eastern side of Hutley Drive has been confirmed by Council for use by the Lennox Head Community Pre-school and the Lennox Head Rural Fire Service.

Land on the western side of Hutley Drive outlined by red edge in Figure 1 below, which has an area of approximately 3,790m², is the subject of this report.

Approximately 40% of this land consists of a batter associated with Hutley Drive. The remaining land, which adjoins four residential properties is more gently graded.

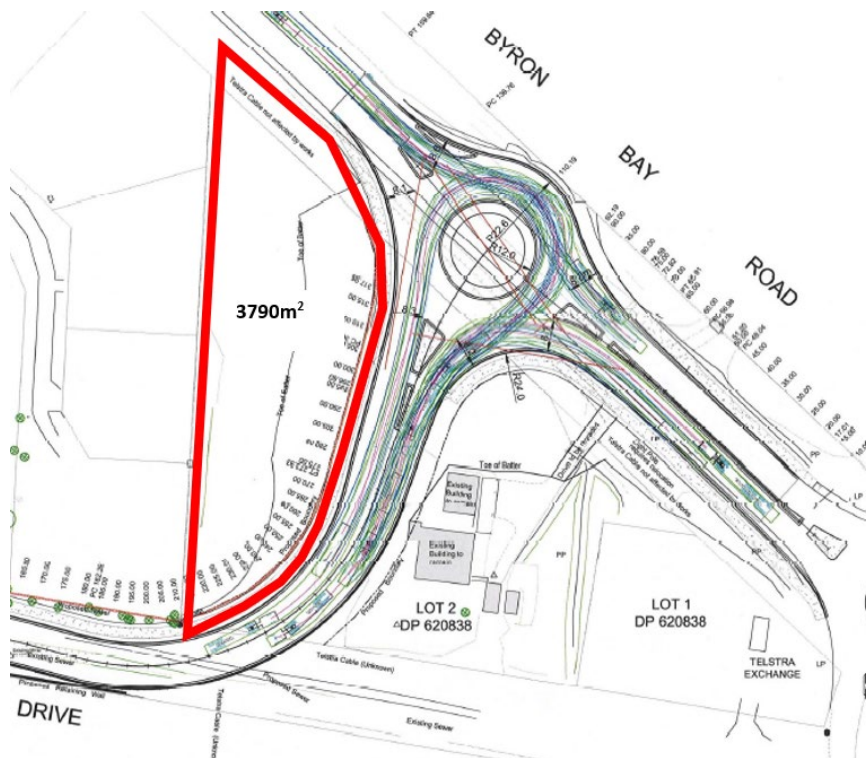


Figure 1: Location of residue land following road works

The following photos show the residue land and adjoining development.

8.3 Land Classification - Western Side of Hutley Drive North Extension



Southerly view towards Hutley Drive



View towards north – west (Byron Bay Road)



Northerly viewing also showing rear of 9 Ocean Breeze Drive

8.3 Land Classification - Western Side of Hutley Drive North Extension

Land Classification

The Local Government Act 1993 (LG Act) enables Council to classify land as community or operational land.

Section 33 of the LG Act relates to the reclassification of operational land as community land. It provides that a council may resolve that public land classified as operational land is to be reclassified as community land.

Section 34 of the LG Act requires a council to give public notice of a proposed resolution to classify or reclassify public land.

The public notice must include the terms of the proposed resolution and a description of the land.

A period of not less than 28 days must be allowed in which submissions may be made to council.

There are a number of potential uses which may be suitable for the land which include:

Landscaping and tree planting

The land could be extensively landscaped by Council and used as a green buffer between the dwellings (four), which obtain access from Ocean Breeze Drive, and Byron Bay Road. Landscaping works could be undertaken without reclassifying the land as community land.

Access to the land is constrained with only one access driveway, utilised by Council staff, provided from Hutley Drive. This is a gated access point, which is unsuitable for general public access.

Given the access constraints, landscaping works undertaken on the land would mainly benefit the four adjoining residential properties. They would largely be unseen from Byron Bay Road or Hutley Drive due to the acoustic fencing which surrounds the eastern side of the lot and the topography of the land.

If the land remains in public ownership, landscaping of the site to create a self-sustaining bushland area would be beneficial from the perspective of minimising ongoing mowing of the land.

Alternatively funding of planting/landscape works may be achieved through a vegetation management plan approach.

This involves use of the site as a compensation for the removal of EEC vegetation on other sites (private development or Council projects).

Having regard to tree management buffers required from the existing residential properties (six metres from tree drip line) and the land's isolated nature (not contiguous to other substantial vegetated areas), using the site as an offset area is not the preferred outcome and is not recommended.

8.3 Land Classification - Western Side of Hutley Drive North Extension

Consolidation of the land with adjoining residential properties

Subject to interest from adjoining property owners, the land could be subdivided and then sold to adjoining property owners. This outcome could be achieved under the existing operational classification of the land.

There are four residential properties which back onto the land, ranging between approximately 950m² and 2,850m² in size. These properties are zoned R2 Low Density Residential and are subject to a 1,200m² minimum lot size.

To enable this outcome to be progressed would initially require land owners to be approached to determine interest and then a valuation to be obtained.

A concept subdivision plan has been prepared and is contained in Figure 2. The plan provides an indication of the lot size and shape that would result if the land were to be subdivided into sections contiguous with the Ocean Breeze Drive properties.

At this stage formal valuation advice has not been obtained.

Once landholder interest and valuation has been determined, the final step would then be to offer the land for sale to adjoining owners and require its consolidation with existing lots.

The process may result in an opportunity being created for some owners to further subdivide the consolidated lots should the resulting size of a lot enable this. Other factors such as access and suitable building envelopes would also need to be considered in determining subdivision suitability.

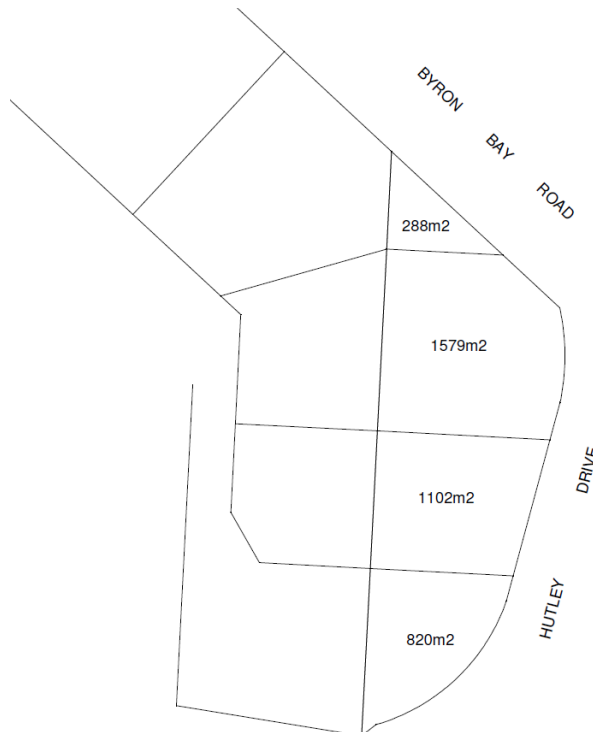


Figure 2 - Concept Subdivision Plan

Offer the land to community organisations which may include an expression of interest process.

8.3 Land Classification - Western Side of Hutley Drive North Extension

There may be some suitable community uses for the land. These could be revealed through an expression of interest process.

The difficulties associated with community use of the land primarily relate to the constrained site access and potential amenity impacts on adjoining residential properties. It is likely that the expression of interest process may result in few, if any, potentially suitable uses being nominated.

For example, at the 31 March 2021 Councillor Briefing, the use of the land for the erection of storage shed for the Lennox Head Lions Club was raised. Whilst permissible in the zone, the site is considered to be unsuitable for the use due to the unsatisfactory vehicular site access arrangements (the site access was not designed for regular community land access).

Residential or other urban land use

Given the zoning of the land, it is possible that the site could be used for the purpose of residential development or some other urban land uses. There are difficulties with this that would require more detailed investigation.

Key issues to consider include the suitability of the land particularly with respect to the batter associated with the road works, access to the land and potential impacts on the adjoining neighbours.

Optimisation of the value of the land would require it being dealt with as one lot (not subdivided for sale to adjoining owners), and accessed via the accessway to Ocean Breeze Drive. This is likely problematic as the accessway forms part of the property known as 9 Ocean Breeze Drive and no right of access exists to the residue rear land.

Delivery Program Strategy / Operational Plan Activity

The outcomes proposed by this report relate to the following Delivery Program and Operational Plan strategies and actions:

- | | |
|------------------|---|
| Strategy PE 3.2: | Facilitate residential land. |
| Strategy EL 2.1: | Proactively pursue revenue opportunities, cost savings and/or efficiencies. |
| Action EL 1.1b: | Ensure land classifications reflect community standards. |

Community Consultation Policy

No community consultation has been undertaken during the preparation of this report. However, earlier feedback from adjoining owners associated with the Hutley Drive North works has been considered in the formulation of the land use options set out in this report. Should Council resolve to reclassify or seek to sell the land, community and stakeholder consultation will then occur.

Consultation, if required, will be based on a low level local impact proposal. This would include adjoining owners being advised in writing and a notice published on Council's web site.

Financial / Risk Considerations

An approach involving sale of the land will result in funds being obtained which could be allocated to other projects.

Landscaping of the site utilising a bush regeneration approach is estimated to cost in the vicinity of \$20,000 which includes a five year maintenance period.

Retaining the land as part of a longer term land banking approach has a low level annual cost and is low risk. This option leaves Council with various options into the future.

Options

Option 1 – Retain the land in Council ownership

This is the recommended option.

There is no urgency to consider the sale the land. In time opportunities may arise to develop the land for residential purposes as one parcel or alternate community use outcomes may emerge. This may then result in better financial or community outcomes than if the land were to be subdivided or sold at this time.

Holding some undeveloped land in Lennox Head, with an operational classification (this classification being more flexible than community land), may also be beneficial in addressing future issues that might arise given Council has very limited holdings of public land not otherwise developed, being developed or performing a particular function in this locality.

If the land is retained under this option, the management approach would be to apply a basic maintenance regime (e.g. mowing and possibly some tree planting where this supports efficient maintenance).

Option 2 - Pursue the sale of the land to adjoining landholders

Under this option, Council would write to adjoining residential property owners to determine if there is any interest in the purchase of residue land sections as shown in Figure 2.

Subject to interest, valuations would then be obtained. Council could then give further consideration to the sale of the land before making offers to individual property owners.

This option is not recommended as it may not provide financial returns to Council reflective of the value of the land, if able to be developed.

Option 3 – Prepare and implement a landscape concept plan

Under this option, Council would prepare a landscape concept plan for the land, and subject to consultation with adjoining owners, proceed to landscape the residue land. This option may include the reclassification of the land from operational to community land.

8.3 Land Classification - Western Side of Hutley Drive North Extension

The retention of an operational classification is of the greatest utility to Council. It provides for the maximum flexibility in the management of the land. However, a community land classification can provide for more certainty in relation to the future use of the land from a community perspective.

A community land classification would be accompanied by a land categorisation (such as natural area or general community use) that would be determined in association with the landscape concept planning process.

If the land is to be retained for landscaping purposes, it is recommended that the operational land classification be retained to provide flexibility in the management of the land and in particular, the batter that is associated with the Hutley Drive North road construction.

This option is not recommended as broad scale landscaping of the site may impact the potential of certain uses in future.

Option 4 – Offer the land to a community organisation for use

Council could make the land available to a community organisation for a community type use. As mentioned earlier in this report one option in this regard is to make the land available for construction of a shed to be used by the Lennox Head Lions Club.

This option is not recommended given the access to the land is limited and not designed for this kind of purpose and this type of use may limit the potential for other land uses in future including subdivision and sale of the land.

Ocean Breeze Reserve was one possible option for the Lennox Head Lions Club shed, however that would most likely require Council resolving to amend the area under licence to Lennox Head Community Gardens Inc.

Option 5 – Defer the matter and seek additional information

Should Council require additional information, or should it wish to explore other alternatives, then the matter could be deferred for a further report or briefing. This option is not recommended given the previous reporting and briefing held in relation to the matter.

RECOMMENDATIONS

1. That Council, in respect to Part Lot 1 DP 1270999, continue to maintain the land in its current state and take no action to change the operational classification of the land.
2. That Council confirms that it considers the land unsuitable for the construction of service club storage facilities due to unsatisfactory site access arrangements for such a purpose and a preference to hold the land in a manner that provides for a variety of future land use options.

Attachment(s)

Nil

8.4 Planning Proposal - Southern Cross Industrial Estate - Expansion

8.4 Planning Proposal - Southern Cross Industrial Estate - Expansion

Section	Strategic Planning
Objective	To seek direction on the public exhibition of the proposed rezoning of land forming part of the Southern Cross Industrial Estate Expansion Area (BSCPP 20/003).

Background

Council originally prepared a planning proposal in June 2013 seeking the rezoning of certain rural zoned land adjoining the Ballina Byron Gateway Airport. At that time, it was proposed to rezone approximately 39ha of land to a mixed B6 Enterprise Corridor and B7 Business Park zoning regime, together with associated LEP amendments.

In 2015 the Council endorsed an amendment to the 2013 planning proposal. The amendment provided for the rezoning of the then site to a part IN1 General Industrial zone and a new IN2 Light Industrial zone.

The then Department of Planning and Environment (DPE) endorsed both the original and amended planning proposals with the issue of positive Gateway determinations. The Gateway determinations required the preparation of a range of technical reports and subsequent government agency consultation.

Issues relating to the resolution of ecological and flood impacts resulted in the planning proposals not being able to be finalised within the time periods specified by the DPE.

Government agency consultation did take place in late 2015 through to early 2016. The comments received, which related in part to the adequacy of supporting documentation, were independently reviewed by a planning consultant.

Rob van Iersel, Environmental Planner, prepared a gap analysis in 2016, which detailed issues that required further attention. These issues have been progressively addressed and resolved. Resolution of the matters of concern has also resulted in the area occupied by the planning proposal being reduced from approximately 39ha to 5.77ha.

Council at the 28 May 2020 Ordinary meeting again considered the 2015 amended planning proposal. Council endorsed the amendment of the planning proposal so that it applied only to Stage 1 (5 lots approximately 5.77ha), it applied an IN2 Light Industrial zoning to this area, and sought an amended Gateway determination.

On 4 November 2020 the Department of Planning Industry and Environment (DPIE) issued a new Gateway determination.

A new Gateway determination was issued (not a further amendment of the original 2013 Gateway determination) due to the length of time that had elapsed since 2013.

8.4 Planning Proposal - Southern Cross Industrial Estate - Expansion

Consequently, the 2020 planning proposal has been required to be updated to address the matters specified in the November 2020 Gateway determination.

In addition issues relating to site flooding and ecological impacts have been further assessed and documented within the planning proposal (Attachment 1).

Figure 1 shows the extent of the area proposed to be rezoned in the original planning proposal (Stages 1 and 2) as well as the area proposed to be rezoned by the current planning proposal (Stage 1). The land is predominately owned by Ballina Shire Council.

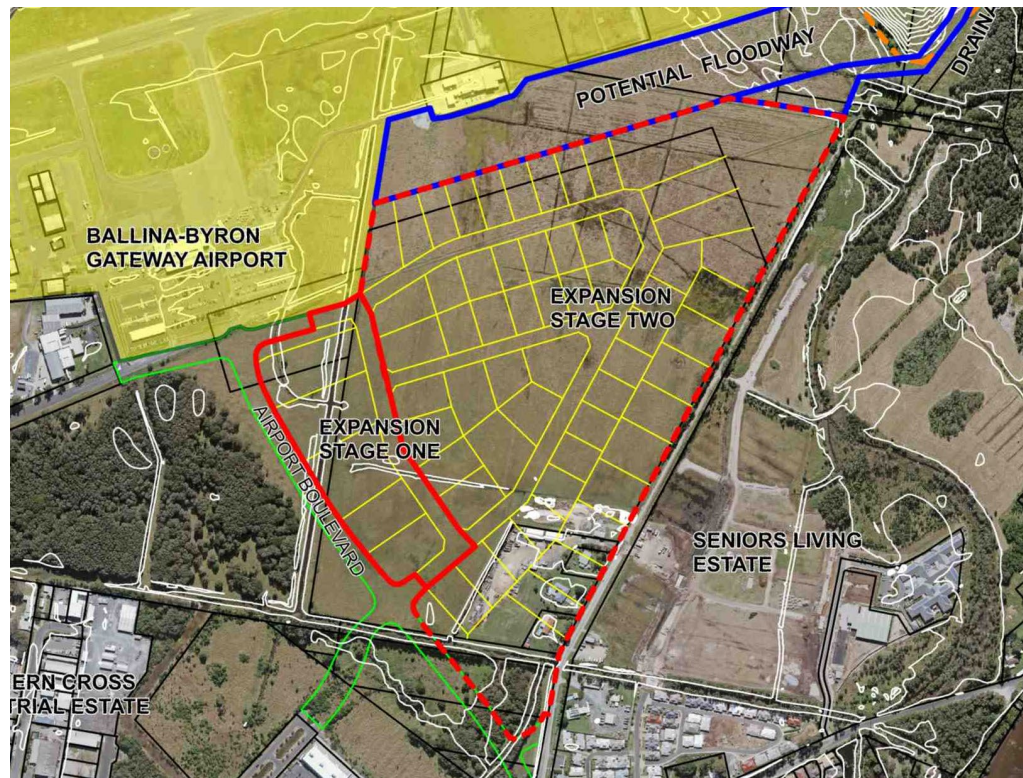


Figure 1 – Staging Diagram for Southern Cross Industrial Expansion Area

The planning proposal is now at a point where it can progress to public exhibition. The purpose of this report is to seek Council's direction on commencement of the exhibition phase.

Key Issues

- Proposed IN2 Light Industrial zone land use table
- Floodplain impacts and mitigation strategy
- Ecological impacts and mitigation strategy

Discussion

The planning proposal for Stage 1 (Attachment 1) has been prepared in accordance with the requirements of the November 2020 Gateway determination. The LEP amendment is required to be finalised by 30 June 2021.

8.4 Planning Proposal - Southern Cross Industrial Estate - Expansion

The proposal involves the application of an IN2 Light Industrial zone to the Stage 1 expansion area as well as associated amendments relating to lot size, building height and the land's strategic urban growth area designation.

The Gateway determination requires the preparation of a number of specialist reports and assessments prior to community and agency consultation. These are listed below together with the planning proposal appendix reference:

- (i) ecological, flora and fauna (appendix 11a to 11e)
- (ii) acid sulfate soils (appendix 12a and 12b)
- (iii) geotechnical (appendix 15)
- (iv) stormwater impact and flooding (appendix 13a and 13b)
- (v) entomological (mosquitoes) (appendix 16)
- (vi) bushfire hazard (appendix 14)
- (vii) archaeological/cultural heritage (appendix 17)
- (viii) aerodromes impact report (appendix 18)
- (ix) site contamination (appendix 9)

The planning proposal is now at a stage where, subject to Council's endorsement, it is suitable for progression to the consultation and public engagement phase.

A number of more relevant issues addressed in the planning proposal are discussed below.

Proposed IN2 Light Industrial zone

Ballina LEP 2012 does not currently contain an IN2 Light Industrial zone. The proposed IN2 land use table is contained at Attachment 2.

Uses proposed to be permitted in the IN2 zone with development consent, and not permitted within the IN1 zone, include:

Function centres; Hotel or motel accommodation; Schools.

Uses permitted within the IN1 zone but not the IN2 zone include:

Agriculture, Helipads, Bio-solid treatment facilities, Passenger transport facilities, Recreation facilities (outdoor), sewage treatment plants, waste disposal facilities.

The IN2 land use table has been incrementally developed since 2015.

There may be opportunities to consider some additional uses such as office premises (definition as follows) which may benefit from being located adjoining a major regional airport:

8.4 Planning Proposal - Southern Cross Industrial Estate - Expansion

office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

Examples of office premises, which would fit within the above definitional requirement, of not dealing with members of the public on a direct and regular basis, include call centres, administrative headquarters for insurance companies, and shared co-working space for business visitors to the region.

It is recommended that the land use table for the proposed IN2 zone be expanded to incorporate office premises as a use permitted with development consent.

One issue to consider with the inclusion of office premises as a permissible land use is the possibility that businesses will be drawn out of existing business zoned areas to the IN2 zoned area. However, this can be mitigated through the way Council manages the ultimate occupation of the land (e.g. through master planning, contractual arrangements).

It is recommended that the inclusion of this land use as permissible be considered further post the completion of the public exhibition and agency consultation phase. In this regard, Council will receive a further report on this matter once the consultation has concluded.

Floodplain and Drainage Impacts

When preparing a planning proposal for flood prone land, Council is required to justify impacts in accordance with the Minister's section 9.1 Direction 4.3 Flood Prone Land.

The Direction includes a provision, which indicates that a planning proposal must not rezone land within the flood planning area for a range of zones including industrial. A planning proposal may be inconsistent with this direction only if the Director General (or nominee) can be satisfied that:

(a) the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or

(b) the provisions of the planning proposal that are inconsistent are of minor significance.

In 2015 Council adopted the Ballina Floodplain Risk Management Plan and a risk based Flood Plain Management Development Control Plan. These documents were prepared in accordance with the principles and guidelines contained in the Floodplain Development Manual 2005.

Flood impact assessment of filling associated with the development of the site for industrial purposes has been undertaken in accordance with the principles contained within the NSW Flood Plain Development Manual 2005 by BMT Commercial Australia Pty Ltd (BMT) and Council's polices. This included modelling the impact of the proposed filling on flood levels and risks.

8.4 Planning Proposal - Southern Cross Industrial Estate - Expansion

Attachment 3 contains the BMT report, *Southern Cross Expansion – Development of Mitigation Options*, dated 18 May 2021.

The BMT report assessed the impact of filling the rezoning site on the 1% and 5% Annual Exceedance Probability (AEP) peak flood levels through flood modelling. The Ballina Integrated Flood Model has been progressively adjusted since 2013. The adjustments involved incorporating the flood impact of infrastructure and development constructed, approved or rezoned and which has required filling.

Initial modelling of the impact of filling the Stage 1 site indicated significant increases in flood levels in both the 1% and 5% AEP flood events. The vegetated area west of the site was particularly adversely impacted. This wetland area is owned by Council.

The report also indicated that the proposed filling would reduce flood storage and block the natural flow path to North Creek.

Due to the modelled adverse impacts, BMT proposed a mitigation strategy.

This strategy proposed the construction of a drainage channel along the northern most edge of the rezoning site. The channel would then continue in an easterly direction, through Council land, along the southern boundary of the airport.

The green lines in Figure 2 below show the area proposed to be utilised for the purposes of the drainage channel as proposed by BMT.



Figure 2 – Conceptual Design of Mitigation Channel (BMT)

8.4 Planning Proposal - Southern Cross Industrial Estate - Expansion

The BMT report states the following in terms of flood impacts:

The currently proposed fill extent for the Southern Cross Expansion (Stage 1) is shown to have a significant impact on peak flood levels within the surrounding vegetated area to the west of the site if no mitigation strategy is adopted. The impact is caused by a combination of storage and conveyance related factors.

Floodplain filling has reduced flood storage and the current development footprint blocks the natural overland flow path from the floodplain to the North Creek Canal. Significant impacts to flood levels are expected in both the 1% and 5% AEP events in the vegetated area west of the Site as a result of the first stage of the development.

Water level impacts within the vicinity of the Site are improved by up to 38 and 28mm respectively when compared to the pre-developed case over an approximate area of 100 and 36 hectares, in both the 5% and 1% AEP events, as a result of implementing a mitigation channel, north of the Site, between Airport Boulevard and Corks Lane. Therefore, the inclusion of the proposed mitigation channel in the design reduces flood levels in the vicinity of the site and meets Council's requirements for less than 10 mm of incremental flood impact. 50 mm of cumulative flood impact is already exceeded in this area, however, the proposed Site and mitigation channel slightly reduce this impact rather than worsening it.

In terms of Direction 4.3 it is considered that the planning proposal is justifiably inconsistent with the direction because:

- the more significant incremental increases in 1% and 5% AEP flood levels impact Council owned land once the mitigation strategy is implemented
- such impacts are short term and not permanent changes to water surface levels within the western wetland area which is considered to have high environmental value
- a mitigation strategy is available which results in significant decreases to the 1% and 5% AEP flood levels over a large area which includes the Ballina Byron Airport site
- in terms of effects on the Ballina floodplain, the filling of the rezoning site is of more minor significance.

Prior to this planning proposal being finalised Council will need to seek the agreement of the Secretary for the inconsistency with this direction.

Notwithstanding the above, in the finalisation of the reporting associated with this matter, a discrepancy in the flood assessment report (Attachment 3) has been identified.

The issue relates to the flood modelling having included only the extent of the industrial allotments, excluding the internal servicing road (located to the east of the lots). The internal service road should have been included in the flood assessment.

8.4 Planning Proposal - Southern Cross Industrial Estate - Expansion

Whilst the difference in fill extent is not anticipated to result in greater flood impact, having regard to the flood mitigation strategy identified, the modelling will nonetheless need to be revised to include the full fill extent prior to public exhibition occurring to confirm this.

This revised flood assessment report would then be included in the planning proposal public exhibition package.

Further flood impact assessment has been undertaken for the balance of the Southern Cross Industrial Estate and planned works to the Ballina-Byron Gateway Airport, which will be reported separately to Council in due course.

This further work has identified a broader flood mitigation strategy for the precinct as a whole, which gives a reasonable level of confidence that the flood assessment revision referred to above should adequately address flood impacts associated with the stage one planning proposal.

Having regard to this, along with the already completed specialist assessment reports required by the Gateway Determination (listed earlier in this report) and the need to progress this matter with respect to the Gateway and the Innovation Precinct Restart funding timeframes, the issue with the flood assessment reporting referred to above is not considered sufficient to justify further delay in the decision to proceed to public exhibition at this time.

The recommended course of action is for Council to resolve to proceed to exhibition, with staff to then obtain the revised flood modelling.

If the modelling confirms that the flood related outcomes are acceptable, the matter will progress to exhibition.

If the revised flood assessment report raises further issues with respect to flood impact, this matter will be reported back to Council for consideration before exhibition.

A Concept Stormwater Management Plan (CSMP, Appendix 13b of planning proposal contained in Attachment 1) has also been prepared.

The CSMP reviews the impact of proposed industrial development on the receiving stormwater drainage system.

The CSMP indicates that future development on the site would be located on a fill pad having a minimum depth of one metre.

THE CSMP recommends that on-site detention (OSD) be provided so as to satisfactorily mitigate the impact of increased stormwater runoff.

The plan indicates that 2 x 700m³ detention basins will mitigate peak flows to less than existing conditions.

This is a good outcome in so far as the report indicates that stormwater issues may be effectively managed through an OSD approach for the Stage 1 development without significant off site works.

8.4 Planning Proposal - Southern Cross Industrial Estate - Expansion

Ecological Impacts

A number of detailed ecological/flora and fauna assessments have been undertaken as referenced by Hydrosphere Consulting in their report *Southern Cross Industrial Estate Rezoning Planning Proposal Stage 1 – Ecological Assessment Summary*, dated April 2021 (Attachment 4).

This report concluded as follows:

Biodiversity at the proposed Stage 1 rezoning site has been assessed in multiple studies in recent years as part of the broader rezoning proposal and adjacent development (Airport Boulevard). The understanding of the ecology of the locality has evolved over this period and is summarised as follows:

- The proposed Stage 1 rezoning site has a history of anthropogenic disturbance including clearing, drainage works, aquaculture, filling, grazing, slashing and adjacent road development.*
- The site was completely cleared prior to the mid-1900s and all vegetation at the site is regrowth. Current vegetation consists of exotic grasslands, Swamp oak forest and Freshwater wetland. One threatened plant species (Hairy joint grass) has been previously recorded on the site (in 2016 and 2017).*
- Overall, the dominant lithology of the site is sand and the soil profiles observed are consistent with the published classification of soils in the area. Sampling results show that the soils of the Stage 1 rezoning site are generally loam - loamy sand throughout the profile, which is generally reflective of the documented site geology and soils. This soil type does not match the soil texture description in the relevant EEC Scientific Determinations.*
- Due to the historical disturbances, ongoing anthropogenic impacts, lack of significant habitat features, degraded vegetation and generally low habitat value, the Stage 1 rezoning site is generally considered to be marginal habitat for native fauna. However, there is potential for the occurrence of several threatened fauna species that would need to be considered in future biodiversity assessments.*

Assessment of the vegetation proposed to be removed from the site (4.98ha) will be triggered under the provisions of the Biodiversity Conservation Act and Regulation 2017 as a part of the future subdivision development application.

It is proposed to utilise the provisions of the Biodiversity Offset Scheme (BOS) to facilitate the clearing and filling of the site. This entails the calculation of the number of biodiversity credits required to offset biodiversity impacts. Biodiversity credits then need to be retired either through the payment of a contribution into the Biodiversity Conservation Fund or the establishment of a biodiversity stewardship site.

These matters will need to be considered further as part of the development application process for proposed industrial subdivision works that would follow the rezoning of the land.

Delivery Program Strategy / Operational Plan Activity

Council's 2020 – 2024 Delivery Program and Operational Plan recognises that once Airport Boulevard is completed it will facilitate the release of land within the Southern Cross Industrial Precinct. Prosperous Economy direction *PE3.1 Facilitate commercially viable industrial precincts*, and Activity *PE3.1c Progress availability of land at the Southern Cross Industrial Estate*, relate directly to this planning proposal.

Community Consultation Policy

In accordance with the provisions of Council's Community Consultation Policy the planning proposal should be considered on the basis that it will have a local and potentially high level impact.

Consultation will be required to be undertaken in accordance with legislative requirements.

Council's Community Participation Plan and the Gateway determination requires that the planning proposal be made publically available for a minimum period of 28 days. The notice requirements, and material to be publically displayed, are as specified in the NSW Government's *Guide to preparing local environmental plans*.

The Gateway determination specifies that the following public authorities and agencies are required to be consulted and given a period of at least 21 days in which to respond:

- Jali Aboriginal Land Council
- Department of Planning, Industry and Environment (Division of Biodiversity Conservation)
- Heritage NSW
- NSW Rural Fire Service
- Civil Aviation Safety Authority
- Air Services Australia
- Ballina Byron Gateway Airport
- Regional NSW (Department of Primary Industries - Agriculture)
- Transport for NSW (Roads and Maritime)
- NSW Resources and Geoscience

Correspondence subsequently received from the Department of Planning Industry and Environment in May 2021 indicated that the nominated airport authorities do not need to be further consulted. This was on the basis that consultation had already taken place in 2016 in respect to the then larger site.

In addition to the above it is proposed that land owners of properties located within a one kilometre radius from the site be advised in writing. This will also include all owners of North Creek Road properties to North Creek, and owners of properties on the eastern side of Tamarind Drive from North Creek Road to Bicentennial Gardens.

Financial / Risk Considerations

The progression of the planning proposal to public authority and agency consultation and public exhibition will be undertaken utilising existing resources within the Strategic Planning section.

In terms of risk management it is considered that this planning proposal process has an overall low risk profile. At this stage, mitigation of risk levels has been attempted through the commissioning of various technical reports.

The required further assessment of these reports and their scrutiny by the broader community, as well as government authorities and agencies, will further serve to ensure that this planning proposal maintains a low risk profile.

Options

Option 1 – Progress the Planning Proposal to Exhibition

This is the preferred option.

It has been more than eight years since Council initially commenced the process of rezoning rural land adjoining Ballina Byron Gateway Airport.

During this period numerous studies and assessments have been undertaken and various rezoning options reviewed.

The current planning proposal covers an area of approximately 15% of the area originally proposed to be rezoned in 2013.

Expert assessments and reports generally are supportive of the proposed rezoning or recommend strategies that if adopted, are anticipated to mitigate adverse impacts.

Adoption of this option also incorporates support for including *office premises* as a use permitted with consent in the proposed IN2 zone.

This option will also involve the review of the flood impact assessment (including flood mitigation strategy) contained in Attachment 3 to include the internal service road, as referred to in the body of this report.

The planning proposal would then proceed to public exhibition incorporating this revised flood assessment report. Should adverse flood impacts be identified in relation to the inclusion of the internal road, this matter will be instead reported back to Council for further consideration.

As part of this option, Council would also seek an extension to the current Gateway determination to extend the time period for the completion of the planning proposal currently set by the Department of Planning, Industry and Environment. This is to enable sufficient time to complete the exhibition phase and subsequent reporting that is required.

Option 2 – Cease the Planning Proposal

Council could to seek to discontinue the planning proposal process.

8.4 Planning Proposal - Southern Cross Industrial Estate - Expansion

At this time it is considered that there are no compelling reasons which would support the planning proposal being discontinued. Further, the proposed industrial estate expansion is expected to have significant social and economic benefits for the community given the availability of new industrial land with the potential for large area configurations.

This also has the potential to attract new businesses to Ballina Shire associated with industries encouraged through Council's economic development strategy (e.g. high technology industry and food manufacture).

If this option is preferred by Council, discontinuation requires the agreement of the Minister for Planning and Public Spaces. Ceasing the planning proposal is not recommended.

Option 3 – Defer the Planning Proposal

Council may defer consideration of the planning proposal to receive further information. However, it is suggested that should the Council require further information, a briefing relating to issues associated with this planning proposal could be scheduled in association with the exhibition period.

Aside from the need for a revised flood assessment as mentioned above, there are considered to be no issues which require further assessment.

The planning proposal has been comprehensively assessed through a range of technical reports and studies. Deferral is not recommended.

RECOMMENDATIONS

1. That Council endorses the public exhibition of the planning proposal for the rezoning of land within Stage 1 of the Southern Cross Industrial Estate Expansion to IN2 Light Industrial (BSCP 20/003) for a minimum period of 28 days.
2. That the land use table for the proposed IN2 Light Industrial zone be expanded to incorporate office premises as a use permitted with development consent prior to the public exhibition of the planning proposal.
3. That the flood impact assessment (contained in Attachment 3) be revised to include the internal service road, prior to public exhibition of the planning proposal. Should unacceptable adverse flood impacts be identified in this revised flood assessment, this matter is to be reported back to Council for further consideration and prior to any public exhibition of the planning proposal.
4. That Council notes the mitigation of ecological impacts may include the payment of contributions into the Biodiversity Conservation Fund.
5. That Council seek an extension of six months in which to complete the LEP amendment beyond the 30 June 2021 completion date.
6. That Council give further consideration to the planning proposal following agency consultation and the public exhibition period.

Attachment(s)

1. BSCPP 20/003 - Planning Proposal (Appendices 9-17 provided under separate cover) (Under separate cover)
2. BSCPP 20/003 - Proposed IN2 Light Industrial Zone Land Use Table
3. BSCPP 20/003 - BMT Flood Mitigation Options Report
4. BSCPP 20/003 - Ecological Assessment Summary Report April 2021

8.5 Hampton Park Crown Reserve - Management

8.5 Hampton Park Crown Reserve - Management

Section Open Spaces

Objective To seek direction on the management framework for Hampton Park in Ballina.

Background

The area known as Hampton Park occupies the whole street block bounded by Cherry, Bentinck, Moon and Burnet Streets.

Although Hampton Park was named in 1953, the reserve area is still formally known as the Clement Park Reserve – Dedication 540004 for Public Recreation. Council is the appointed Crown Land Manager for the land within the Reserve, which is described as Lot 441 DP 45984, Lot 561 DP 111966 and Lot 560 DP 119965.

Other parts of the site are managed by the Ballina Bowling and Recreation Club (Cherry Street Sports Club) and do not form part of reserve 540004.

Attachment 1 shows the lot configuration and management arrangements relating to the land.

The key assets existing within the reserve area under Council's management include eleven tennis courts, tennis clubhouse, amenities block, tennis court shelter and croquet lawn and clubhouse.

Council is responsible for the care, control and management of the land for which it is Crown Land Manager, and is also required to exercise any other functions conferred or imposed by the Crown Land Management (CLM) Act or any other Act in relation to this land.

For the land, which adjoins reserve D540004, which Council does not manage, the Ballina Bowling and Recreation Club Ltd hold direct leases with the Department of Primary Industries - Crown (DPIE Crown Lands).

This does not include the croquet lawn and clubhouse, which form part of Lot 561 DP 111966 (Council is currently Crown Land Manager). The Ballina Bowling and Recreation Club currently holds a licence with Council for this area of approximately 2,440m², which expires on 31 July 2021.

Having regard for the timing of leases and licences in place, DPIE Crown Lands previously indicated an intent to review the current management arrangements.

On 9 April 2021, DPIE Crown Lands contacted Council, in its capacity as Crown Land Manager, to seek advice on whether or not Council (as Crown Land Manager) supports the inclusion of part Lot 561 DP 119965 (Croquet Lawns and Clubhouse) and Lot 560 DP 119965 in the proposed new lease between DPIE Crown Lands and what is now the Cherry Street Sport Club.

8.5 Hampton Park Crown Reserve - Management

Cherry Street Sports Club has requested an approach to consolidate its use and occupation of the site into a single tenure, which would be granted directly by DPIE Crown Lands.

Although Council is Crown Land Manager, Lot 560 DP 111965 is held under direct lease from DPIE Crown Lands to the Ballina Bowling and Recreation Club. The land is fenced off and not open to the public, and only accessible to patrons of the club. Essentially the land is not managed as public land by Council under this arrangement.

This land was to be removed from the Hampton Park Reserve, following the adoption of the Hampton Park Plan of Management in 2005, however DPIE Crown Lands has advised that due to an administration error this has not yet been done.

Attachment 1 illustrates the land tenure and management arrangements and also shows the land that would be leased to the Cherry Street Sports Club. In summary:

- The grey shaded areas represents land and infrastructure under direct lease from Crown Lands to the Cherry Street Sports Club.
- Part of Lot 561 (outlined purple, being the location of the croquet lawns) is currently managed by Council as Crown Land Manager. Under the proposal, this land would be leased to the Cherry Street Sports Club directly by Crown Lands. That is, Council would no longer be Crown Land manager for this area.
- Lot 560 (shaded grey and outlined purple with yellow underlay) is currently leased to the Cherry Street Sports Club directly by Crown Lands even though Council is still technically the reserve manager. Under the proposal the administration of this area will be clarified with the land to be leased directly to the Club by the Crown and Council will no longer be the Crown Land Manager.
- Council will remain Crown Land Manager for remainder of the land, being Lot 441 and the balance of Lot 561 (shown outlined in black and shaded yellow).

It is expected that Crown Lands would implement the proposal by excising Lot 560 and part of Lot 561 from the reserve. This will result in Council no longer being Crown Land Manager for these areas.

The purpose of this report is to determine Council's position on the proposed land management arrangement.

Key Issues

- Crown Land administrative and management arrangements for Hampton Park area
- Extent of Council support for future management of land currently occupied by croquet lawns (corner Bentinck and Moon streets) and club infrastructure (along Cherry Street)
- Optimum management arrangements

8.5 Hampton Park Crown Reserve - Management

Discussion

Council has been the appointed Crown Land Manager (formerly known as Reserve Trust Manager) of the original Clement Park Reserve since 20 April 1888.

The Ballina Bowling and Recreation Club is on land that has previously been excised from the reserve.

The Ballina Bowling and Recreation Club leases the facility (being the old croquet lawns, bowling greens and club facilities) based on direct agreements with DPIE Crown Lands. These existing leases expire on 31 July 2021.

The Ballina Bowling and Recreation Club has been the lessee of the croquet lawns at their current location facing Bentinck Street since approximately 2011 after the Club established new croquet lawns and amenities in that location at their cost.

Council is the Crown Land Manager for this site.

The Club's involvement in the establishment of the croquet lawns and facilities is an important consideration in relation to the proposed administration and management of this area.

Given the costs associated with the establishment of these facilities, the Ballina Bowling and Recreation Club has historically been granted rental at the statutory minimum rate, despite the commercial status of the Club.

The licence between Council and the Ballina Bowling and Recreation Club for the croquet lawns located on part Lot 561 DP 1119965 expires on 31 July 2021. This expiry date is in line with the direct agreements between the Ballina Bowling and Recreation Club and DPIE Crown Lands.

The timing of the licence was set at its last renewal to facilitate the current review of the management of the land and enable the alignment of future lease arrangements between Crown Lands and the Club (should this ultimately be the preferred course of action).

DPIE Crown Lands advised on 9 April 2021 that Ballina Bowling and Recreation Club (Cherry Street Sports Club) would like to consolidate its use and occupation of the site into a single tenure, meaning the Club is seeking direct lease arrangements with Crown Lands and Council would no longer be involved in the licensing of the land containing the croquet lawns.

DPIE Crown Lands has confirmed that the remainder of Lot 561 DP 1119965 and Lot 441 DP 4598, being the tennis facility and open public space area will remain under the management of Council, in its capacity as Crown Land Manager.

It has also been confirmed that the Club are aware that it will be responsible for all of the costs associated with the preparation and registration of survey plans required to enable the proposed change of management arrangement.

The proposal has received in principle support from DPIE Crown Lands.

8.5 Hampton Park Crown Reserve - Management

DPIE Crown Lands is now seeking Council's view, as Crown Land Manager, with respect to the inclusion of Lot 560 DP 111965 and part Lot 561 DP 111965 (part held under Licence) in the proposed new lease with the sports club and ultimately the removal of Council as Crown Land Manager in relation to these land areas.

Regardless of whether Council is in support of this request, DPIE Crown Lands can, under the applicable legislation, grant a lease over the subject areas to the Club as outlined and revoke Council's role as Crown Land Manager regardless of Council's position.

Notwithstanding the legislative framework, the proposed approach represents an efficient administrative outcome consistent with the current management of the land and the historic circumstances associated with the provision of infrastructure and maintenance on the land.

In relation to the croquet clubs that use the croquet lawns, the proposed change is not expected to result in any practical difference to the way the lawns are administered, as they are currently managed and maintained by the Cherry Street Sports Club.

The change will be beneficial from an administrative perspective, as it will remove a layer of administration in that Council will not have involvement in providing a licence to the Cherry Street Sports Club for use of the croquet lawn area (this area being land that Council does not manage day to day in any case).

Further, the change does not affect the carrying out of the planned actions in Council's adopted Sport and Recreation Plan.

Under the change, there would be a minor financial impact to Council as Council will no longer receive the statutory minimum rent for the licence relating to the croquet lawns.

This amount is currently \$512 per annum.

On the other hand, not being involved in the licence will remove Council's administrative costs associated with the licence and remove Council from responsibility for future capital repair and maintenance of the croquet clubhouse building, lawns and immediate surrounds.

In relation to the old croquet lawn area near the tennis courts, the proposed change is beneficial as it fully removes Council from management involvement in relation to land for which Council effectively has no practical responsibility or need.

Again this is a better administrative outcome for Council and the Club, as well as potential users of this area.

Overall, having a single and clear administrative framework for the management of the croquet lawn and clubhouse area, and the old croquet lawn area near the tennis courts, under the Cherry Street Sports Club (as the current managers of the land for all practical purposes) is beneficial and supporting this outcome is recommended.

Delivery Program Strategy / Operational Plan Activity

The Plan of Management for Hampton Park D540004 was adopted by the Department of Lands on 19 May 2005.

Under Council's Delivery Program and Operational Plan 2021-2025 (currently on exhibition) the items in this report relate to item EL1.2c – the preparation of a renewed management plan for Hampton Park is scheduled to be completed 2023/24. Address of the management of the land will inform the management plan review process.

Community Consultation Policy

As this matter relates to Crown Land management including reserve configuration changes and proposed lease arrangements initiated by Crown Lands, direct stakeholder engagement has not been carried out by Council.

Part of the intention of this report, however, is to outline the key considerations for the benefit of the community, in addition to seeking the position of Council to enable a formal response to Crown Lands.

Council is currently undertaking a cost-benefit analysis with respect to establishing and maintaining two new croquet facilities within the shire to inform options for the relocation or expansion of the Ballina Croquet Club and the Alstonville Croquet Club. This work is an action under the adopted Sport and Recreation Plan.

Financial / Risk Considerations

The Cherry Street Sports Club has occupied the land comprising the Croquet Lawns and Club House since 2011 under licence agreements from Council as the Crown Land Manager, and endorsed by the Minister. The current licence agreement expires on 31 July 2021 for a statutory minimum rent.

With respect to the old croquet lawn area near the tennis courts, Council has been advised that it was DPIE Crown Land's intention upon granting the lease to Ballina Bowling and Recreation Club to revoke Lot 560 DP 111965 from the Reserve Dedication (removing Council as Crown Land Manager). However due to administrative issues in the Parliamentary tabling process, the revocation has not been undertaken to date.

Although Council is the Crown Land Manager of Lot 560 DP 111965, the Ballina Bowling and Recreation Club lease footprint is an area under direct management of the Crown. Council has no obligation or liability as either a Local Government Authority or Crown Land Manager for assets or activities which occur within that lease footprint.

As indicated above, the change would result in Council forgoing \$512 in rental associated with the croquet lawns and clubhouse. This is offset by the reduced costs associated with the land.

This reduces potential financial liabilities for Council, recognising that Council is already struggling to fund the timely renewal of infrastructure across the entire shire.

Options

There are several options available to Council. With respect to each option it is important to note that Crown Lands can proceed with the proposed change regardless of Council's position.

Option 1 - Support the Proposed Change

Under this approach, Council in its capacity as Crown Land Manager for crown reserve D540004 would provide a letter of support for:

- the inclusion of Lot 560 DP 1119965 and part Lot 561 DP1119965 (part held under Trust Licence for the croquet facility) in the proposed Lease between the Department of Primary Industries & Environment – Crown and the Cherry Street Sports Club, and
- the associated removal of Council as appointed Crown Land Manager over these areas.

For the reasons outlined in this report relating to the practical administration and management of the land, this approach is recommended.

Option 2 - Not Support the Proposed Change

This approach would mean that Council in its capacity as Crown Land Manager for Crown Reserve D540004 advises the Department of Primary Industries and Environment – Crown that it does not support the proposed change.

This option is not recommended having regard for the benefits of the proposed change outlined in the report and in particular that the proposed changes are consistent with the current management of the land in a practical sense.

Option 3 - Remain Neutral

Council could elect not to express a viewpoint.

Given Council's management of the Hampton Park Crown reserve and in the interests of working proactively with Crown Lands, it is recommended that Council express whether it does or does not support the proposed change.

As outlined above, support for the change is recommended.

Option 4 - Defer for Further Consideration

Council could defer a decision in favour of seeking additional information.

This approach is not recommended as the current and proposed management framework for the land is clear and the proposed outcomes are consistent with the current day to day management of the croquet lawn and clubhouse and the former croquet lawn area.

RECOMMENDATIONS

1. That Council in its capacity as Crown Land Manager for Crown Reserve D540004 provides a letter of support for the inclusion of Lot 560 DP 1119965 and part Lot 561 DP1119965 in a direct lease arrangement between the Department of Primary Industries & Environment – Crown and the Cherry Street Sports Club.
2. That Council in its capacity as Crown Land Manager agrees to the removal of Council as appointed Crown Land Manager over part Crown Reserve D540004, being Lot 560 DP 1119965 and part Lot 561 DP1119965.

Attachment(s)

1. Hampton Park Crown Land Management - Plan of Management Framework

8.6 Plan of Management for Community Land - Crown Land Integration

8.6 Plan of Management for Community Land - Crown Land Integration

Section	Strategic Planning
Objective	To inform Council of the outcomes of the public exhibition of the draft Ballina Shire Plan of Management for Community Land and to seek direction on the finalisation of the plan.

Background

In 2018 the Crown Land Management Act 2016 (CLM Act) implemented reforms to the legislation governing the management of Crown land in NSW. Councils are required to manage their dedicated or reserved land as if it were public land under the Local Government Act 1993 (LG Act) and to have plans of management (POM) in place for the land that is classified as community land under the LG Act.

The CLM Act provided a transition period of three years from commencement of the Act for councils to have these plans in place. This period ends on 30 June 2021.

Council, at the 28 January 2021 Ordinary meeting, considered a report on the draft Ballina Shire Plan of Management for Community Land (draft POM). The draft POM provides the management framework for community land, both Council managed Crown land and Council owned land (where managed as community land). The draft POM does not cover Crown land located within the Ballina Coastal Reserve as this land is addressed in the Ballina Coastal Reserve POM.

Council subsequently resolved as follows:

- 1. That Council endorses the public exhibition of the draft Plan of Management for Community Land (as contained in Attachment 1) in accordance with the terms of the Local Government Act and concurrently refers the plan to Crown Lands for review.*
- 2. That Council receive a further report on the draft Plan of Management for Community Land following completion of the public exhibition period.*

In accordance with the Council resolution, the draft POM has been publicly exhibited and referred to Crown Lands for review.

Attachment 1 contains a copy of the exhibited draft POM. Submissions made during the exhibition period are contained in Attachment 2.

This report considers matters raised during the public exhibition period and seeks direction on the finalisation of the draft POM.

Key Issues

- Outcomes of the public exhibition process
- Finalisation of the draft POM

Discussion

In accordance with section 39 of the Local Government Act 1993 (LG Act), Council is required to submit the draft Ballina Shire Plan of Management for Community Land (draft POM) to the NSW Department of Industry – Crown Lands Division (Crown Lands) as the owner of the land. Council must then include any provisions in the draft POM that Crown Lands specify.

Council was advised that the estimated timeframe for receiving a response from Crown Lands on the draft POM is up to three months. Given the legislative requirement for completion of the POM by 30 June 2021, Council was also advised that it is acceptable to refer the draft POM to Crown Lands and undertake public exhibition concurrently.

At the January 2021 Ordinary meeting, Council resolved to endorse the public exhibition of the draft POM and concurrently refer the plan to Crown Lands for review.

The draft POM was placed on public exhibition for community feedback between 24 February 2021 and 7 April 2021. A copy of the draft POM as exhibited is contained in Attachment 1.

In response to the exhibition, six written submissions have been received. The submissions are contained in Attachment 2 and are further considered in the consultation section of this report.

The draft POM was referred to Crown Lands for review on 11 March 2021.

To date, Crown Lands have not provided any feedback in relation to the draft POM.

It is possible that amendments to the draft POM may be required once that feedback is received.

In this circumstance, under the LG Act, if it is of the opinion that the amendments are not substantial, Council can adopt the amended draft plan without further public exhibition.

If the amendments are considered substantial, further public exhibition will be required which means Council will be unable to meet the legislative deadline.

Amendments to Draft POM

Following the public exhibition of the draft POM, minor amendments are required as noted in Table 1.

The amendments largely seek to provide clarification of certain parts of the draft POM and to incorporate the Killen Falls POM 2017 into the Community Land POM in line with the other stand-alone POMs (Williams Reserve and Hampton Park).

8.6 Plan of Management for Community Land - Crown Land Integration

Amendments are also required to the land register entry for Hampton Park, as noted in Table 1.

A map has been prepared and is to be included in Appendix 2 of the draft POM to reflect the multi categories assigned to Hampton Park (Lots 560 and 561 DP 1119965 and Lot 441 DP 45984).

The map (Map 20) is provided at Attachment 3 to this report.

The proposed changes are considered to be minor as they seek to provide clarity regarding certain aspects of the POM. It is not proposed to alter the categorisation of any community land parcels and as such the amendments to the draft POM do not warrant further public exhibition.

Table 1 – Proposed amendments to draft POM post-exhibition

Proposed Amendment	Reason
<p><u>Section 3 Performance and Assessment:</u> Amend heading of third column from 'Manner of Assessment' to 'Performance Measures'.</p>	<p>The LG Act specifies that a POM must identify 'the manner in which the council proposes to achieve the plan's objectives and performance targets'.</p> <p>The information provided in this column indicates how council intends to achieve the performance targets listed in column 1. It is not intended to explain any associated assessment process.</p> <p>It is proposed to amend the heading to 'Performance Measures' to provide clarity.</p>
<p><u>Section 4 Special Provisions</u> Amend entries in Table 6 – table of special provisions in relation to Hampton Park (Land Register No. 2004205) by:</p> <ul style="list-style-type: none"> - Deleting the words "Ballina Croquet Club" and replace with "Croquet Lawns" - Add "Part" to Lot 561 DP 1119965 - Include Hampton Park Croquet Lawns and Tennis Clubhouse entries on a map. 	<p>The reference to 'Ballina Croquet Club' was entered in error as it was based on previous data held in the land register which has since been amended.</p> <p>The croquet lawns are located on part of Lot 561 and this needs to be referenced within Table 6 and the land register extract in Appendix 1.</p> <p>A map has been prepared and will be included in Appendix 2 of the draft POM to indicate the multiple categories assigned to Hampton Park. The map is included as Attachment 3 to this report.</p> <p>Note Hampton Park is subject to a separate report elsewhere in this business agenda. The recommendations regarding the POM reflect the current Crown Land management arrangements for Hampton Park.</p>
<p><u>Section 5 Integration of Site Specific Plans of Management and Master Plans:</u> Amend to include reference to the Killen Falls POM and management elements of that plan.</p>	<p>The land comprising Killen Falls is owned by Ballina Shire Council and classified under the LG Act as community land.</p> <p>The site specific Killen Falls POM 2017 is proposed to be integrated into the draft POM in the same manner as the Hampton Park and Williams Reserve POMs.</p>

8.6 Plan of Management for Community Land - Crown Land Integration

<u>Appendix 1 Land Register Extract:</u> Amend entry relating to Meldrum Park, Ballina (Land Register No. 2004401) by deleting the words "Awaiting finalisation with DPIE".	Notice was received on 5 March 2021 confirming that Meldrum Park is now managed by Council as Crown Land Manager.
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Delivery Program Strategy / Operational Plan Activity

The draft POM is identified in Council's adopted DPOP 2020-2024 under the following strategy/action:

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

HE3.1n Prepare Plans of Management for Crown Reserves where Council is Land Manager

Community Consultation Policy

In accordance with the provisions of Council's Community Consultation Policy (CCP) the draft POM was considered on the basis that it will have a shire-wide and potentially high level impact.

Council's Community Participation Plan (CPP) outlines the provisions for exhibition of strategic planning and statutory planning documents, as required by the Environmental Planning & Assessment Act 1979 (EP&A Act).

The CPP notes that the EP&A Act does not specify mandatory timeframes for the exhibition and notification of POMs as these plans are prepared under the provisions of the Local Government Act 1993 (LG Act).

Section 38 of the LG Act requires Council to publicly exhibit the draft POM for a minimum mandatory exhibition period of 28 days and to allow at least 42 days for submissions.

The draft POM was publicly exhibited from 24 February 2021 until 7 April 2021.

Community consultation was undertaken in accordance with legislative requirements and comprised the following elements:

- Advertisement on Council's website
- Hard copies available at Council's Customer Service Centre and shire libraries
- Media release
- Community Connect article
- E news (fortnightly)
- Social media (Facebook) post

Six submissions were received in response to the exhibition of the draft POM.

Copies of all submissions received are provided in Attachment 2 to this report.

A summary of the matters raised and the Council staff response are provided in Table 2.

8.6 Plan of Management for Community Land - Crown Land Integration

Table 2 – Submissions Summary

Submission #1	<i>Deb Langfield</i>
Submission Comments	<p>Concerns raised regarding the provision of appropriate facilities at sportsgrounds for the use of sporting clubs. In particular:</p> <ul style="list-style-type: none"> • The new clubhouse at EPIQ has no change room facilities for women. • Williams Reserve – would like to upgrade the old toilets into a women’s change facility.
Response	<p>Noted.</p> <p>The POM for community land is not the appropriate mechanism for addressing matters such as the upgrade of facilities. The change room facilities at EPIQ are suitable for use for male and female sport.</p> <p>The POM allows for the construction of new facilities subject to development consent being obtained, which is a separate process.</p> <p>The management terms for Williams Reserve will be reviewed via a separate process as part of the review of the planning framework for Lennox Head.</p> <p>No changes are recommended.</p>
Submission #2	<i>L Keane</i>
Submission Comments	<ul style="list-style-type: none"> • Suggests various wording and category changes to a number of reserves listed in Table 6 – Table of Special Provisions including Epiq playing fields, Prospect Lake reserve, Chickiba Park, Ballina Heights playing fields, Ocean Breeze reserve and Tintenbar recreation reserve. • Although the POM for Community Land allows for it, in practice service clubs and other non-sporting incorporated community associations in the shire find it next to impossible to access a Council lease on public land for the building of community storage and other facilities.
Response	<ul style="list-style-type: none"> • The range of categories available for the classification of community land under a POM is specified by the LG Act. Council has assigned categories that most closely align with the reserve purpose of the land. <p>With respect to the Tintenbar Recreation Reserve, the Minister for Crown Lands has agreed to the categorisation of ‘Sportsground’ as this category most closely aligns with the reserve purpose as the land is improved with a clubhouse and tennis courts.</p> <ul style="list-style-type: none"> • Council may only grant a lease or licence over community land if the POM expressly authorises the lease/licence, and the purpose of the lease/licence is consistent with the core objectives of the category of land. Applications are then assessed in accordance with Council’s Community Property Leasing and Licensing Policy. <p>No changes are recommended.</p>

8.6 Plan of Management for Community Land - Crown Land Integration

Submission #3	<i>Wollongbar Progress Association</i>
Submission Comments	<ul style="list-style-type: none"> • The rainforest remnant (original Big Scrub) off Dalmacia Drive is designated as 'bushland', which does not indicate the significance of the rainforest or its importance to Ballina Shire as a unique environmental asset. • Within the rainforest remnant, two creeks converge. The creeks are not acknowledged in the draft POM. They are special watercourses and should be recognised as such. In addition, the whole area should have its own management plan to protect the rainforest and its watercourses. • Section 3: Performance and Assessment table. The 'Manner of Assessment' column doesn't appear to clarify how the performance targets will be monitored or how assessment will be calculated. The column seems to contain statements, rather than explain how areas will be assessed. • The District Sports Fields are not included in the draft POM because they are on Operational land, a Council decision of 2011. This is unusual as other sports grounds, parks and recreational outdoor spaces are included as Community land.
Response	<ul style="list-style-type: none"> • The range of categories available for the classification of community land under a POM is specified by the LG Act. Council has assigned the category of natural area 'bushland' to this area as the land contains primarily native vegetation comprising the remaining natural vegetation of the land. • The land is to be managed in accordance with the core objectives for management of community land categorised as a natural area (main category) as well as bushland (sub-category). The natural area category provides for the conservation and restoration of the land and all its natural features and habitat, including the watercourse. • The information provided in this column indicates how Council intends to achieve the performance targets listed in column 1. It is not intended to explain any associated assessment process. • At its Ordinary meeting held on 22 July 2010, Council resolved to authorise the General Manager to negotiate the purchase of land for the purpose of providing a new sports field at Wollongbar, and to classify the land as operational land should that land be acquired by Council. <p>The land was subsequently acquired and Council resolved at its Ordinary meeting held on 15 December 2011 to classify the land as operational land in accordance with the resolution of 22 July 2010.</p> <p>The decision to classify as operational land provided Council with appropriate and readily available options should development consent for the proposed new Wollongbar sportsfields not be granted. If the land was classified as community land Council would be restricted in its use of the land as the reclassification of community land to operational land is a lengthy and onerous process.</p> <p>In relation to point 3, it is recommended that the heading of the last column be amended to "Performance Measures" to clarify the intent of the column. No other changes are recommended.</p>

8.6 Plan of Management for Community Land - Crown Land Integration

Submission #4	<i>Jane Gardiner</i>
Submission Comments	<ul style="list-style-type: none"> • Lot 132 DP 261579, referred to as the 'Ocean View Reserve' in the draft POM, is called the 'Valley Drive Reserve', has been enhanced and maintained since 1986. • The reserve has its own POM. • The categorisation of the land should be amended from General Community Use to Natural Area – bushland and Natural Area – watercourse as it is the headwater for Chilcott's Creek, which should be named. • Supports Wollongbar Progress Association's suggestion to develop a POM for Big Scrub Rainforest Remnants as this would allow "the Shire to focus its attention on the dominant character of the land, and the operational management of the asset".
Response	<ul style="list-style-type: none"> • Reserves are generally named to describe the locality marker/entrance point to the reserve. This reserve was named on the basis that the main entrance to the reserve, which comprises 5 land parcels, is from Ocean View Drive. Valley Drive has the smallest access point to the reserve. • The 'Western Chilcott's Creek Landcare Vegetation Management Plan' was prepared in October 2002 by Stuart Hanna, Envite NSW. This is an informal vegetation management plan which aims to protect and enhance the reserve, and is not a POM for the purposes of the LG Act. • The Vegetation Management Plan prepared by Envite NSW identifies endangered ecological communities and sub-tropical rainforest remnants as being present on Lot 132 DP 261579. The reserve also appears to be mostly vegetated. The parcel of land warrants further investigation into categorisation as 'Natural Area – Bushland'. However, due to the statutory deadline for this POM to be adopted by 30 June 2021, it is not recommended to make any change to categorisation of existing reserves as this will require a public hearing and result in Council's inability to meet the deadline. It is recommended instead that Council investigates the recategorisation of this land at the next review of this POM. • Noted. <p>No changes are recommended.</p>
Submission #5	<i>Ballina Croquet Inc.</i>
Submission Comments	<p>Comments made in respect to Hampton Park Reserve:</p> <ul style="list-style-type: none"> • Ballina Croquet Club does not have exclusive occupation as referenced in the table of special provisions. • The history of Hampton Park should be included in table of special provisions similar to other land parcels in the table. • Why aren't details of lease and licence holders, expiry dates for leases and licences and fees charged listed in the Special Purpose Table or in the Land Register?

8.6 Plan of Management for Community Land - Crown Land Integration

Response	<p>The majority of matters raised in the submission relate specifically to the 2005 POM for Hampton Park and not the draft POM for Community Land.</p> <p>Council has identified preparation of a renewed plan of management plan for Hampton Park as an action in the draft Delivery Program & Operational Plan 2021-2025 currently on exhibition (action # EL1.2c), with the work scheduled for 2023/24. Under the POM framework, the renewed plan will likely be incorporated into the overall community land plan.</p> <ul style="list-style-type: none"> • The reference to Ballina Croquet Club in the table of special provisions was entered in error as it was based on previous data held in the land register which has since been amended. • The history of Hampton Park will be addressed as part of the preparation of the renewed management plan for Hampton Park (see comments above). • The POM for Community Land is a long-term document. Details of particular tenancies, council policies and fees and charges change over time. It is not appropriate to reference these details within the POM. <p>No other changes are recommended.</p>
Submission #6	<i>Derek Audus</i>
Submission Comments	Requests that the POM address the need for a shed location for the Lennox Head Lions Club (LHLC).
Response	<p>The POM allows for sheds to be constructed on certain land parcels classified as community land.</p> <p>The sites mentioned in previous enquiries by the LHLC have not been suitable due to vehicular access, existing uses and space constraints. Ocean Breeze Reserve has been identified as a preferred potential site for the proposed shed.</p> <p>No changes are recommended.</p>

Financial / Risk Considerations

The draft POM has been prepared using funding allocated in November 2018 to Council by the NSW Office of Local Government for the preparation of POMs to satisfy the requirements of the CLM Act. The finalisation of the draft POM can also be undertaken using this funding.

Options

Option 1 – Adopt the draft Plan of Management for Community Land

It is recommended that Council adopt the draft POM including the amendments as outlined in Table 1 of this report, subject to receiving advice from Crown Lands that Council may proceed to implement the POM.

At the time of writing this report, Council has not received a response from Crown Lands.

8.6 Plan of Management for Community Land - Crown Land Integration

It is possible that Crown Lands may require further amendments to the draft POM. In this case, under the LG Act, if it is of the opinion that the amendments are not substantial, Council can proceed to adopt the POM as amended without further public exhibition. This will ensure that Council meets the statutory deadline to have a compliant plan of management in place by 30 June 2021.

If Council adopts an amended plan without public exhibition of the amended draft plan, it must give public notice of that adoption, and of the terms of the amended plan of management, as soon as practicable after the adoption.

Option 2 – Defer further consideration of the draft POM

If the Council would like more information regarding the draft POM, staff could present additional details through a Councillor briefing or further reporting.

This option is not recommended as there are no outstanding issues associated with the plan (aside from Crown Lands' endorsement) and it would not allow Council to meet the 30 June 2021 deadline for adoption of a compliant plan of management for community land.

RECOMMENDATIONS

1. That Council adopts the draft Plan of Management for Community Land 2021, as per Attachment 1 to this report, (pursuant to section 40 of the Local Government Act 1993 in accordance with 3.23(6) of the Crown Land Management Act 2016) upon receipt of advice from NSW Department of Industry – Crown Lands Division that the plan may be implemented, including:
 - (a) the amendments listed in Table 1 of this report, and
 - (b) any amendments required by the Crown Lands Division, if the amendments are considered to be minor or inconsequential.
2. That Council provide public notice of the adoption of the amended Ballina Shire Plan of Management for Community Land 2021 in accordance with section 40(2A) of the Local Government Act 1993.

Attachment(s)

1. Draft Plan of Management for Community Land 2021 (Exhibition version) (Under separate cover)
2. Submissions to draft Plan of Management for Community Land 2021
3. Multi Category Land Map 20 - Hampton Park and Ballina Bowling and Recreation Club

8.7 Companion Animals Management Plan - Review

8.7 Companion Animals Management Plan - Review

Section Public and Environmental Health

Objective To provide an overview of the outcomes of a review of Council's Companion Animals Management Plan.

Background

The purpose of this report is to provide an overview of the outcomes of a review the Companion Animal Management Plan (this Plan is administered under Council's documents as a Policy).

Council first adopted this Plan in September 2010 and last reviewed the plan and adopted a revised plan on 23 November 2017.

Key Issues

- Whether the policy meets the requirements of Council and current legislation
- Animal management statistics
- Additional off-leash dog exercise at Alstonville / Wollongbar

Discussion

The review of the plan has identified changes, with these generally in response to legislative changes. Otherwise the plan is still considered to be contemporary. A copy of the amended plan is included as Attachment 1 to this report.

The plan is consistent with the Council's Community Strategic Plan and complies with the obligations placed on Council by the NSW Companion Animals Act and reflects the overarching strategy to companion animal (dogs and cats) management in our Shire.

The plan also provides the opportunity for Council to establish a balance between encouragement and support for the social benefits of dog and cat ownership, whilst at the same time indicating a commitment to protecting public amenity, safety and the environment.

Actions taken since the last review have been considered as part of this review and incorporated into each of the 12 Action Plans.

There is a growing number of households in the Shire and with this statistics indicate that pet ownership, and particularly dog ownership, is also growing. It is important for the Council to provide areas for these dogs to be appropriately trained and socialised.

This trend is similar across the country where two-thirds of Australian households have a pet. Companion animals are the most popular pet with approximately 40% of these households having one dog and 27% owning a cat.

8.7 Companion Animals Management Plan - Review

The works identified as an action under the last review have been completed with the installation of additional fencing at the Compton Drive off-leash dog exercise area. This additional fencing has improved access and safety in this area for dogs and their owners. These improvements have resulted in a significant increase in the number of people and their dogs now visiting this area.

Council has received positive feedback in respect to the improvements. The planned dog agility equipment will also be installed by the end of this financial year in the park.

It is important to note that this area is not fully fenced and remains only partly fenced along Compton Drive, with the rear northern/eastern part of the reserve remaining unfenced.

Photograph 1 – New entrance to Compton Drive off-leash dog exercise area



It was identified as part of the last review that further investigation be undertaken into the provision of an additional off-leash dog exercise area in Alstonville and Wollongbar. This is to reflect the expanding residential population, particularly in the Wollongbar Urban Expansion Area (WUEA).

Dogs that are not exercised are more likely to develop behavioural problems such as aggressive behavior and excessive barking. Off-leash areas offer many advantages to the community and hence it is proposed to recommend further investigation into a site at Wollongbar called Killarney Park located at the end of Cornwall Place. Refer to Attachment 2 for a concept plan of the proposed site.

The Wollongbar District Park is also currently under construction, which is located adjacent to Killarney Park. Given the proximity of the two playgrounds, upon completion there will not be a need for the Killarney Park playground equipment to service local residents. As a result, there is an opportunity to investigate alternative uses of Killarney Park, including the potential for an off-leash dog facility.

8.7 Companion Animals Management Plan - Review

Council will have a further opportunity to consider the provision of playgrounds in the near future, with a scheduled review of the Playground Upgrade Strategy.

In respect to the Companion Animals Management Plan, it is likely that the next review will further investigate the provision of additional off-leash dog exercise areas in the Wardell precinct. This will reflect future changes to the population in this area.

There has also been, for many years, requests and discussions regarding dog access options at Angels Beach. Currently the beach is an on-leash dog exercise area.

Historically the position has been, given the number and locations of other coastal dog off-leash exercise areas which promote a mixture of uses and tolerances, that Angels Beach is not considered suitable as an off-leash area. This could be reviewed, as an option, at future reviews of the plan if necessary. Alternatively it could be reviewed now, if it was a priority of Council.

The current off-leash areas have a high number of dogs and their owners frequenting for exercise and social interaction. The majority of the community respect these areas for the purposes they are proposed and do the right thing, which correlates to the reporting of minimal incidents in these locations.

Council currently has two large off-leash areas at The Spit and Seven Mile Beach that permit people to exercise their dogs in water unrestrained, including those pets that require water therapy.

Since the recent changes to dog access and restrictions at the reserve adjacent to the Lennox Head Surf Club complaints have reduced and compliance in the area improved. The changes appear to be respected by dog owners with the majority complying with the changes.

The formalisation of the pathway to the off-leash dog exercise area has proved popular, with most dog owners walking on the designated path. The dog wash/water station is currently being installed adjacent to the pathway.

The dog poo bag dispensers continue to be popular and have a high usage. Council also regularly conducts a 'Pick up your dog poo' education campaign to combat this problem. Council receives many requests from the community to install additional dispensers at various locations.

Generally the position has been to install dispensers only at designated off-leash dog exercise areas and along popular walking pathways, particularly when Council is spending tens of thousands of dollars on this service already.

It is proposed to install another two dispensers at Shaws Bay now that the pathway around the Pop Denison Reserve area is completed and at the new section of the coastal pathway near Boulders Beach.

The coastal reserves and beaches continue to receive a higher presence of ranger patrols, particularly during summer months with scheduled after hours patrols.

8.7 Companion Animals Management Plan - Review

Occasionally there are representations made by members of the community expressing dissatisfaction in relation to the companion animal management arrangements in on-leash and off-leash areas.

For example, there has been recent complaints in respect to dog management arrangements at Sharpes Beach and Flat Rock. Council has attempted to respond to these complaints through additional ranger patrols and, at this point in time, no changes are proposed to this area, as it remains a popular on-leash area.

Council regularly runs campaigns on responsible pet ownership in the local media and through other forums and partners in regional programs.

Currently Council is involved in a regional program being managed by Byron Shire Council, called "Leash Up Pilot Community Project", funded by the Department of Planning, Infrastructure and Energy through the Koala Strategy. The project's focus is to encourage dog owners to leash up and emphasizes the importance of having dogs on-leash in public places (that are not designated off leash areas and or dog prohibited).

Dogs on-leash:

- reduce unwanted dog approaches and stressful interactions
- limits aggression and minimises physical harm
- keeps your dog safe and under control
- helps to protect our wildlife.

Television and social media advertisements are to commence shortly and an example of one of the messages is as follows.



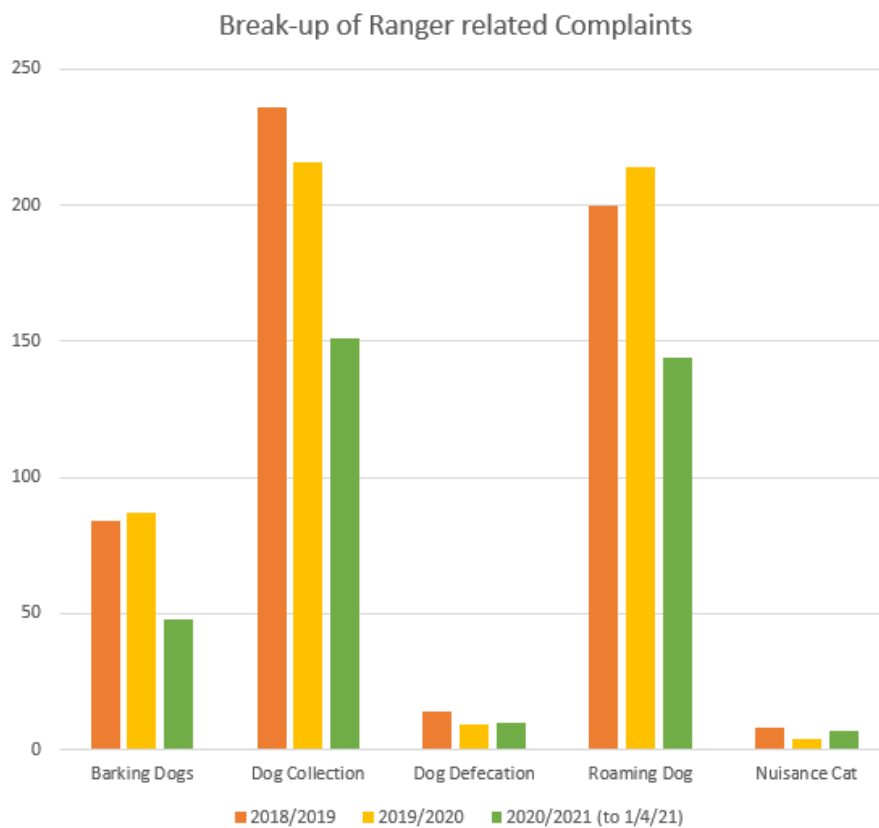
8.7 Companion Animals Management Plan - Review

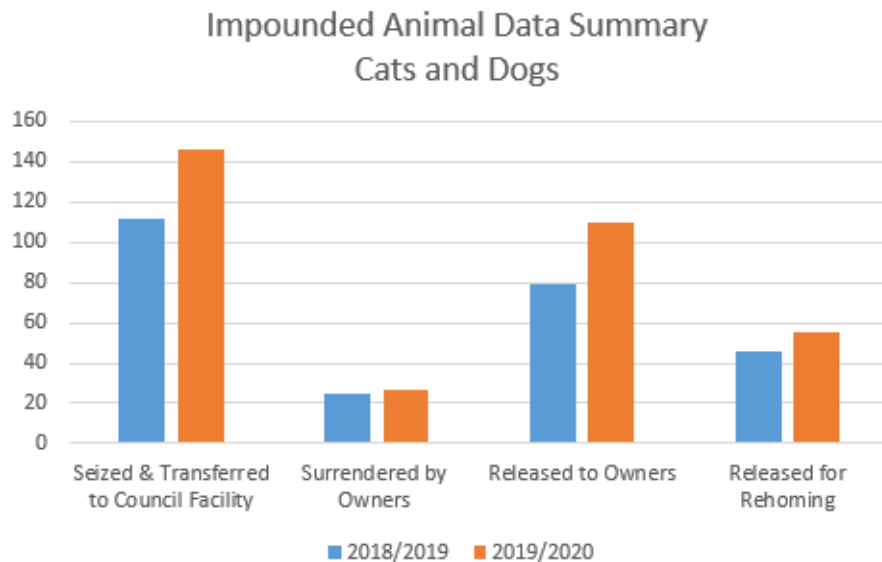
There have been significant legislative changes under the Act to the registration requirements of dogs and cats including the introduction of annual permits for non-desexed cats and dangerous and restricted breed dogs plus the administering of late fees for animals not registered by the required time.

These changes by the NSW Government supports their commitment to promote responsible pet ownership, management of behaviour and improving animal welfare standards.

Council has recently updated all education resources including factsheets, web sites, media promotions and correspondence to reflect these changes. Some of these changes add a substantial financial cost to pet owners that do not register their pet on time and for the new provision to obtain annual permits.

Management of dogs and cats represents a significant component of Council's Ranger activities, and a summary of recent years is as follows.





The number of reported dog attacks and dog related incidents have generally remained consistent in recent years. The reporting of dog attacks is regulated by the NSW Office of Local Government (OLG) and the Companion Animals Act.

The statistics relating to dog attacks includes all reported incidents to Council involving a dog. This may include dog fights, physical attacks on another dog and or person, rushing at and acting aggressively with no physical contact.

From the dog attack reports received by Council the majority of these dog incidents happen in and around the home environment. These incidents occur when dogs are allowed to rush off their property and or roam in their residential neighborhood.

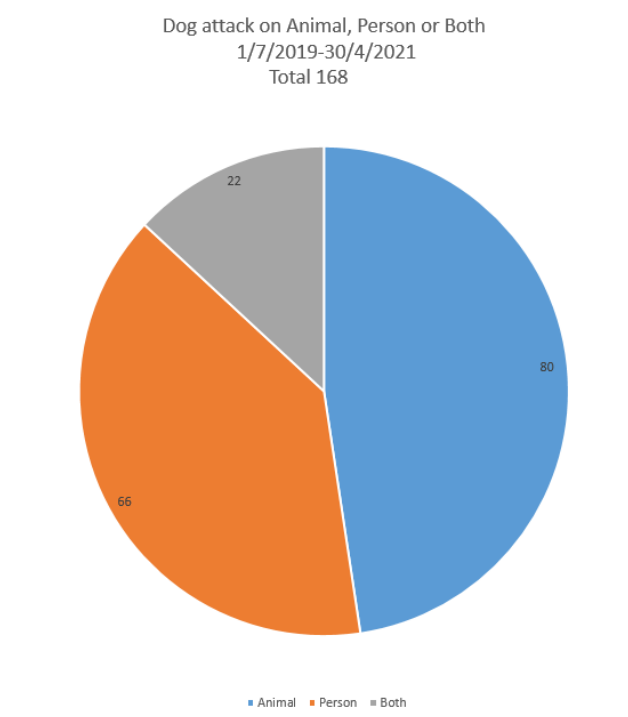
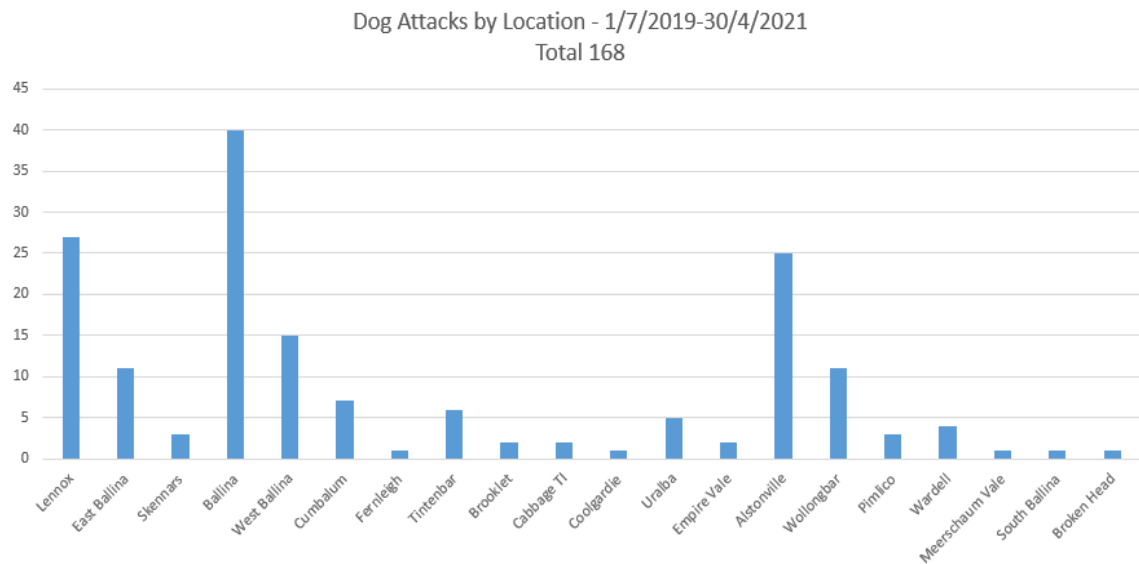
Comments have been made about the relatively high number of incidents reported by Council compared to other councils across NSW. A check with the OLG has confirmed that Council's method of recording dog related reports is correct.

Councils often differ in how they report dog incidents and some may only report physical attacks (Council reports a wider range of circumstances).

It is important for overall dog management in the Shire to record all aspects of inappropriate dog behavior. This information can be used by Council to assess and review management options and to determine response actions and ranger patrol frequency.

The following statistics are from recent dog attack reports to Council from 1 July 2019 to 30 April 2021.

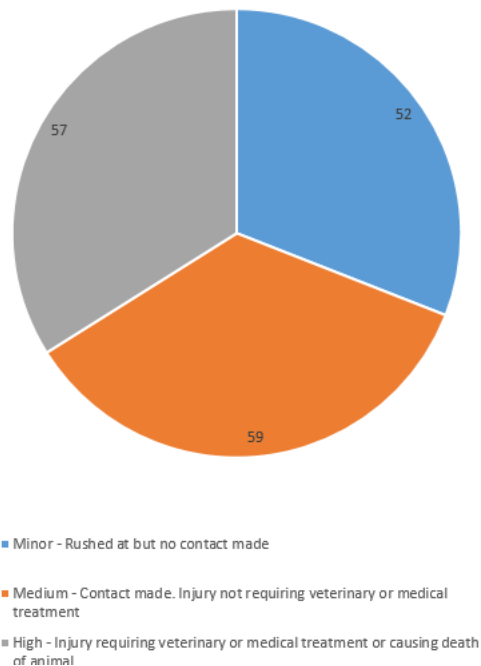
8.7 Companion Animals Management Plan - Review



Note: In the majority of incidents that involve both an animal and person the person often becomes injured because they are trying to intervene in the situation between the dogs.

8.7 Companion Animals Management Plan - Review

Severity of Dog Attack
1/7/2019-30/4/2021
Total 168



Note: Minor - rushed at but no contact made, Medium - contact made but injury not requiring veterinary or medical treatment, High – injury requiring veterinary or medical treatment or causing death of animal.

As mentioned, dog attacks and/or related incidents generally occur near the family home and involve a dog that has become dominant and protective of their home environment and immediate surroundings. This is particularly evident and a problem if dogs have been allowed to roam their local area freely and unrestrained.

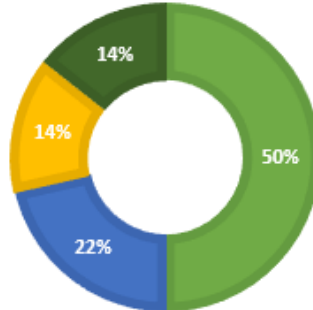
Specialist advice previously supported Council's position to provide adequate and additional dog off-leash exercise areas to encourage dog owners to take their dogs away from their home environments and allow socialisation with other dogs and people in mutually neutral areas.

Council Rangers closely monitor dog reports in nominated dog off-leash areas and in recent years a relatively low level of incidents have been recorded.

The following diagrams provide an overview of dog related reports in off-leash exercise areas. These reports are low compared to other areas in the Shire.

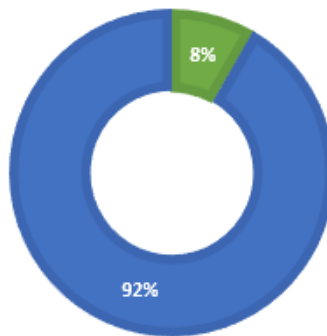
**DOG ATTACKS IN OFF LEASH AREAS
1/7/2019 - 30/4/2021**

■ The Spit Ballina - 7
 ■ Ballina Heights - 3
 ■ Seven Mile Beach - 2
■ Gap Rd Alstonville - 2
 ■ Compton Drive East Ballina - 0



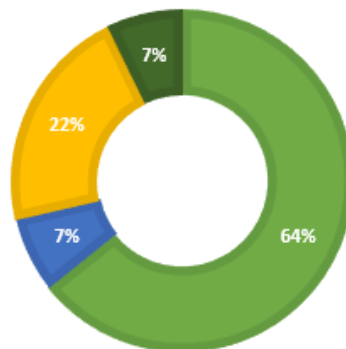
**DOG ATTACKS IN OFF LEASH AREAS V OTHER AREAS
168 IN TOTAL
1/7/2019 - 30/4/2021**

■ Dog Attacks in Off Leash Areas - 14
 ■ Dog Attacks in Other Areas - 154



**TYPE OF DOG ATTACK
1/7/2019 - 30/4/2021**

■ Dog on Dog - 9
 ■ Dog on Person - 1
 ■ Dog on Dog and Person - 3
 ■ Dog on Horse and Person - 1



8.7 Companion Animals Management Plan - Review

Overall, Council has invested substantial time and resources into the Ranger team and continues to consistently deliver the Companion Animals Management Plan objectives to the community.

Delivery Program Strategy / Operational Plan Activity

CC1.1 Actively promote safety and wellbeing strategies - CC1.1d Provide timely responses to barking dog complaints and CC1.1e Provide rapid responses to reported dog attacks

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

CC2.2 Encourage community interaction, volunteering and wellbeing - CC2.2b Implement Companion Animals Management Plan

Community Consultation Policy

It is recommended that Council adopt the plan as presented, however the document will also be exhibited for public comment. If any submissions are received they can be reported back to Council however there will not be a need for any further report if there is no public comment.

The plan has been revised in consultation with the OLG and in response to community concerns and requests.

Financial / Risk Considerations

The revision of the Plan corrects inaccuracies in the previous Plan arising from legislative changes and updates the Council's responses to the management of dogs and cats.

The cost to Council in the managing dogs and cats is substantial and there is a need to balance the allocation of resources to meet the requirements of the Act and the demands of the local community.

Requests to provide additional ranger activities and further presence in the community on dog and cat matters is increasing and they currently receive a higher priority over many other ranger tasks.

There will ultimately be a financial cost to develop an off leash area in the Wollongbar / Alstonville district if further consideration of the site confirms its suitability for an off leash dog area. Initial investigations can be carried out within existing resources.

Options

Council may accept or amend the proposed changes to the plan. The changes included are largely legislative based, or of a housekeeping nature, and it is recommended that the Plan be adopted as attached.

It is also recommended that the Plan be exhibited for public comment and if no submissions are received from the exhibition process, then no further actions are required.

8.7 Companion Animals Management Plan - Review

As part of the exhibition document, inclusion of an action to investigate the establishment of a dog off leash exercise area at Killarney Park, Wollongbar is recommended.

RECOMMENDATIONS

1. That Council adopts the amended Draft Companion Animal Management Plan, as per Attachment 1 to this report (inclusive of an action to investigate the establishment of a dog off lead exercise area at Killarney Park, Wollongbar).
2. That Council place this Plan on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Companion Animals Management Plan - May 2021 (Draft)
2. Concept Plan - Off-leash dog exercise area - Killarney Park, Wollongbar

8.8 **Swimming Pool, Jarrett Street, Ballina - Compliance Action**

8.8 **Swimming Pool, Jarrett Street, Ballina - Compliance Action**

Section Public and Environmental Health

Objective To provide an overview of swimming pool barrier non compliance and public health matters relating to land in Jarrett Street, Ballina in association with a confidential report that seeks direction on the preferred approach to address non-conformances.

Background

Council has received a variety of complaints over time in relation to a swimming pool located in Jarrett Street, Ballina. Issues that have been raised include:

- Mosquito larvae within the swimming pool water
- Inadequate treatment of the water within the swimming pool
- Odour from swimming pool
- Mosquitoes swarming from the swimming pool to adjoining properties
- Stagnant water
- Suitability of swimming pool barrier fence.

These various issues have required Council staff to undertake numerous inspections of the premises and enforcement actions have been commenced in relation to the complaints received by Council. At present, the swimming pool barrier and public health issues have not been suitably resolved. The purpose of this report is to provide an overview of the matter, with a confidential report later in this agenda providing options for further action.

Key Issues

- Swimming pool compliance and public health and safety

Discussion

Council staff have served legal notices under both the Local Government Act 1992 (NSW) and the Swimming Pools Act 1992 (NSW) in seeking to have the landowner address the compliance issues identified. These notices have not been complied with and the barrier and public health issues have not been suitably addressed. As this matter has not been resolved to date, and has been ongoing for some time, the associated confidential report outlines options for further action.

Delivery Program Strategy / Operational Plan Activity

The address of this matter relates to the following element of Council's Delivery Program and Operational Plan:

CC1.1 – Actively promote safety and wellbeing strategies - C1.1c - Increased compliance through proactive programs – Implement NSW Government Pool Barrier Program

8.8 Swimming Pool, Jarrett Street, Ballina - Compliance Action

Community Consultation Policy

This matter is not of a type that is subject to community engagement under Council's community consultation policy or Community Participation Plan.

This report has been provided in open Council for the information of the community.

Council's legal representatives have been consulted in relation to this matter.

Financial / Risk Considerations

Legal implications associated with this matter are the subject of the confidential report.

Options

The purpose of this report is to provide an open Council overview of the associated confidential report. The recommendation is for Council to note this report.

RECOMMENDATION

That Council notes the contents of this report regarding swimming pool compliance in relation to a property in Jarrett Street, Ballina.

Attachment(s)

Nil

8.9 Filling of Land, Cumbalum - Compliance Action

8.9 Filling of Land, Cumbalum - Compliance Action

Section Public and Environmental Health

Objective To provide an overview of filling works undertaken on land at Cumbalum in association with a confidential report that seeks direction on the preferred approach to further compliance action.

Background

In November 2019, Council became aware of the placement of fill materials on land at Cumbalum. Council staff have commenced examination of the matter and it appears that the required approvals for the placement of the fill on the land have not been obtained. The purpose of this report is to provide an overview of the matter, with a confidential report later in this agenda providing options for further action.

Key Issues

- Filling of land
- Environmental impacts and in particular flood prone land impacts

Discussion

Council has identified a number of locations on the property where filling appears to have been undertaken. The volume of this fill is estimated to be 49,295.70m³.

A review of Council records cannot locate any formal development applications being lodged with Council, nor any development consents being issued by Council, for the filling of the identified areas within the property.

The extent of fill and its location raises concerns about environmental impacts, including flooding implications, as well as issues associated with the undertaking of works without the required approvals in place.

This matter is now at a point where direction is sought from Council with respect to further compliance action to be taken. This is addressed further in the associated confidential report.

Delivery Program Strategy / Operational Plan Activity

The address of this matter relates to the following elements of Council's Delivery program and Operational Plan:

- CC1.2 – Ensure relevant public health and safety standards are being met
- HE 3.2 – Minimise negative impacts on the natural environment
- EL3.3 – Deliver responsive and efficient services

8.9 Filling of Land, Cumbalum - Compliance Action

Community Consultation Policy

This matter is not of a type that is subject to community engagement under Council's community consultation policy or Community Participation Plan.

This report has been provided in open Council for the information of the community.

Council's legal representatives have been consulted in relation to this matter.

Financial / Risk Considerations

Legal implications associated with this matter are the subject of the confidential report.

Options

The purpose of this report is to provide an open Council overview of the associated confidential report. The recommendation is for Council to note this report.

RECOMMENDATION

That Council notes the contents of this report regarding filling works in relation to a property located at Cumbalum.

Attachment(s)

Nil

8.10 Policy (New) - Burials on Private Rural Land

8.10 Policy (New) - Burials on Private Rural Land

Section Public and Environmental Health

Objective To outline a proposed new policy relating to burials on private rural land and seek direction on the introduction of the policy.

Background

It is generally understood that the practice of burials on private rural land by settlers has prevailed for centuries. The most common scenario historically, was for private family cemeteries to be established on farming properties, generally on larger land holdings.

The practice has ensued through time and is recognised and permissible subject to provisions of the Public Health Regulation 2012.

Burials on private rural land are excluded from the requirements of the Cemeteries and Crematoria Act 2013, which regulate the operations of approved public and private cemeteries.

The Public Health Regulation allows for the burying of a body/s in a grave or vault on private land holdings of over five hectares where this has been approved by Council. For clarification and the purpose of this policy, a vault is a container, more often today made of metal or concrete that encloses a coffin underground to help prevent the soil surface of a grave from sinking.

At present, Council does not have a policy to guide the process in the event that an application for private burial is received.

The purpose of this report is to outline a proposed policy for the management of burials on private land and seek direction on the introduction of the policy. A copy of the draft policy is included as Attachment 1.

Key Issues

- Guidance for Council when considering burials on private land
- Impact and site management (e.g. land use conflict, site access, groundwater, long term access to burial sites by descendants, friends etc)

Discussion

There are a number of factors to be considered in relation to burials on private land. The draft policy seeks to address these as outlined below.

The practice of creating a grave site on a rural property may be objectionable to some landowners especially where the chosen burial site is in close proximity to a neighboring residence.

This can cause concern for both current and future adjoining land owners.

8.10 Policy (New) - Burials on Private Rural Land

For this reason, the proposed burial policy restricts grave sites from being located within 100 metres from any adjoining residence as a reasonable distance with which to reduce any such impact on the current and future land use of adjoining properties.

The Public Health Regulation does not identify the maximum number of grave/vault sites which may be approved on a property.

The proposed policy sets a maximum of one double depth grave site or two adjoining single depth grave sites on a property with the approval process proceeding under Clause 66 of the Public Health Regulation.

The restriction of two bodies to a rural holding, without the requirement for a development application, is more focused towards potential environmental impact rather than numbers.

Where more than two graves are intended, as in the case of an application for a private family cemetery, it is proposed that a development application for a family cemetery is the more appropriate assessment and approval pathway to be followed.

Provision for the future access to graves site by friends, relatives and or descendants who at some point in time may wish to visit the grave site is also an important longer term consideration.

To allow for this, the draft policy requires that the location of the grave site and a suitable path to the grave site must be surveyed, mapped and a restriction placed on the title of the land under Section 88 of the Conveyancing Act, after the burial takes place.

An ancillary benefit of the restriction is to assist in the protection of the grave site through time and ensure that future potential buyers are made aware of the grave site and obligations to potentially allow for future access to the grave site.

These requirements are described on the application form and will be also be provided in the terms of approvals granted.

The policy seeks to ensure that the restriction is applied to the land title prior to the subject property potentially being sold.

The Public Health Regulation does not allow for burial on private rural land where it is likely to contaminate a drinking or domestic water supply.

Groundwater contamination as a result of the decomposition of a body is a relevant concern for land burials.

However with proper location and drainage considerations, the risk from smaller cemeteries is considered to be slight.

The draft policy requires the consideration of the potential for groundwater contamination and where applicable, Council may require the submission of a report from a qualified person to accompany the application.

If suitably located, the potential for contamination from a single grave site on a rural property is significantly reduced.

8.10 Policy (New) - Burials on Private Rural Land

The burial or placement of ashes on private rural land does not require Council approval.

A number of private rural land burial policies from local councils were reviewed in drafting this policy including Byron, Gwydir, Lismore, Bega and Tweed Council policies.

Additionally, the Registrar General's Guidelines and Industry NSW General Consumer guide to interment rights in NSW were also reviewed and provisions derived from these documents included within the draft policy.

The proposed policy is similar to and consistent with the approach taken by the abovementioned councils and others across the State.

Fees associated with the application across the local councils generally range from \$425 to \$475.

The fee proposed is \$460, which includes the administration costs, assessment and inspections of the proposed grave site.

An application for a burial on private rural lands is a rare occurrence, however it may occur from time to time.

Applicants must also understand, that considering all the requirements, they should not have an expectation that approval can be achieved within days of a death.

A key aim of the introduction of the policy is to provide a defined process to assist with the management of expectations.

Delivery Program Strategy / Operational Plan Activity

The introduction of this policy supports the following delivery program strategies:

- CC1.2: Ensure relevant public health and safety standards are being met.
- HE3.1: Implement plans that balance the built environment with the natural environment.
- HE3.2: Minimise negative impacts on the natural environment.

Community Consultation Policy

The draft policy will be exhibited for public comment.

If any significant submissions are received they will be reported back to Council.

However there will not be a need for any further report if there is no significant public comment.

Financial / Risk Considerations

Applications for burial on private rural land are a rare occurrence.

8.10 Policy (New) - Burials on Private Rural Land

The proposed fee is based on a cost recovery basis.

The private burial process does not expose Council to any significant financial or risk considerations.

Options

Option 1 – Adopt and exhibit the draft Burials on Private Rural Land Policy

Under this option, staff would proceed to publically exhibit the policy, and if any submissions of significance are received, the policy can be reported back to Council. This is the recommended approach.

Option 2 – Defer consideration of the draft Burials on Private Rural Land Policy

Council could defer this matter to seek further information. This is not recommended as the policy has been prepared on the basis of Public Health Regulations.

Option 3 – Take no further action with respect to the draft Burials on Private Rural Land Policy

Council could resolve to cease action in relation to the preparation of the policy. This is not recommended as the policy provides clear guidance on the process required for a private burial.

RECOMMENDATIONS

1. That Council adopts the Burials on Private Rural Land Policy, as per Attachment 1 to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.
3. That Council approves the proposed fee of \$460 for inclusion in the 2021/22 Fees and Charges.

Attachment(s)

1. Policy (New) - Burials on Private Rural Land

8.11 Policy (Review) - Built Environment Fire Safety Program

8.11 Policy (Review) - Built Environment Fire Safety Program

Section Public and Environmental Health

Objective To provide an overview of the outcomes of a review of Council's Fire Safety Statements Program Policy and seek direction on the implementation of recommended changes.

Background

All of Council's existing policies are progressively reviewed to ensure they reflect contemporary practices and legislative requirements.

The purpose of this report is to review the Built Environment Fire Safety Program policy, to better define Council's approach to meeting its legal obligations under the *Environmental Planning and Assessment Act* and associated regulations in relation to building fire safety.

Council first adopted this policy in June 2018. The review has been carried out early following restructuring of the Planning and Environmental Health Division and changes to the section responsibilities for fire safety.

This revised policy replaces the Fire Safety Statements Program Policy (F11), which Council adopted in June 2018.

The revised policy has had regard for available resources and reflects Council's roles and responsibilities in regard to fire safety in buildings.

The purpose of this report is to adopt the revised policy.

Key Issues

- Legislative requirements relating to fire safety
- Council approach to meeting legislative requirements

Discussion

Council's role in the management of fire safety in the built environment is defined under the provisions of the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000.

Council has a legal obligation to receive submitted Annual Fire Safety Statements.

In addition to meeting this obligation, other key aspects of the policy include:

- Council will conduct a brief review of a submitted AFSS to ensure that it meets the criteria for a complete and compliant AFSS, as defined under legislation and in the policy

8.11 Policy (Review) - Built Environment Fire Safety Program

- Council will also provide a fee for service to remind landowners of the due date of their Annual Fire Safety Statement
- Council will work with building owners as far as is reasonable to ensure fire safety is adequate and appropriate for a building's use and to facilitate them meeting their obligations to maintain the building in relation to fire safety matters.

The revised policy differs from the existing Fire Safety Statements Program Policy (F11) in that it:

- is more closely aligned with Council's obligations under the relevant legislation
- excludes elements that are outside such obligations, except where undertaken as a fee-for-service
- excludes procedural elements more appropriately contained within associated procedures documents.

In summary, the policy has been revised to focus its content on Council's legislative responsibilities and the overarching approach to meeting these obligations and addressing fire safety matters.

Operational aspects of administering Council's responsibilities will be contained in working procedures associated with the policy.

A copy of the amended policy is included as Attachment 1.

Delivery Program Strategy / Operational Plan Activity

This policy review relates to Delivery Program Strategy EL1.1 - Ensure corporate publications reflect community sentiment and Operational Plan Activity EL1.1a - Ensure Council policies reflect contemporary community standards.

Community Consultation Policy

It is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment. If any submissions are received they can be reported back to Council however there will not be a need for any further report if there is no public comment.

Financial / Risk Considerations

The key risk issue for Council is to ensure that its legislative obligations relating to building fire safety are met.

There are no specific legal implications associated with the policy as the policy is consistent with Council's obligations under the relevant legislation.

8.11 Policy (Review) - Built Environment Fire Safety Program

Options

Council may accept or amend the proposed changes to the policy. It is recommended that the policy be adopted as presented.

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

RECOMMENDATIONS

1. That Council adopts the amended Built Environment Fire Safety Program Policy, as per Attachment 1 to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Policy (Review) - Built Environment Fire Safety Program

8.12 Policy (Review) - Swimming Pool Barrier Fencing

8.12 Policy (Review) - Swimming Pool Barrier Fencing

Section Public and Environmental Health

Objective To provide an overview of the outcomes of a review of Council's Private Swimming Pool Barrier Fencing Policy and seek direction on the implementation of recommended changes.

Background

All of Council's existing policies are progressively reviewed to ensure they reflect contemporary practices and legislative requirements.

The purpose of this report is to review the Private Swimming Pool Barrier Fencing policy.

This policy applies to the post-construction inspection, monitoring and regulation of private swimming pool barrier fencing and associated potential unlawful activity or failure to comply with the required standards.

Council first adopted this policy in January 2019. The review has been carried out early following restructuring of the Planning and Environmental Health Division and changes to the section responsibilities for private swimming pool barrier compliance.

The revised policy has had regard for available resources and reflects Council's roles and responsibilities in regard to private swimming pool barrier compliance.

The purpose of this report is to adopt the revised policy.

Key Issues

- Legislative requirements relating to pool barrier fencing
- Council approach to meeting legislative requirements

Discussion

This review of this policy identified changes as follows:

- Information contained within the policy more properly belong in associated procedures. The proposed changes have streamlined the policy
- The changes align the policy more closely with Council's responsibilities under the relevant legislation and changes made to the legislation since the policy was adopted
- The revised policy provides clarity with respect to Council's approach to communication with the owners of private swimming pools
- Alignment of the policy content with Council's current policy template
- Simplification of policy content to focus on legislative requirements.

8.12 Policy (Review) - Swimming Pool Barrier Fencing

In summary, the policy has been revised to focus its content of Council's legislative responsibilities and the overarching approach to meeting these obligations and addressing fire safety matters. Operational aspects of administering Council's responsibilities will be contained in working procedures associated with the policy.

A copy of the amended policy is included as Attachment 1.

Delivery Program Strategy / Operational Plan Activity

This policy review relates to Delivery Program Strategy EL1.1 - Ensure corporate publications reflect community sentiment and Operational Plan Activity EL1.1a - Ensure Council policies reflect contemporary community standards.

Community Consultation Policy

It is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment. If any submissions are received they can be reported back to Council however there will not be a need for any further report if there is no public comment.

Financial / Risk Considerations

The key risk issue for Council is to ensure that its legislative obligations relating to private swimming pool barrier safety met.

There are no specific legal implications associated with the policy as the policy is consistent with Council's obligations under the relevant legislation.

Options

Council may accept or amend the proposed changes to the policy. It is recommended that the policy be adopted as presented.

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

RECOMMENDATIONS

1. That Council adopts the amended Private Swimming Pool Barrier Fencing Policy, as per Attachment 1 to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Policy (Review) - Private Swimming Pool Barrier Fencing

8.13 Development Applications - Works in Progress - May 2021

8.13 Development Applications - Works in Progress - May 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	Awaiting additional information
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	Determination pending
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	Being assessed

8.13 Development Applications - Works in Progress - May 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
2019/145	8/3/2019	Ardill Payne & Partners	Amended Proposal: Construction of an industrial development to be used for a Depot and for general and light industrial purposes 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
2019/499	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	Being assessed
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 1,092m 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
2019/659	15/10/2019	D McAllister	Alterations and additions to a dual occupancy dwelling - 15 Jorgensens Lane, Brooklet	Determination pending
2019/708	1/11/2019	P Johnstone	Construction of a shed forward of the laneway building line - 5 Gibbon Street, Lennox Head	Determination pending
2019/718	7/11/2019	L King	Change of use from an Office/Rumpus Room to a Bedroom - 2/44 Stewart Street, Lennox Head	Awaiting additional information

8.13 Development Applications - Works in Progress - May 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
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
2020/244	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	Being assessed
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	Determination pending
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

8.13 Development Applications - Works in Progress - May 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
2020/441	14/7/2020	Planit Consulting Pty Ltd	Alterations and additions to a dwelling - 36 Pacific Parade, Lennox Head	Awaiting additional information
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	Being assessed To be determined by Council Resolution No: 270820/10
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
2020/553	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
2020/569	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
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	Awaiting additional information
2020/591	14/9/2020	Newton Denny Chapelle	Subdivision comprising the creation of 25 industrial lots ranging in size from 1,181m ² to 4,493m ² , one residue lot of 4.13hectares and associated infrastructure servicing and bulk earthworks – 25-39 Boeing Avenue and Corks Lane, Ballina	Awaiting additional information
2020/609	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	Determination pending

8.13 Development Applications - Works in Progress - May 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
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	Being assessed
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
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 parking - 28 Allens Parade, Lennox Head	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
2020/699	23/10/2020	W E Smith	Construction of Secondary Dwelling and a carport - 22 Fenwick Drive, East Ballina	Awaiting additional information
2020/700	26/10/2020	Prestige Properties Design and Construction	Alterations and additions to a dwelling comprising the construction of a new attached double car garage and driveway, conversion of the existing garage to a games room, removal of the existing patio roof structure and replacement with a new roof - 15 Prospect Street, East Ballina	Determination pending
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	Being assessed
2020/731	4/11/2020	PRG Architects	Alterations and additions to a dual occupancy comprising of internal alterations to the kitchen, laundry and living areas, replacement and extension of an existing garage and construction no deck – 5 King Lane, Ballina	Awaiting additional information

8.13 Development Applications - Works in Progress - May 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
2020/743	9/11/2020	Richmond Hill Holdings Pty Ltd	Construction of carport, new driveway and 1.8m high boundary fence – 42 Riverside Drive, West Ballina	Referred to Government Department
2020/752	12/11/2020	P D Lee	Construction of an above ground swimming pool and associated works, 4 Mimosa Court, Wollongbar	Determination pending
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)	Being assessed
2020/770	20/11/2020	Ardill Payne & Partners	Alterations and additions to a dwelling, double garage, swimming pool and pool terraces (partially roofed) and an existing pool to be retained and converted to water storage – 218 Old Byron Bay Road, Newrybar	Being assessed
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	Being assessed
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
2020/779	24/11/2020	A J Sharpe	Alterations and additions to a dwelling comprising of a second storey addition, a swimming pool and front boundary fencing, 31 Daintree Drive, Lennox Head	Being assessed
2020/784	25/11/2020	B N Adamson	Construction of two dwellings to create an attached Dual Occupancy development, two swimming pools and front boundary fencing and associated earthworks and retaining walls and strata subdivision to create two strata lots, 5 Sunray Crescent, Lennox Head	Awaiting additional information
2020/786	26/11/2020	A Stafford	Alfresco dining – Lennox Smokin' Barrell - 9 Moon Street, Ballina	Awaiting additional information

8.13 Development Applications - Works in Progress - May 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
2020/788	26/11/2020	PRG Architects	Alterations and additions to a dwelling including the creation of Secondary Dwelling in association with the Principal Dwelling, 77 Bayview Drive, East Ballina.	Awaiting additional information
2020/789	26/11/2020	Ardill Payne & Partners	Construction of a carport – 55 Survey Street, Lennox Head	Referred to Government Department
2020/797	30/11/2020	R N Lloyd	Construction of a carport – 106 Riverside Drive, West Ballina	Awaiting additional information
2020/801	02/12/2020	M J Thurston	Alterations and additions to a Dual Occupancy dwelling including construction of a deck and roof – 12 Alexander Circuit, Lennox Head	Determination pending
2020/806	02/12/2020	Newton Denny Chapelle	To establish a dual occupancy (detached) – 1/71 Bayview Drive, East Ballina	Determination pending
2020/807	2/12/2020	Newton Denny Chapelle	To establish a dual occupancy (detached) – 91 Leadbeatters Lane, Alstonville	Awaiting additional information
2020/814	2/12/2020	D Geitz	Construction of Principal Dwelling and attached Secondary Dwelling and associated earthworks - 13 Warrawee Drive, Lennox Head	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	Awaiting additional information
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
2020/839	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	Awaiting additional information To be determined by Council Resolution No: 280121/8
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
2020/850	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	Awaiting additional information

8.13 Development Applications - Works in Progress - May 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
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	Awaiting additional information
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	Determination pending
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
2020/876	24/12/2020	C Heath	Construction of a carport – 25 Richmond Street, Wardell	Awaiting additional information
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
2021/11	7/1/21	A Mitchell	Demolition of a dwelling, tree removal and construction of two dwellings to create a detached Dual Occupancy development, a swimming pool and strata subdivision to create two strata lots – 5 Stewart Street, Lennox Head	Awaiting additional information
2021/21	12/1/21	Ocean Shire Developments	Construction of two dwellings to create a detached Dual Occupancy development and associated earthworks and retaining walls - 26 habitat Way, Lennox Head	Awaiting additional information
2021/23	13/1/21	A R Screen	Alterations and additions to a dual occupancy dwelling including a second storey addition - 2/18 Hayman Street, West Ballina	Being assessed
2021/24	13/1/2021	SJ Templeton & N Goodwin	Construction of two dwellings to create a detached Dual Occupancy development and associated earthworks and retaining walls and strata subdivision to create two strata lots – 32 Rainforest Way, Lennox Head	Being assessed
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 Department

8.13 Development Applications - Works in Progress - May 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
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	Being assessed
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	Determination pending
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	Determination pending
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	Awaiting additional information
2021/92	11/2/2021	Inspiration Trees Pty Ltd	Vegetation management works comprising the removal of two trees – 58 Martin Street, Ballina	Awaiting additional information
2021/99	12/2/2021	Newton Denny Chapelle	Erection of a Service Station incorporating signage, underground fuel tanks, bulk earthworks, car parking, stormwater management and provision for future retail tenancy - 246-250 Lismore Road, Wollongbar	Awaiting additional information
2021/117	22/2/2021	Newton Denny Chapelle	Two lot Torrens title subdivision to create one 2.56 hectare and one 2,000m ² allotments – 419 Hinterland Way, Knockrow	Being assessed
2021/129	25/2/2021	Newton Denny Chapelle	To increase alfresco dining area – 63-65 Ballina Street, Lennox Head	Awaiting additional information
2021/134	01/03/2021	S P Post	Alterations and additions to existing building – 5 River Street, Ballina	Being assessed
2021/137	01/03/2021	A Mitchell	Alterations to existing dwelling house to create an attached dual occupancy, vegetation removal and associated works – 10 Old Pacific Highway, Newrybar	Awaiting additional information
2021/142	3/3/2021	J Cronin	Vegetation management works comprising the removal of five trees – 12 Bletchingly Street, Wollongbar	Determination pending

8.13 Development Applications - Works in Progress - May 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
2021/150	4/3/2021	R Walsh	Subdivision of three existing lots to create two modified lots comprising one 1,461m ² and one 1,578m ² lots – 24-29 River Street, East Wardell	Awaiting additional information
2021/152	03/03/2021	Newton Denny Chapelle	Waste or Resource Management Facility comprising the storage of approximately 35,000 tonnes of mulch per year – Teven Road West Ballina	Awaiting additional information
2021/165	04/03/2021	Ardill Payne & Partners	Change of Use – General Industry to Recreation Facility – 29 Cessna Crescent Ballina	Determination pending
2021/173	11/03/2021	Apex Building & Consultants	Strata Title subdivision of an existing detached dual occupancy – 13 Calnan Crescent Cumbalum	Being assessed
2021/185	12/03/2021	Planners North	Change of use to establish a wildlife hospital and associated building and infrastructure works – 1243 Bruxner Highway Wollongbar	Awaiting additional information
2021/186	15/3/2021	R J Blacket	Proposed two storey dual occupancy, alterations and additions to existing dwelling house, site filling, retaining and associated works – 11 Bagot Place, Ballina	Awaiting additional information
2021/192	16/03/2021	Ocean Shire Developments	Strata Title subdivision of an approved detached dual occupancy – 127 Montwood Drive Lennox Head	Determination pending
2021/200	17/03/2021	Newton Denny Chapelle	Two lot Torrens Title subdivision of an approved detached dual occupancy creating one 624m ² lot and one 569m ² lot being below the 600m ² minimum lot size development standard – 112 Stoneyhurst Drive Lennox Head	Being assessed
2021/201	17/03/2021	Planners North	Use of Existing Shop for Liquor Sales and Extension of Trading Hours 22 Old Pacific Highway, Newrybar	Being assessed
2021/205	18/03/2021	Essential Energy	Alterations and additions to the existing Essential Energy – 34 Temple Street, Ballina	Determination pending
2021/207	18/03/2021	J S Egan	Vegetation management works comprising the removal of two trees – 4 Rubiton Street Wollongbar	Being assessed
2021/210	22/03/2021	Ardill Payne & Partners	Strata title subdivision of an existing attached dual occupancy – 20 Calnan Crescent Cumbalum	Being assessed
2021/215	24/3/2021	Ardill Payne & Partners	To retain the existing dwelling house and construct a second dwelling in the form of an expanded dwelling house. The proposal is to create a detached dual occupancy development – 847 Friday Hut Road, Brooklet	Awaiting additional information

8.13 Development Applications - Works in Progress - May 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
2021/218	25/03/2021	Newton Denny Chapelle	Erection of the Lennox Head Rural Fire Service Facility and associated earthworks, vegetation management works and infrastructure servicing and including earthworks, car parking and vehicular access for a future preschool – 9 Byron Bay Road Lennox Head	Being assessed
2021/221	16/3/2021	M E Toghill	Demolition of existing dwelling house, erection of new dwelling house and swimming pool and use of part of existing shed as an artist studio – 299 Friday Hut Road, Brooklet	Being assessed
2021/222	26/3/2021	A R Faulks	Alterations and additions to existing dwelling house, garage and shed, including a new studio, erection of pool cabana and removal of vegetation – 71 Gallens Road, Ballina	Being assessed
2021/231	30/3/2021	Ardill Payne & Partners	Earthworks to establish two fill pad sites and the erection of a shed upon one of the proposed fill sites – 12 River Drive, East Wardell	Awaiting additional information
2021/233	31/3/2021	Alstonville / Wollongbar Rural Fire Service	Extensions to existing rural fire station – workshop, two change rooms and toilet – 16 Kays Lane, Alstonville	Being assessed
2021/244	6/4/2021	Newton Denny Chapelle	Erection of a Seniors Housing Development under State Environmental Planning Policy (Housing for Seniors or People with a Disability) comprising eight self-care dwellings, Strata Title subdivision, demolition of existing structures, infrastructure servicing, earthworks, vegetation removal and associated works – 5 Smith Lane, Wollongbar	On exhibition
2021/247	7/4/2021	S J Manley	Vegetation Management Works comprising the removal of seven trees – 55 Hutley Drive, Lennox Head	Being assessed
2021/248	7/4/2021	E L Beaumont	Erection of a farm shed – 248 Cowlong Road, McLeans Ridges	Awaiting additional information
2021/253	9/4/2021	K L Tully	Vegetation Management Works comprising the removal of one tree – 4/51-53 Catherine Crescent, Ballina	Being assessed
2021/257	9/4/2021	G Blatch	Vegetation Management Works comprising the removal of one tree – 32 River Drive, East Wardell	Being assessed
2021/259	9/4/2021	P & J Logan	Earthworks and Erection of Shed – 3 River Drive, East Wardell	Awaiting additional information

8.13 Development Applications - Works in Progress - May 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
2021/261	12/4/2021	A N Goldie	Two lot Strata Title subdivision to create one 457m ² lot containing the existing dwelling house (Proposed Lot 1) and one 294m ² vacant lot (Proposed Lot 2) – 30 Chilcott Circuit, Cumbalum	Awaiting additional information
2021/264	12/4/2021	B F Wappett	Vegetation Management Works comprising the removal of one tree – 30B Teven Road, Alstonville	Being assessed
2021/268	13/4/2021	L D Short	Vegetation Management Works comprising the removal of two trees – 39 Unara Parkway, Cumbalum	Being assessed
2021/270	13/4/2021	Ardill Payne & Partners	Change of use to establish a Recreation Facility (Indoor) – 20-22 De-Havilland Crescent, Ballina	Being assessed
2021/281	16/4/2021	Ardill Payne & Partners	Earthworks to establish two fill pad sites and the erection of a shed upon one of the proposed fill sites – 4 Hunter Street, East Wardell	Awaiting additional information
2021/282	16/4/2021	Ardill Payne & Partners	Earthworks to establish two fill pad sites and the erection of a shed upon one of the proposed fill sites – 8 River Drive, East Wardell	Awaiting additional information
2021/284	16/4/2021	Newton Denny Chapelle	Two Lot Torrens Title Subdivision to create one 618sqm and one 1693sqm lots, Erection of a Dual Occupancy comprising two x two storey dwellings on one of the Proposed Lots and Strata Title subdivision of the Dual Occupancy, Earthworks and other Associated Works – 73 Habitat Way, Lennox Head	On exhibition
2021/287	19/4/2021	Newton Denny Chapelle	Multi dwelling housing development, comprising the demolition of the existing dwelling fronting Stewart Street and erection of a new two storey dwelling and associated works – 71 Stewart Street, Lennox Head	On exhibition
2021/299	22/4/2021	BASEC Engineering	River bank stabilization works – 168 Pearces Creek Road, Alstonville	Referred to Government Departments
2021/300	22/4/2021	GM Project Development & Management	Subdivision to create one 1364m ² and one 659m ² allotments and associated works – 33 Midway Avenue, Wollongbar	On exhibition
2021/301	22/4/2021	HPC Planning	Temporary Use of Land as a function centre for the purposes of hosting wedding ceremonies for a period of five years. The proposed use is to operate for a maximum of 38 days per year. Ancillary works include the construction of a jetty – 475 Pearces Creek Road, Alstonville	On exhibition
2021/302	22/4/2021	Benoof Pty Ltd	Erection of a farm shed and associated use – Lot 11 Pimlico Road, Pimlico	Being assessed

8.13 Development Applications - Works in Progress - May 2021

DA No.	Date Rec'd	Applicant	Proposal	Status
2021/303	23/4/2021	Certifiers 2U	Establishment of a Dual Occupancy (detached) involving the relocation of a second dwelling and associated works – 41 Dalwood Road, Dalwood	Being assessed
2021/304	23/4/2021	Ballina Slipway & Marine Services Pty Ltd	Boat Ramp and Pontoon – 34 Smith Drive, West Ballina	On exhibition
2021/307	23/4/2021	Council Approval Group	To establish an indoor recreation facility including retention of existing caretaker's dwelling and associated alterations and additions to existing industrial premise – 30 Smith Drive, West Ballina	On exhibition

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	Reported to NRPP Meeting scheduled for 20 May 2021
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 2-6 August 2021

8.13 Development Applications - Works in Progress - 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 May 2021.

Attachment(s)

Nil

9.1 Use of Council Seal

9. Corporate and Community Division Reports

9.1 Use of Council Seal

RECOMMENDATION

That Council affix the Common Seal to the following documents.

US/05	<ul style="list-style-type: none">• Licence RN 608327 from Department of Planning Industry and Environment – Crown Lands to Council for the occupation and use of land at Tamarind Drive, Ballina (known as Depot 2) for a period of three years at statutory minimum rent• Sub-Licence from Council to Soil Conservation Service for the occupation and use of part of the land at Tamarind Drive, Ballina (excluding Lot 456 DP 729144) for a period of 12 months at statutory minimum rent. <p>Explanation Council previously held a site investigation licence which is issued by Crown to Council to occupy this site to assist Council in its future planning and operations. It has been confirmed by the Crown that the existing permissive occupancy over part of this site will be removed once this licence is finalised.</p> <p>Licence RN 608327 covers the entire Depot 2 site being part Lot 456 DP 729144; part Lot 491 DP 729381 and whole Lot 203 DP 755684 and 284 DP 755864 for the purpose of storage shed (Storage Yard and Depot), Environmental Rehabilitation and Stockpiles.</p> <p>Licence RN 608327 allows Council to issue a Sub-Licence to Soil Conservation Service for their use and occupation of part of Depot 2 for storage yard, rehabilitation and stockpile. Ministers Consent is required before the grant of the sub-tenure.</p>
US/06	<ul style="list-style-type: none">• Ballina Shire Council lease to The Rainbow Children’s Centre Inc. (Y0620205) over Lot 210 DP735156, 4 John Sharpe Street, East Ballina, for a five year term (20/7/2021 – 19/7/2026) plus a five year option (20 July 2026 – 19 July 2031), at a rent equal to the statutory minimum rent charged by Crown Lands, currently \$512 per annum. <p>Explanation This is a new lease to the existing tenant. The existing tenant is an incorporated association and has been in occupation of the property for an extended period running a community preschool and childcare facility. The property is Council owned operational land, so public advertising of the proposed lease is not required.</p>
US/07	<p>Ballina Shire Council licence to Northern Rivers Dirty Wheels Mountain Bike Club Inc. (INC9897469), for a term of four years, for a licence fee equal to the statutory minimum rent charged by Crown Lands, currently \$512 per annum.</p> <p>Explanation This is a new licence to the existing licensee. The existing licensee is an incorporated association and has been using the property as a mountain biking facility. The property is Council owned operational land, so public advertising of the proposed licence is not required.</p>

9.1 Use of Council Seal

US/08	Property	Occupant/Lessee	Tenure
	Prospect Lake Boat Shed, 6 Links Avenue, East Ballina (part of Lot 105 DP871675)	State of New South Wales – Department of Education	Four year licence at a licence fee equal to the statutory minimum charged by Crown Lands (currently \$512 per annum)
	Cumalum Sportsfield Clubhouse Building, 33 Power Drive, Cumalum (part of Lot 99 DP1196589)	Tintenbar East Ballina Football Club Inc. (Y2380919) and Ballina Little Athletics Club Incorporated (INC9889767)	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$512 per annum)
	Wardell Tennis Clubhouse and Tennis Courts, Fitzroy Park, 32 Bridge Drive, Wardell (part of Lot 18 DP1129974)	Wardell and District Tennis Club Inc. (Y0206705)	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$512 per annum)
	Skennars Sportsfield Clubhouse Building and part of Storage Shed, 54 Skennars Head Road, Lennox Head (part of Lot 13 DP1245669)	Lennox Head Football Club Inc. (Y0961122)	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$512 per annum)
	Part of Storage Shed at Skennars Head Sportsfield, 54 Skennars Head Road, Lennox Head (part of Lot 13 DP1245669)	Le-Ba Boardriders Inc. (Y1211612)	Four year licence at a licence fee equal to the statutory minimum charged by Crown Lands (currently \$512 per annum)
	<p>Explanation Each of these leases/licenses are to the existing tenant/occupant on community land as per Council's Community Property Leasing and Licensing Policy. Statutory advertising of the proposed leases/licenses is required with a further report to Council if an objection is received.</p>		
US/09	Ballina Shire Council lease to Dr J McGrath for Shop 4 Wigmore Arcade Ballina for a period of three years with a two year option at market rent plus outgoings plus GST.		

Attachment(s)

Nil

9.2 Investment Summary - April 2021

9.2 Investment Summary - April 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 April 2021.

Key Issues

- Compliance with Investment Policy

Discussion

As at 30 April 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 30 April 2021 was \$89,300,000 which was \$1 million less than the balance as at 31 March 2021.

Council's investments as at 30 April were invested at an average (weighted) interest rate of 0.740%, which was 0.700% above the April average 90 Day Bank Bill Index of 0.040%.

The balance of the Commonwealth Bank business account as at 30 April 2021 was \$5,286,448.

The net movement in the investment portfolio and bank account balances since 31 March was a decrease of \$914,069 due to a high volume of creditor payments and a significant plant purchase, which offset the proceeds from grant funding and settlement proceeds.

TCorp's Weekly Economic Report covering the final week of April 2021 can be reviewed online using the following link:

<https://www.tcorp.nsw.gov.au/resource/030521.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.

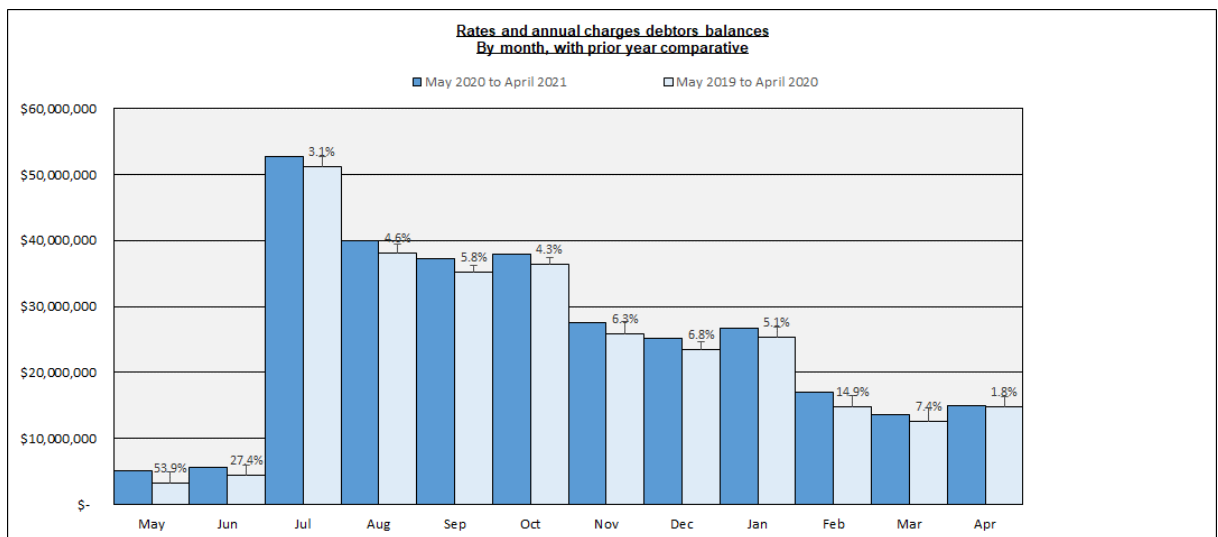
9.2 Investment Summary - April 2021

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 30 April 2021 and the percentage variance, in comparison to the prior 12 month period ended 30 April 2020.

Debtors as at 30 April 2021 were 1.8% higher than the balance as at 30 April 2020.



9.2 Investment Summary - April 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
AMP Bank	Yes	BBB	A2	5,500	5,500	10%	6.1%
Australian Unity bank	n/a	BBB+	-	1,000	-	10%	-
Auswide Bank	No	BBB	Baa2	3,000	3,000	10%	3.4%
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%	6.7%
Bendigo & Adelaide Bank	No	BBB+	A3	6,000	6,000	10%	6.7%
Commonwealth Bank	Yes	AA-	Aa3	4,000	4,000	20%	4.5%
Commonwealth Bank (Green)	No	AA-	Aa3	11,000	11,000	20%	12.3%
Credit Union Australia	No	BBB	Baa1	600	600	10%	0.7%
Defence Bank Ltd	No	BBB	Baa1	5,000	5,000	10%	5.6%
IMB Ltd	No	BBB	Baa1	4,000	4,000	10%	4.5%
ME Bank	No	BBB	Baa1	6,500	6,500	10%	7.3%
Macquarie Bank Limited	Yes	A+	A2	1,000	1,000	20%	1.1%
My State Bank Ltd	No	BBB+	Baa1	-	-	10%	-
National Australia Bank	Yes	AA-	Aa3	9,000	9,000	20%	10.1%
Newcastle Perm Build Society	No	BBB	A3	2,700	2,700	10%	3.0%
Suncorp Limited	No	A+	A1	5,300	5,300	20%	5.9%
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%
Total				90,300	89,300		100%

Credit Rating Summary as per the Investment Policy	Maximum Allowed		Value	Value	%	%
	%	Value	Previous	Current	Previous	Current
A- or Higher	100%	89,300	49,300	49,300	54.6%	55.2%
BBB	60%	54,180	41,000	40,000	45.4%	44.8%
Total			90,300	89,300	100%	100%

B. Summary of Investments Fossil Fuel Free and Green Investments

Environmental Classification	Previous Month		Current Month	
	(\$'000)	(%)	(\$'000)	(%)
Fossil Fuel Aligned and Non-Green Investments	44,500	49	44,500	49
Fossil Fuel Free Investments	33,800	38	33,800	39
Green Investments	11,000	12	11,000	12
Not Classified	1,000	1	0	0
Total	90,300	100	89,300	100

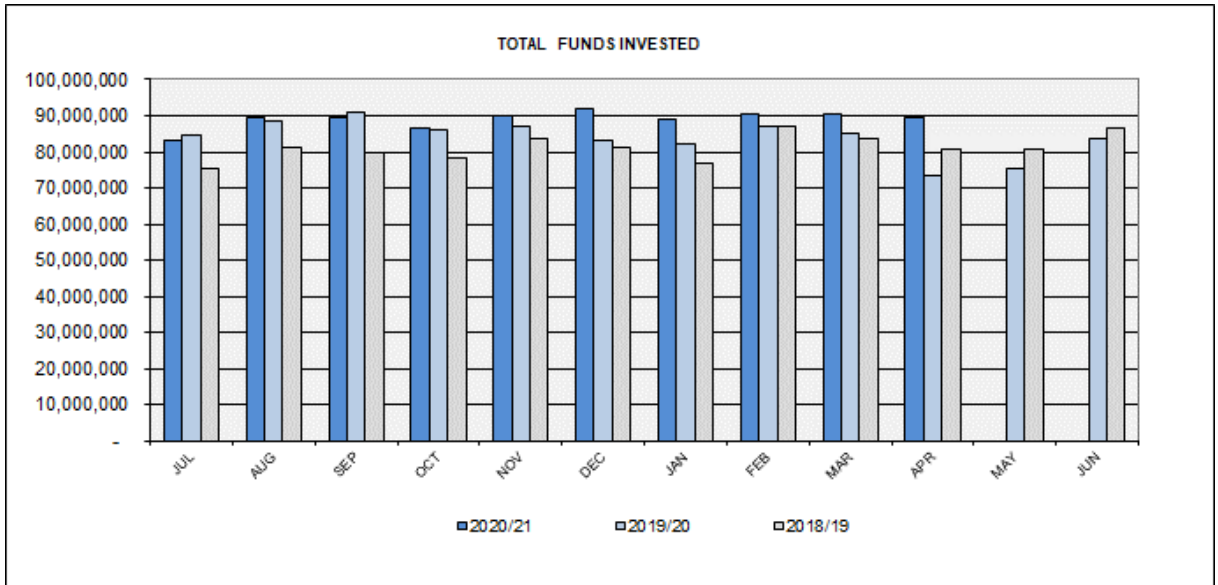
In April 2021, investments totaling \$5.5 million reached final maturity. The investment with Australian Unity of \$1 million was not reinvested; the other three investments totalling \$4.5 million were reinvested in new fossil fuel free / green investments.

During the month, Council continued to roll existing Floating Rate Note (FRN) investments totaling \$5.7 million, of which \$5 million is invested with fossil fuel aligned institutions.

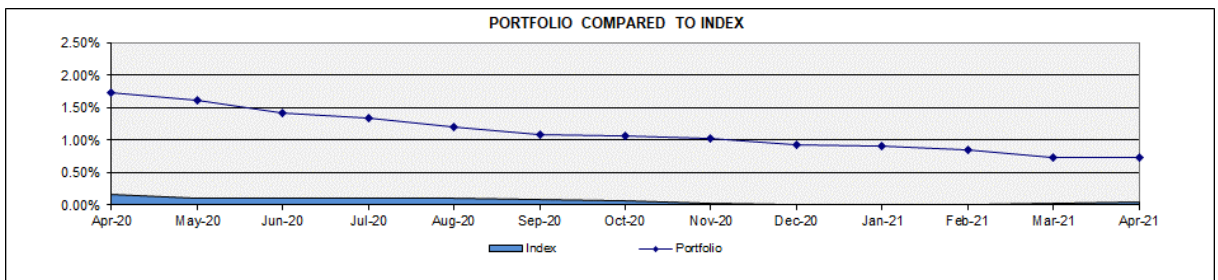
The rolled FRNs will be held until their final maturity dates which are between July 2021 and January 2024.

9.2 Investment Summary - April 2021

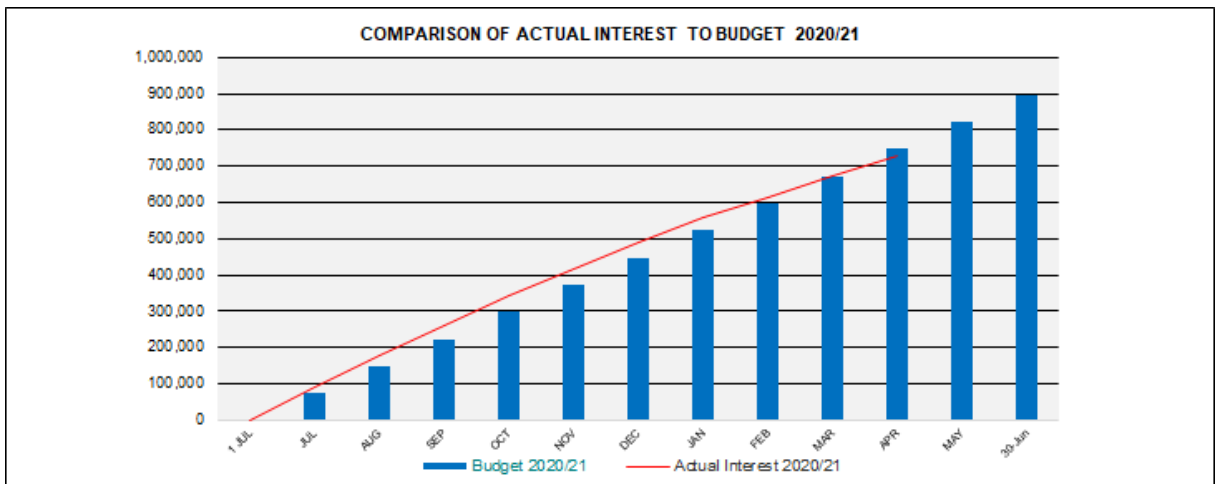
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



9.2 Investment Summary - April 2021

F. Investments held as at 30 April 2021

Purch Date	Issuer	Type	Rate	Final Maturity Date	Purch Value \$'000	Fair Value \$'000
17/06/2016	Commonwealth Bank of Australia	FRN	1.08%	17/06/2021	1,000	1,000
30/06/2016	Commonwealth Bank of Australia	FRN	1.07%	30/06/2021	1,000	1,000
3/08/2017	Westpac Banking Corporation	FRN	1.06%	3/08/2022	2,000	2,000
18/08/2017	Westpac Banking Corporation	FRN	1.06%	18/08/2022	1,000	1,000
6/02/2018	Newcastle Permanent Bld Society	FRN	1.41%	6/02/2023	700	700
2/07/2018	Teachers Mutual Bank Limited	FRN	1.41%	2/07/2021	700	700
30/07/2018	Westpac Banking Corporation	FRN	0.97%	31/07/2023	1,000	1,000
31/07/2018	Westpac Banking Corporation	FRN	0.97%	2/08/2023	1,000	1,000
6/09/2018	Credit Union Australia	FRN	1.29%	6/09/2021	600	600
6/09/2018	Newcastle Permanent Bld Society	FRN	1.41%	6/02/2023	1,000	1,000
10/09/2018	AMP Bank	FRN	1.12%	10/09/2021	1,500	1,500
11/01/2019	Commonwealth Bank of Australia	FRN	1.17%	11/01/2024	1,000	1,000
8/02/2019	Westpac Banking Corporation	FRN	1.06%	6/02/2024	2,000	2,000
26/07/2019	Commonwealth Bank of Australia	FRN	1.09%	26/07/2021	1,000	1,000
1/08/2019	AMP Bank	FRN	1.12%	10/09/2021	2,000	2,000
26/08/2019	AMP Bank	FRN	1.12%	10/09/2021	1,000	1,000
28/10/2019	Bank of Communications	FRN	0.93%	28/10/2022	1,000	1,000
4/06/2020	National Australia Bank	TD	0.99%	18/05/2021	3,000	3,000
4/06/2020	Bank of China	TD	0.95%	1/06/2021	2,000	2,000
10/06/2020	Bank of China	TD	0.92%	8/06/2021	1,000	1,000
24/06/2020	Bank of China	TD	0.95%	23/06/2021	2,000	2,000
29/06/2020	Bank of Queensland	TD	1.05%	22/06/2021	1,000	1,000
29/06/2020	Bank of Queensland	TD	1.05%	28/06/2021	2,000	2,000
4/08/2020	National Australia Bank	TD	0.85%	28/07/2021	2,000	2,000
4/08/2020	National Australia Bank	TD	0.85%	3/08/2021	4,000	4,000
11/08/2020	Bendigo & Adelaide Bank	TD	0.75%	5/08/2021	2,000	2,000
11/08/2020	Bank of Queensland	TD	0.85%	10/08/2021	3,000	3,000
17/08/2020	AMP Bank	TD	0.80%	17/08/2021	1,000	1,000
20/08/2020	Westpac Banking Corporation	TD	0.75%	21/07/2021	4,000	4,000
27/08/2020	Defence Bank Ltd	TD	0.90%	26/08/2021	1,000	1,000
31/08/2020	Westpac Banking Corporation	TD	0.76%	3/09/2021	2,000	2,000
2/09/2020	Bendigo & Adelaide Bank	TD	0.70%	1/09/2021	2,000	2,000
14/10/2020	Bendigo & Adelaide Bank	TD	0.60%	13/10/2021	2,000	2,000
2/12/2020	IMB Bank	TD	0.40%	11/05/2021	2,000	2,000
10/12/2020	IMB Bank	TD	0.40%	4/05/2021	1,000	1,000
16/12/2020	Commonwealth Bank - Green	TD	0.48%	15/12/2021	1,000	1,000
22/12/2020	Macquarie Bank Limited	TD	0.70%	15/12/2021	1,000	1,000
28/01/2021	Commonwealth Bank - Green	TD	0.37%	17/08/2021	4,000	4,000
4/02/2021	Auswide Bank	TD	0.50%	18/01/2022	2,000	2,000
15/02/2021	Commonwealth Bank - Green	TD	0.41%	8/02/2022	4,000	4,000
22/02/2021	IMB Bank	TD	0.30%	23/08/2021	1,000	1,000
22/02/2021	Commonwealth Bank - Green	TD	0.43%	15/02/2022	2,000	2,000
23/02/2021	Defence Bank Ltd	TD	0.44%	22/02/2022	1,000	1,000
24/02/2021	Suncorp-Metway Limited	FRN	0.46%	24/02/2026	1,300	1,300
24/02/2021	Auswide Bank	TD	0.50%	25/05/2021	1,000	1,000
1/03/2021	ME Bank	TD	0.45%	14/09/2021	2,000	2,000
1/03/2021	ME Bank	TD	0.45%	21/09/2021	1,000	1,000
2/03/2021	Suncorp-Metway Limited	TD	0.30%	18/08/2021	1,000	1,000

9.2 Investment Summary - April 2021

Purch Date	Issuer	Type	Rate	Final Maturity Date	Purch Value \$'000	Fair Value \$'000
2/03/2021	Defence Bank Ltd	TD	0.45%	1/03/2022	1,000	1,000
2/03/2021	Defence Bank Ltd	TD	0.45%	1/03/2022	2,000	2,000
4/03/2021	Newcastle Permanent Bld Society	FRN	0.63%	4/03/2026	1,000	1,000
9/03/2021	Suncorp-Metway Limited	TD	0.30%	14/12/2021	2,000	2,000
14/04/2021	Suncorp-Metway Limited	TD	0.30%	20/07/2021	1,000	1,000
20/04/2021	ME Bank	TD	0.50%	19/04/2022	2,000	2,000
27/04/2021	ME Bank	TD	0.50%	26/04/2022	1,500	1,500
	Totals				89,300	89,300
	TD = Term Deposit	FRN = Floating Rate Note				

RECOMMENDATION

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

Attachment(s)

Nil

9.3 Tender - Lennox Village Vision - Underground Electrical Works

9.3 Tender - Lennox Village Vision - Underground Electrical Works

Section Project Management Office

Objective To report the outcomes of the tender evaluation for the Tender - Lennox Village Vision - Underground Electrical Works

Background

The works to be undertaken under this contract are the Lennox Village Vision – Underground Electrical Works. The work will remove the overhead electrical distribution network and replace it with an underground electrical network. This report outlines the results of the tender process.

Key Issues

- Comply with the Local Government (General) Regulation 2005
- Obtain value for money

Discussion

Eight companies downloaded the documentation with tenders received from:

- Quanta Lines Pty Ltd
- Stralis Energy Pty Ltd

The tender submissions were assessed to ensure conformance with the conditions of tender and the mandatory criteria, being:

- Insurances
- Work Health and Safety
- Quality Management
- Statement of Conformance
- Statement of Collusive Tendering
- Statement of Conflict of Interest and Business Ethics

Both tender submissions met the mandatory assessment and were assessed using the following weighted assessment criteria:

- Pricing Structure 60%
- Local and Community 15%
- Technical Criteria 25%

Quanta Lines Pty Ltd has been assessed as the preferred tenderer based on the evaluation. Details of the assessment and pricing options have been provided to Councillors by confidential memorandum.

Delivery Program Strategy / Operational Plan Activity

The Lennox Village Vision is a major project identified in the Delivery Program and Operational Plan.

Community Consultation Policy

Council has undertaken a public tender process in accordance with the Local Government (General) Regulation 2005.

Financial / Risk Considerations

This tender for underground electrical works is part of the allocated budget for 2021/22 of \$4m. In addition to these funds there is \$500,000 allocated in 2020/21 and \$1.5m in 2022/23. The Open Spaces Program also has funding allocated of \$800,000 for Ross Park works spread between 2020/21 and 2021/22. Council has also recently been successful with a State Government grant of close to \$1m for additional works, and the June 2021 Delivery Program report, will confirm the allocation of those funds to this project.

The most recent estimate prior to tender for the underground electrical works was from \$500,000 to \$600,000 and the tender is within this budget.

The key risk to this project commencing on time, is the approval of the Aboriginal Heritage Impact Permit (AHIP). The application for the AHIP has been submitted and the project is awaiting the approval. It is anticipated the AHIP will be approved in July.

Options

The options for Council are set out in Part 7 Section 178 (1) of the Local Government (General) Regulation 2005, which requires that:

- (1) *After considering the tenders submitted for a proposed contract, the council must either:*
- (a) *accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
 - (b) *decline to accept any of the tenders.*

Based on the tender evaluation, it is recommended that Council declines to accept any tenders as the preference, based on the technical nature of the underground works, clarification of certain items in the contract and uncertainty regarding the AHIP, to allow staff to finalise negotiations directly with the preferred tenderer.

Sections 178(3) and (4) of the regulations provide direction in the circumstances where a Council declines to accept any tenders in accordance with section 178(1)(b); i.e.

- (3) *A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:*
- (a) *postpone or cancel the proposal for the contract,*
 - (b) *invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details,*
 - (c) *invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,*
 - (d) *invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,*

9.3 Tender - Lennox Village Vision - Underground Electrical Works

- (e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,*
 - (f) carry out the requirements of the proposed contract itself.*
- (4) If a council resolves to enter into negotiations as referred to in subclause 3 (e), the resolution must state the following:*
- (a) the council's reasons for declining to invite fresh tenders or applications as referred to in subclause (3) (b)–(d),*
 - (b) the council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3) (e).*

This preferred approach will allow staff, prior to the issue of a letter of award, to resolve any outstanding points in the contract, review the final scope of works and ensure any changes remain within budget.

RECOMMENDATIONS

1. That Council in accordance with the Local Government (General) Regulation 2005 Section 178(1)(b), declines to accept any tenders for the Tender - Lennox Village Vision - Underground Electrical Works in order to finalise the scope of works and any outstanding contract terms and conditions.
2. That Council, in accordance with Local Government (General) Regulation 2005 Section 178(3)(e) authorises the General Manager to enter into negotiations with Quanta Lines Pty Ltd, with a view to enter into a contract for the Tender - Lennox Village Vision - Underground Electrical Works.
3. That in accordance with the Local Government (General) Regulation 2005 Section 178(4)(a) the reason Council has declined to invite fresh tenders is that the tender process has established sufficient market interest and it is more efficient and timely to negotiate with interested parties than call for new submissions.
4. That in accordance with the Local Government (General) Regulation 2005 Section 178(4)(b), Council has determined to negotiate with Quanta Lines Pty Ltd, as they are the preferred tenderer following assessment against the tender evaluation criteria.

Attachment(s)

1. Lennox Village Vision - Underground Electrical Works - Confidential Information for Tender Report (Under separate cover)

9.4 Legal Matters - Update

9.4 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 or recent legal cases.

Details 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 granted 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. Three of the notices were paid in full and the fourth infringement notice issued to the principal building contractor was challenged in the local Court. The Court convicted the building contractor and ordered them to pay a fine and Council's professional costs. The matter is now closed.				
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	760,000
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.				

9.4 Legal Matters - Update

Council Solicitor	Parties	Description	Cost Estimate	Paid to Date
Parker and Kissane	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	118,000
<p>Comment</p> <p>DA 2017/600 is a 'designated development' for the expansion of an existing resource recovery facility in the Russellton Industrial estate. The application was granted consent by the Northern Regional Planning Panel in November 2019. The appeal was brought by a third party objector in February 2020. Council was the first respondent and North Coast Recycling Pty Ltd was the second respondent. 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. This means the Court proceedings are finalised and North Coast Recycling Pty. Ltd. can rely on the planning consent to undertake the approved works. This appeal matter is now concluded.</p>				
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	46,400
<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. A third party (closest neighbour) joined the appeal and attended the Section 34 Conciliation Conference on 11 November 2020.</p> <p>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. 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 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.</p> <p>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>				

9.4 Legal Matters - Update

Council Solicitor	Parties	Description	Cost Estimate	Paid to Date
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	91,500
<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. Council refused the application at the December 2019 Ordinary meeting. 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 was held on 14 and 15 September 2020. The matter was not resolved and the hearing resumed on 3 and 4 December 2020.</p> <p>The Commissioner reserved his decision and at this point in time no decision has been made.</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	206,900
<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.</p> <p>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.</p> <p>Intrapac has subsequently lodged an application for appeal against the Court's decision. The hearing is listed for 21 July 2021.</p>				
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	25,600
<p>Comment</p> <p>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.</p> <p>A Section 34 Conciliation Conference was held on 24 March 2021.</p> <p>The appeal hearing is listed for 27 – 28 July 2021.</p>				

9.4 Legal Matters - Update

Council Solicitor	Parties	Description	Cost Estimate	Paid to Date
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	72,700
Comment <p>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.</p> <p>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.</p> <p>A Section 34 Conciliation Conference was held on 12 November 2020.</p> <p>The matter was set down for hearing on 3 - 7 May 2021. These dates were subsequently vacated as the applicant sought to make a number of late amendments to the proposal.</p> <p>The appeal is now set for hearing on 2-6 August 2021.</p> <p>Further amendments are likely and Council has successfully obtained orders for costs thrown away.</p>				

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 date.

The following table provides a summary of planning related legal costs for recent years.

9.4 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	146,400
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	98,400
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	69,200
404 Old Byron Bay Road (Kenny NCAT)	0	0	0	7,500
DA 2018/597 – Water Extraction	0	6,400	0	0
DA 2019/30 – 43 Tuckombil Lane (Griffani)	0	0	17,000	28,600
DA 2019/170 – 937/987 Wardell Road (Veronesi)	0	0	0	11,200
DA 2020/49 – 38 Newrybar Swamp Road (Anderson)	0	0	0	25,600
DA 2020/192 – Gem Life (Planners North)	0	0	0	72,700
DA 2020/568 – Midgen Flat Road	0	0	0	3,300
Misc including insurance and planning agreements	22,700	34,600	60,000	24,800
Total Actual Expenditure	967,200	503,100	1,042,000	504,000
Legal Expenditure Budgets	1,005,000	290,000	1,036,000	625,000
Expenditure Budget Result – Surplus / (Shortfall)	37,800	(213,100)	(6,000)	121,000
Legal Actual Income from Costs Recovered / Fines	108,000	61,000	157,000	525,000
Legal Income Budget	85,000	70,000	140,000	550,000
Income Budget Result – Surplus / (Shortfall)	23,000	(9,000)	17,000	(25,000)
Net Income and Expenditure Budget Result	60,800	(222,100)	11,000	96,000

As per this summary \$504,000 has been expended to date out of a total legal expenditure budget of \$625,000.

Legal costs recovered and penalties issued are \$525,000 out of a budget of \$550,000.

This large recovery figure is due to costs recovered of almost \$500,000 from the CURA A 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

The quarterly financial review report elsewhere in this agenda, recommends a \$100,000 increase to the planning legal expenditure budgets based on current cases.

9.4 Legal Matters - Update

Contract Disputes

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

- Haslin Constructions – Ballina Wastewater Treatment Plant Design

Council did not award completion of this contract as the works were considered to be defect free. The Contractor disputed 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 was in excess of \$500,000 this determination was non-binding on the parties. The Contractor commenced proceedings in the Supreme Court against Council.

The last update on this dispute was reported to the March 2021 Ordinary meeting where Council approved the execution of a Deed of Settlement and Release. The Deed of Settlement and Release was the outcome of a mediation conference attended by Council and the Contractor.

The Deed of Settlement and Release has now been executed and the agreed actions in the Deed have been completed by both parties. The terms of the Deed are confidential, with the exception of a term where the parties have agreed to the filing of consent orders to terminate the Court proceedings.

Legal and related expenditure on this dispute to date is now approximately \$665,000 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	Total
Legal Expenses	286,000	98,000	39,000	145,000	96,000	665,000

This dispute is now closed and Council is progressing to rectify the alleged defects. Council approved a tender for these works at the January 2021 Ordinary meeting and awarding the contract is now dependent on final negotiations with the preferred contractor and the State Government.

The quarterly financial review report elsewhere in this agenda, recommends a \$100,000 increase to the wastewater legal expenditure budget based on expenditure for this year.

Options

This report is provided for public information.

RECOMMENDATION

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

Attachment(s)

Nil

9.5 Financial Review - 31 March 2021

9.5 Financial Review - 31 March 2021

Section	Financial Services
Objective	To provide a quarterly review of the 2020/21 financial year based on the known results to 31 March 2021.

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 third 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 March 2021. 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 subsequent to the exhibition of the draft Delivery Program and Operational Plan (DPOP) for 2021/22.

Draft 2021/22 Delivery Program - Forecast General Fund Operating Result (\$'000)

Year	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31
Operating Revs	71,395	74,715	75,831	77,561	79,233	81,065	82,951	84,976	86,979	88,945	91,350
Operating Exps Excl Non-Cash	59,745	60,118	60,542	62,243	63,631	64,722	65,589	67,077	68,575	69,503	71,122
Result before Non-Cash items	11,650	14,596	15,289	15,318	15,602	16,343	17,362	17,899	18,404	19,441	20,228
Depreciation/Loss on sale	19,197	18,565	18,906	19,252	19,606	19,966	20,332	20,707	21,089	21,479	21,876
Result (Deficit)	(7,547)	(3,969)	(3,617)	(3,935)	(4,004)	(3,623)	(2,969)	(2,808)	(2,685)	(2,037)	(1,648)
Operating Ratio	-6.83%	-2.90%	-2.40%	-2.75%	-2.78%	-2.25%	-1.41%	-1.19%	-1.02%	-0.27%	0.17%
WC Result	(820)	(435)	(731)	(764)	(692)	(463)	(302)	(76)	313	463	1,029
WC Balance	3,888	3,453	2,722	1,958	1,266	803	501	425	738	1,201	2,230

Revised March 2021 - Forecast General Fund Operating Result (\$'000)

Year	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31
Operating Revs	74,027	75,056	76,400	78,166	79,914	81,800	83,700	85,872	87,851	90,045	92,262
Operating Exps Excl Non-Cash	60,224	60,203	60,177	61,745	62,999	63,934	64,804	66,295	67,801	68,742	70,377
Result before Non-Cash items	13,803	14,853	16,223	16,420	16,915	17,866	18,896	19,577	20,050	21,303	21,885
Depreciation/Loss on sale	19,177	18,565	18,787	19,130	19,482	19,839	20,203	20,576	20,956	21,342	21,737
Result (Deficit)	(5,374)	(3,712)	(2,564)	(2,710)	(2,567)	(1,973)	(1,308)	(999)	(906)	(39)	148
Operating Ratio	-3.65%	-2.69%	-1.14%	-1.30%	-1.10%	-0.35%	0.45%	0.80%	0.88%	1.82%	1.98%
WC Result	(768)	(179)	(455)	(494)	(397)	(141)	46	298	503	582	496
WC Balance	3,940	3,761	3,306	2,811	2,415	2,274	2,320	2,617	3,120	3,702	4,198

The future year forecasts now indicate the General Fund reaching an operating surplus in 2030/31.

This March quarterly review forecasts an improvement of \$2,174,000 to the operating deficit for 2020/21 and an improvement to the ten year forecast.

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 March** is a loss of \$5,374,300.

This compares to a forecast loss of \$7,546,900 as at December 2020 as reported to the February 2021 Council meeting.

9.5 Financial Review - 31 March 2021

The estimated movement in **Unrestricted Working Capital** shows a small improvement, with a forecast deficit **as at March** now \$768,000. This compares to a forecast deficit of \$819,700 as at December 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	Dec Budget	Re-structure	Approved Changes	Revised Budget	Changes for Approval	Mar Budget	Actual to Mar
Planning and Environmental Health Division								
Strategic Planning	165	444	0	0	444	45	489	210
Development Services	2,163	3,383	(10)	0	3,373	210	3,583	2,928
Env and Public Health	539	665	0	0	675	227	902	495
Public Order	213	223	0	0	223	0	223	194
Open Spaces	870	935	0	0	935	285	1,220	1,105
NRCG Gallery	56	62	0	0	62	19	81	71
Open Spaces Buildings	0	0	0	0	0	0	0	0
Sub Total	4,006	5,712	0	0	5,712	786	6,498	5,003
Civil Services Division								
Asset Management	270	276	0	0	276	2	278	200
Stormwater and Env Protect	396	467	0	0	467	0	467	464
Roads and Bridges	1,007	1,018	0	0	1,018	27	1,045	1,012
Ancillary Transport Services	676	828	0	0	828	11	839	660
Transport for NSW	1,040	963	0	0	963	0	963	964
Emergency Services	179	231	0	0	231	1	232	221
Quarries and Sandpit	68	68	0	0	68	0	68	67
Landfill and Resource Mgmt	6,030	8,037	0	0	8,037	515	8,552	6,618
Domestic Waste Mgmt	8,298	8,367	0	0	8,367	15	8,382	8,174
Sub Total	17,964	20,255	0	0	20,255	571	20,826	18,380
Corporate and Community Division								
Governance	30	0	0	0	0	0	0	0
Communications	15	35	0	0	35	0	35	32
Financial Services	194	212	0	0	212	15	227	132
General Purpose Revenues	31,048	30,511	0	0	30,511	67	30,578	27,460
Information Services	141	231	0	0	231	15	246	185
People and Culture	127	160	0	0	160	20	180	176
Property Management	2,089	2,316	0	0	2,316	43	2,359	2,147
Airport	2,795	5,273	0	0	5,273	1,006	6,279	6,156
Community Facilities	442	464	(40)	0	424	34	458	403
Library Services	110	114	0	0	114	59	173	171
Swimming Pools	1,020	1,020	0	0	1,020	0	1,020	951
Tourism	51	62	0	0	62	0	62	51
Fleet Mgmt and Workshop	5,029	5,029	0	0	5,029	17	5,046	3,883
Facilities Management	0	0	40	0	40	0	40	28
Sub Total	43,091	45,427	0	0	45,427	1,276	46,703	41,775
Total Operating Income	65,061	71,394	0	0	71,394	2,633	74,027	65,158

General Fund – Operating Expenses (\$'000)

Operating Expenses	Original Budget	Dec Budget	Re-structure	Approved Changes	Revised Budget	Changes for Approval	Mar Budget	Actual to Mar
Planning and Environmental Health Division								
Strategic Planning	642	1,334	0	0	1,334	45	1,379	429
Development Services	3,495	3,872	(447)	0	3,425	150	3,575	2,611
Env and Public Health	1,909	2,435	447	0	2,882	(270)	2,612	1,570
Public Order	601	623	(5)	0	618	0	618	491
Open Spaces	4,331	5,034	0	0	5,034	(492)	4,542	3,577
NRCG Gallery	378	420	0	0	420	11	431	321
Open Spaces Buildings	793	844	0	0	844	13	857	764
Sub Total	12,149	14,562	(5)	0	14,557	(543)	14,014	9,763

9.5 Financial Review - 31 March 2021

Civil Services Division								
Asset Management	1,487	1,526	0	0	1,526	1	1,527	948
Stormwater and Env Protect	1,056	1,318	0	0	1,318	(218)	1,100	853
Roads and Bridges	3,510	3,396	0	0	3,396	0	3,396	2,962
Ancillary Transport Services	1,991	2,017	0	0	2,017	28	2,045	1,158
Transport for NSW	963	811	0	0	811	0	811	478
Emergency Services	518	626	(8)	0	618	(5)	613	437
Quarries and Sandpit	42	45	0	0	45	10	55	50
Landfill and Resource Mgmt	5,920	7,001	0	0	7,001	578	7,579	5,132
Domestic Waste Mgmt	8,303	8,814	0	0	8,814	(29)	8,785	6,596
Sub Total	23,790	25,554	(8)	0	25,546	365	25,911	18,614
Corporate and Community Division								
Governance	992	1,048	0	0	1,048	(9)	1,039	838
Communications	442	566	0	0	566	0	566	328
Financial Services	382	360	0	0	360	7	367	211
General Purpose Revenues	0	0	0	0	0	0	0	0
Information Services	2,572	2,756	0	0	2,756	94	2,850	2,445
People and Culture	132	257	0	0	257	20	277	(429)
Property Management	1,352	1,518	0	0	1,518	0	1,518	1,139
Airport	3,641	4,442	0	0	4,442	342	4,784	3,801
Community Facilities	1,663	1,730	(551)	0	1,179	(13)	1,166	770
Library Services	1,563	1,563	(15)	0	1,548	41	1,589	1,557
Swimming Pools	1,846	1,846	(80)	0	1,766	0	1,766	1,234
Tourism	541	566	0	0	566	2	568	351
Fleet Mgmt and Workshop	3,072	3,072	0	0	3,072	100	3,172	2,620
Facilities Management	(69)	(95)	659	0	564	53	617	515
Sub Total	18,129	19,629	13	0	19,642	637	20,279	15,380
Total Operating Expense	54,068	59,745	0	0	59,745	459	60,204	43,757
Result Before Dep	10,993	11,649	0	0	11,649	2,174	13,823	21,401
Depreciation and Non-Cash	15,382	19,197	0	0	19,197	0	19,197	14,398
Net Operating Result	(4,389)	(7,547)	0	0	(7,547)	2,174	(5,374)	7,003

The larger adjustments to the Operating Result include a net improvement for Environmental Health of \$497,000. This is due to unbudgeted grant funding raised of \$227,300 and a deferral of operating expenditure of \$270,000.

Open Spaces shows a net improvement of \$777,000. This also results from unbudgeted contributions and the deferral of various works.

Stormwater shows a net improvement of \$218,000, substantially from works deferral.

The Ballina Byron Gateway Airport shows an improvement in its net operating result of \$664,000.

These large adjustments above impact favourably on the Operating Result, with the funds largely transferred to reserves. This in turn means they do not impact on the working capital position.

General Fund Working Capital Forecast (\$'000)

Item	Original Budget	Dec Budget	Approved Changes	Revised Budget	Changes for Approval	Mar Budget	Actual to Mar
Working Capital (Deficit)	(780)	(820)	6	(814)	46	(768)	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

Strategic Planning

A budget of \$40,000 is raised for grant funding which has been received from the NSW Department of Primary Industry and Environment (DPIE), for the integration of deferred matters into the Ballina LEP 2012.

An additional \$5,000 grant funding has been confirmed from DPIE to support the Koala Management Strategy.

Offsetting expenditure budgets have also been raised.

Development Services

The income in the section, overall, continues to trend strongly, with an increase to forecast fees income of \$160,000.

The largest individual increase is for Plumbing and Drainage fee income, with the 2020/21 budget increased by \$130,000 to \$580,000.

Given the revision to expected incomes, an amount of \$40,000 is proposed as a transfer to reserves for future legal costs, as future budgets for legal expenses are reasonably lean.

Forecast income for 2021/22 has also been increased by \$60,000 in total, based on the revision of expected income for 2020/21.

In addition to the above, an income budget of \$50,000 is proposed in 2020/21 for funding for the Regional NSW Planning Portal Project.

This funding is to assist towards costs for the transition to the NSW Planning Portal, which is to be effective from 1 July 2021.

An offsetting expense budget has been raised.

Environmental and Public Health

Council has been awarded grant funding of \$227,300 under the Crown Reserves Improvement Fund (CRIF). This is funding for the Lake Ainsworth Coastal Management Plan. This amount has been transferred to reserves, with works to commence in 2021/22.

Open Spaces

New budgets have been raised for Vegetation Management, based on contributions and grant funding confirmed.

9.5 Financial Review - 31 March 2021

An amount of \$202,300 has been received as contribution for compensatory works for the BP Service Station site.

This contribution, and offsetting expenditure, had already been included in the 2021/22 year for the draft DPOP. This is now adjusted, with the income having been received in 2020/21, with this amount being transferred to reserves to fund the 2021/22 expenditure.

An amount of \$36,400 has been received for North Creek Road compensatory works. This has been allocated as \$5,600 for 2020/21 expenditure, with the balance of \$30,800 placed into reserves for works in future years.

Grant funding of \$10,000 from DPIE has been confirmed for Coastal Fontainea Bush Regeneration. A corresponding expenditure budget has been raised, to be spent by 30 June 2021, to comply with the funding agreement.

Budgeted income for Seven Mile Beach 4WD permits has been increased by a further \$25,000 to \$115,000, based on trend.

The budgeted income for Event Income / Filming Applications has been increased by \$20,000, to \$50,000.

The budget for NDIS Contributions has been increased by \$18,000, based on income received.

Budgeted income for Mobile Vending on Public Land has been increased by \$3,000, to \$9,800 to match income received.

Forecast income for cemetery fees has been decreased by \$30,000, to \$398,000, based on trend.

Northern Rivers Community Gallery

A new income budget of \$10,000 is raised for grant funds received from Arts Northern Rivers for the Tailored Facilitator Mentorship Program.

An offsetting expenditure budget has also been raised.

The budgets for Ballina Café rental income and outgoings have been increased by \$7,000 and \$2,000, to \$25,000 and \$5,000, respectively.

Civil Services Division

Asset Management

The income budget for Development Engineer Inspection Fees has been decreased by \$10,000 to \$167,000, based on trend. A similar reduction is proposed for the draft 2021/22 budget.

The income budget for Section 7.11 Administration fees has been increased by \$10,000 to \$60,000, based on trend, with that income transferred to a Strategic Planning reserve.

The income budget for road closure application fees has been increased by \$8,000, to \$10,000 for this year, to match income received.

Grant contributions, from Transport NSW, toward the Road Safety Officer and related projects, have been decreased by \$6,500, based on confirmation of projects for the current financial year.

A corresponding adjustment is made to the expenditure budgets.

Roads and Bridges

The income budget for natural disaster grant funding for 2020/21 has been increased by \$27,000, with the amounts received higher than anticipated.

Ancillary Transport Services

The forecast income for advertising fees on bus shelters has been increased by \$11,000 based on trend, with the draft budgets for future years increased also.

Landfill and Resource Management (LRM)

Income budgets have been increased by \$515,000 in total.

The income budget for waste disposal fees has been increased by \$300,000 to \$1,800,000. The income budget for waste disposal fees, for Council jobs, has been increased by \$150,000 to \$900,000.

These increases are largely due to continued growth in gate fee income due to sustained increase in residential and commercial customer numbers at the waste management facility.

The income budget for the sale of recyclable metal has been increased by \$60,000 to \$180,000, with a continued increase in the price of scrap metal. Annual charges income has been increased by \$5,000, based on actuals.

The draft 2021/22 budgets for the above income streams have already taken into account these anticipated increases and do not require further amendment.

Domestic Waste Management (DWM)

Annual charges income has been increased by \$15,000, based on actuals.

Corporate and Community Division

Financial Services

The forecast income for Section 603 certificates has been increased by a further \$15,000, to \$105,000, based on trend.

General Purpose Revenues

Forecast income for rates has been increased by \$67,000 to \$25,809,700, to match rates levied.

Information Services

The forecast for Information Fee income has been increased by \$15,000, to \$145,000, based on trend.

People and Culture

Increases to budgeted income of \$16,000 for Long Service Leave contributions and \$4,000 for Maternity Leave contributions to match income received.

Offsetting increases are made to the expenditure budgets for employee entitlements.

Property Management

The forecast income for the Flat Rock Tent Park has been increased by \$43,000, with a revised forecast of \$360,000.

Ballina Byron Gateway Airport

Airport income budgets have been increased by \$1,005,700 and expenditure budgets increased by \$341,500, giving an overall improvement to the current year's operating result of \$664,200.

This improvement was foreseen when the draft LTFP for the Airport was considered at the April 2021 Finance Committee meeting.

Forecast income for mandated security charges has been increased by \$370,000 to \$1,400,000.

Forecast income for car rental franchises has been increased by \$321,000 to \$750,000.

Airline contributions to CAGRO has been increased by \$179,000 to \$450,000.

Rental income for the new terminal building has been increased by \$45,000 to \$120,000, and Airport lessee reimbursements (income) have been increased by \$37,000 to \$72,000.

Other increases are for landing fees (ABaSS), \$30,000, landing fees (ABaSS exempt), \$5,700 and advertising fees, \$18,000.

No changes have been proposed to the passenger charges forecasts, which has a budget of \$2,370,000.

Community Facilities

Community facility income has been increased by a net \$34,000.

Forecast income for the Lennox Head Cultural Centre has been increased by \$15,000, with an increase of \$20,000 to Auditorium Event hire offset in part by a decrease of \$5,000 to Casual Room hire. The revised total forecast income for this year is \$92,000.

9.5 Financial Review - 31 March 2021

Forecast income for the Ballina Surf Life Saving Club has been increased by \$15,000, with an increase of \$10,000 to income from the Kiosk and \$5,000 from Casual Room hire. The revised forecast income for this year is \$96,000.

Forecast income for the Ballina Indoor Sports Centre has been increased by \$5,000, with a revised total budget of \$106,000, based on trend.

Forecast income for the Alstonville Cultural Centre has been increased by \$3,000 to a revised income of \$25,500, based on income received to date under the agreement with Byron Studios.

Forecast income for the Kentwell Community Centre has been reduced by \$4,000, based on trend. The revised total forecast income for this year is \$126,000.

Library

An income budget of \$58,700 has been raised, for amounts received from the Library Council of NSW for Special Projects.

Of this amount, an expenditure budget of \$30,000 has been raised for expenditure for 2020/21.

The balance, of \$28,700, is placed into the Library Special Projects reserve.

Fleet Management and Plant

The income budget for the sale of scrap metal has been increased by \$11,000, to \$15,000, to match income received.

A budget of \$6,000 is raised for other plant income, being auction proceeds on the sale of small plant items.

General Fund - Operating Expenses

Planning and Environmental Health Division

Strategic Planning

An expenditure budget of \$40,000 is raised, due to grant funding received from DPIE, for the integration of deferred matters into the Ballina LEP 2012.

The deferred matters relate to land which is currently subject to the Ballina LEP 1987 provisions (but does not include land zoned for environmental protection which will remain subject to Ballina LEP 1987 provisions).

Additional budget of \$5,000 has been raised for the Koala Management Strategy, on confirmation of further funding from DPIE.

This funding is to support the establishment of an information display at appropriate locations to share information about the Koala population.

The funding is for the purchase of technology and associated resources to better support the Koala Information Display, which is in development.

Development Services

Based on costs incurred and committed to date, an increase of \$100,000 to the budget for legal expenses is proposed this quarter, to bring the total budget to \$700,000.

An expenditure budget of \$50,000 is proposed in relation to the funding for the Regional NSW Planning Portal Project.

Environmental and Public Health

Based on a review of works that can be realistically completed prior to the end of this financial year, the Healthy Waterways budget for 2020/21 has been reduced by \$270,000, with this amount transferred to reserves for future works in 2021/22.

Open Spaces

Vegetation budgets have also been reduced, by \$492,000, with deferral of various works to later years and this amount placed into reserves.

The two more significant budgets for deferral are the Indigenous Area Repair Bushfire Recovery and the Asset Protection Zone Bushfire Recovery works.

For the total funding of \$300,000 for the Indigenous Area Repair Bushfire Recovery, an amount of \$275,000 is deferred to 2021/22.

For the total funding of \$225,000 for the Asset Protection Zone Bushfire Recovery, an amount of \$140,000 is deferred to 2021/22.

Amounts of \$36,900 and \$15,900 have also been deferred for the grant funded Crown Land Weed Control and Chickiba Wetlands projects.

Amounts of \$22,000, \$10,000 and \$7,800 have been deferred for Booyal Estate Bushland Reserve compensatory works, Killen Falls rehabilitation works and the Hutley Drive North vegetation works.

New expenditure budgets of \$10,000 have been raised for the Coastal Fountainea Bush Regeneration project, and a new budget of \$5,600 for the North Creek Road compensatory works, as noted within the income section of this report.

Northern Rivers Community Gallery

As noted in the income section of this report, an expenditure budget of \$10,000 has been raised offsetting the grant funding received from Arts Northern Rivers, for the Tailored Facilitator Mentorship Program.

Open Spaces Buildings

The budget for building vandalism has been increased by \$5,000, to \$25,000, to cover costs to date. Review of current year and previous year actual expenditures indicates that this budget was below requirements. Future year budgets have also been increased.

Maintenance budgets for picnic tables/shelters and BBQs have been increased by \$3,000 and \$2,000, to \$63,000 and \$59,000 respectively for the current year.

Future year budgets are considered adequate, with a number of capital renewals proposed to occur in 2021/22.

The maintenance budget for sports field buildings has been increased by \$3,000, to \$10,000. The 2021/22 budget has already been proposed as \$10,000.

Civil Services Division

Asset Management

As noted in the income section of this report, a decrease of \$6,500 was made to income and expenditure budgets for confirmed projects through Transport NSW.

An increase of \$10,000, to \$14,000, is proposed for the Development Engineer Software budget, as this budget supports a number of required annual licences and the budget was insufficient for these needs.

Stormwater and Environmental Protection

Current year budgets have a net decrease of \$218,000.

The budget for the Ballina Floodplain Management Plan has been reduced by \$75,000, to \$100,000.

The budget for Canal Dredging has been reduced by \$170,000, to \$30,000 with these works now scheduled to take place in 2021/22.

The above amounts have been transferred back to reserve for expenditure in 2021/22.

The budget for stormwater drainage maintenance has been increased by \$27,000, offsetting additional income received in the Roads and Bridges section.

Ancillary Transport Services

Street lighting budgets for 2020/21 have been increased by \$12,500, based on a review of costs incurred to date and an estimate for the rest of the year.

The budget for Ferry operation expenses has been increased by \$15,000 to \$150,000 for the current year. Additional one off expenditure was incurred, in the lead up to the next ferry slip work, which will occur in 2021/22.

Emergency Services

The budget for repairs and maintenance of Rural Fire Service (RFS) vehicles has been increased, from \$20,000 to \$30,000, based on actual costs incurred. The revised budget is more in line with the expenditure incurred in the previous year.

A budget of \$15,000 that had been adopted for RFS Radio Maintenance has been removed. Costs of \$15,000 had been incurred, however they are being reimbursed to Council.

For the draft 2021/22 budgets, revisions have been made to the expenditure budgets for Council's contribution to emergency services, as Council has now received confirmation of the contributions to be levied.

These levies consist of amounts to be contributed by Council to NSW Rural Fire Service, State Emergency Service (SES) and Fire and Rescue NSW.

In total, this has reduced the draft expenditure budgets for 2021/22 by \$106,300, with corresponding improvements for all subsequent years.

Quarries

As part of the future planning for the Tuckombil Quarry, a budget has been requested for a consultant to prepare a review of strategic options for the rehabilitation and future use of the site.

An expenditure budget of \$10,000 has been raised for 2020/21, together with a revision of the draft 2021/22 budgets to include a further expenditure budget of \$40,000. The total expenditure of \$50,000 is funded from the Quarry Reserve.

This consultancy will document the best way to manage the constraints and opportunities for the site moving forward, with options to be reported to Council.

The option of possibly leasing or licensing part, or all, of the Tuckombil Quarry site to Byron Studios was also raised at the recent site visit to the Alstonville Cultural Centre. This has also been submitted as a notice of motion to this meeting.

If the notice of motion is supported, the current recommendation for this report could be amended as follows:

That Council notes the contents of the March 2021 Quarterly Budget Review and approves the changes identified within this report, excluding the transfer from quarry reserves for the Tuckombil Quarry opportunities assessment, with that consultancy engagement to be deferred until Council has investigated the merits of a planning proposal for that site for activities consistent with those undertaken by Byron Studios at the Alstonville Cultural Centre.

The preferred approach for Tuckombil Quarry, to this point, has been to engage a consultant to examine, holistically, the options available. An expression of interest process has recently been completed, with a recommended consultant identified.

There are a number of potential future uses of this site, with quarries in other locations, in Australia and internationally, converted into uses such as eco-tourist attractions, parklands, residential and commercial developments, rainforests, amphitheatres etc. By focusing on one proposed use, at least initially, Council may be forgoing other opportunities.

The recommended consultant has nominated a period of 14 weeks to complete their engagement, if it proceeds. Another option that could be pursued, even if the notice of motion is supported, is still to proceed with the consultancy work so that it provides some of the resources and information needed to respond to the Byron Studios resolution and in turn the consultant's options report can be informed by the potential of the Byron Studios option.

The key point for this item is whether Council is of the opinion that expenditure of \$50,000 is justified, and if this is not supported, and the notice of motion is supported, then the recommended point two should be added to defer this consultancy engagement.

Landfill and Resource Management (LRM)

Expenditure budgets increased by a net \$578,000.

The forecast expenditure for transport of mixed waste has been increased by \$400,000 to \$2,700,000.

The forecast expenditure for the transfer, preparation and loading of mixed waste has been increased by \$32,000 to \$185,000.

These increases are due to higher expenditure due to the sustained increase in the volume of waste, coupled with additional maintenance expenditure required on the mixed waste load out area.

The budget for road maintenance has been increased by \$80,000 to \$120,000, due to a required pavement upgrade for the main roundabout within the waste management centre.

The budget for mowing has been increased by \$10,000, and the budget for solid waste surface water control has been increased by \$10,000. These increases have been required due to high rainfall.

All of the above increases have been proposed for 2020/21 only.

In addition, an increase of \$30,000, to \$90,000, is proposed to the budget for maintenance and operation of the Bailing Facility. This increase is proposed for the draft 2021/22 budget also.

Domestic Waste Management (DWM)

Expenditure budgets decreased by a net \$29,000.

Savings netting to \$18,000 were identified within the plant budgets, with the larger contributor being lower than anticipated fuel usage for the collection fleet.

Savings of \$110,000 were also identified in the budgets for the replacement of waste, recycle and organic bin purchases. These savings have been carried through as future savings also.

Partially offsetting this, the budget for organics collection and disposal is increased by \$100,000 to \$1,600,000.

This required increase is due to higher than anticipated volumes of kerbside organic material collected, resulting in an increase in processing expenditure.

The draft 2021/22 budget for these costs had already anticipated this, and so does not need further revision.

Corporate and Community Division

Governance

Savings of \$15,000 are to be realised in the budget for Councillor training and development this year.

Savings of \$4,000 are also to be realised in the Corporate and Community conferences budget.

An increase of \$10,000, to \$92,000, is proposed for the office and field staff Personal Protective Equipment (PPE) budget. These costs have been trending up. The draft budget for 2021/22 had already anticipated the need for this increase.

Financial Services

The budget for BPoint transaction fees has been increased by \$4,000 to \$36,000, with a continued trend to electronic transactions away from cash transactions.

The budget for accounting software has been increased by \$2,200 to \$5,200. The adopted budget was insufficient to cover required expenditure.

Information Services

Expenditure budgets for the current year have been increased by a net \$94,000 in this quarter's review.

Council's focus on cyber security has increased significantly during the financial year as a result of increased cyber-crime activity generally.

A Security Incident Event Management system has been implemented to improve visibility of Council's cyber security position, and provide monitoring of all systems from a cyber-security perspective to ensure that we proactively mitigating threats.

This assists with our compliance around the Australian Cyber Security Centre's Essential Eight cyber security mitigation strategies.

There has also been a significant increase in software licencing costs, through the implementation of new systems to improve productivity such as the Authority Online Timesheets and Authority ACTUS mobile inspection modules; as well as providing secure remote access to a significant number of office-based staff in order to facilitate remote working.

There has also been an increase in the number of staff using Council IT systems and this has required additional licensing.

An increase in hardware costs is attributed to the replacement of IT equipment due to unexpected failure, increasing capacity of Council's network to cope with increased usage by staff, and an increase in hardware leasing costs associated with additional equipment requirements that were not identified during the budget preparation process – predominantly end-point hardware (PCs and notebooks to cater for Covid remote work) as well as server performance improvements associated with the increase in capacity required for newly implemented software modules.

Internet connection costs have increased due to an increase in bandwidth requirements to facilitate remote work, and an increase in capacity for external-facing web-based applications.

A side-benefit has been realised in that an opportunity has been created to undertake foundation work for increased business continuity resilience using fibre-optic connectivity as opposed to wireless.

People and Culture

The budget for employee entitlements has been increased by \$20,000 matching the increase in income for contributions received.

Ballina Byron Gateway Airport

Expenditure budgets have been increased by \$341,500 in total.

The budget for costs incurred for the COVID response has been increased by \$110,000 to \$210,000, to cover costs incurred to date and expected costs for remainder of the financial year.

These costs include temperature testing and face masks and various other costs incurred. Temperature testing costs alone for the quarter were in the vicinity of \$75,000.

The budget for CAGRO costs has been increased by \$77,000 to \$348,000.

The budget for cleaning contracts is increased \$60,000 to \$200,000 and the budget for building maintenance is increased \$25,000 to \$65,000.

These required increases have resulted from the increase in flight throughputs.

The budget for lighting maintenance and repairs has been increased by \$25,000 to \$45,000.

This required increase resulted from required compliance audit repairs.

Other increases were \$18,000 for the aircraft movement area, \$15,000 for service charges and \$10,000 for emergency exercises.

Community Facilities

Community facility expenses have been revised down. Savings of \$7,000 were identified with the Alstonville Cultural Centre cleaning contracts.

9.5 Financial Review - 31 March 2021

Savings of \$6,000 were identified within the Kentwell Community Centre budgets, within cleaning contract costs and sundry office administration expenses. Savings of \$5,000 were identified with the Ballina Surf Club, for cleaning contract costs.

Savings of \$5,000 were identified with the Ballina Indoor Sports Centre budget for air conditioning maintenance. Savings of \$3,000 were identified with the Richmond Room budgets, for cleaning contract costs.

The above adjustments are based on a review of costs to date.

Library

As noted in the income section of this report, funding of \$58,700 has been received for special projects.

An expenditure budget of \$30,000 is proposed for this year, to be used for the front steps of Ballina Library, as well as shelving.

An increase of \$7,000, to \$28,000, is proposed for the budget for cleaning contracts, and an increase of \$4,000, to \$12,000, is proposed for the budget for security costs. The draft 2021/22 budgets have already anticipated these increases.

Fleet Management and Plant

The budget for plant operations has been increased by \$100,000 to \$1,880,000, based on trending of actual costs to date.

The draft 2021/22 budget has already anticipated this increase.

Facilities Management

For the depot, the building maintenance budget has been increased \$20,000 to \$60,000 and the security budget has been increased \$7,000 to \$24,000.

The maintenance budget for the Gallery was increased by \$8,000 to \$16,000 for this year, based on expenditure to date.

The maintenance budget for the Ballina Naval Museum has been increased by \$5,000 to \$7,000. The high expenditure was due to a water leak issue and fire standard requirements.

For the Alstonville Cultural Centre, there is an increase to the building maintenance budget of \$7,000 to a revised budget of \$22,000.

Savings of \$3,000 were identified within maintenance costs for the Ballina Indoor Sports Centre.

The insurance budget for Playgroups has been increased by \$4,000 to \$16,000, to cover actual property insurance premiums.

The budget for (internal) rates for public halls and other facilities has been decreased by \$3,000 to \$9,000, based on a review of the actual charges.

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	Dec Budget	Approved Changes	Revised Budget	Changes for Approval	Mar Budget	Actual to Mar
Operating Income	13,657	13,484	0	13,484	(225)	13,259	10,855
Operating Expenses (excl. dep)	11,268	11,330	0	11,330	(130)	11,200	8,993
Operating Result Before Dep	2,389	2,154	0	2,154	(95)	2,059	1,862
Depreciation and Non-cash	1,570	2,270	0	2,270	0	2,270	1,703
Net Operating Result	819	(116)	0	(116)	(95)	(211)	160

The **Forecast Operating Result** (inclusive of depreciation) **as at March** is a deficit of \$211,000, a deterioration of \$95,000 from the forecast deficit of \$116,000 as reported to the February meeting.

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

Forecast operating income has been decreased by \$225,000 in total.

Water consumption forecasts have been revised down by a modest \$300,000, with a very low level of consumption for the third quarter. The consumption for this quarter was the lowest since 2012 due to the extended periods of wet weather.

The revised total consumption forecast for the year is \$7,920,000.

It is uncertain as to whether the low trend for quarter three may continue into quarter four and total consumption income may not reach this revised forecast.

Forecast income for plant charged to works has been increased by \$40,000 to \$215,000, based on trend.

Forecast income for lease income for the reservoir radio towers has been revised up by \$30,000 to \$230,000, based on income to date.

The additional income is reflective of an outstanding payment from 2019/20.

Forecast operating expense has been decreased by \$130,000 in total.

The budget for service connections maintenance has been decreased by \$50,000 to \$272,000.

The budget for other operations has been decreased by \$50,000 to \$237,000.

Budgets for reservoir maintenance and treatment plant operations have been decreased by \$15,000 each.

These decreases are based on trend.

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	Dec Budget	Approved Changes	Revised Budget	Changes for Approval	Mar Budget	Actual to Mar
Operating Income	20,602	21,090	0	21,090	50	21,140	19,990
Operating Expenses (excl. dep)	13,383	13,603	0	13,603	(125)	13,478	9,897
Operating Result Before Dep	7,219	7,487	0	7,487	175	7,662	10,093
Depreciation and Non-cash	3,750	4,500	0	4,500	0	4,500	3,375
Net Operating Result	3,469	2,987	0	2,987	175	3,162	6,178

The **Forecast Operating Result** (inclusive of depreciation) **as at March** is a surplus of \$3,162,000, an improvement of \$175,000 from the surplus forecast of \$2,987,000 as reported to the February Council meeting.

Forecast operating income has been increased by \$50,000.

This increase is for the forecast income for plant charged to works, increased to \$325,000, based on trend.

Forecast operating expense has been decreased by \$125,000 in total.

The budget for mains maintenance has been decreased by \$135,000, to a revised budget of \$510,000.

Budget for treatment reactive maintenance has been decreased by \$50,000.

Budgets for recycled mains maintenance, recycled other operations and treatment operations have each been decreased by \$30,000.

Budgets for energy costs have been increased by \$40,000, with revised budget of \$1,246,000.

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

A budget of \$100,000 is raised to cover legal and associated costs incurred in the dispute resolution in relation to the Kobota Membranes matter.

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	Dec Budget	Re-structure	Approved Changes	Revised Budget	Changes For Approval	Mar Budget	Actual to Mar
Funding								
General revenue	7,259	6,528	0	(6)	6,522	0	6,522	
Reserves	12,692	14,462	0	(1,640)	12,822	(414)	12,408	
Loans	10,900	6,900	0	(3,400)	3,500	0	3,500	
Section 7.11 contributions	5,136	3,882	0	(1,000)	2,882	0	2,882	
Grants and contributions	10,499	11,081	0	(2,151)	8,930	110	9,040	
Total Funding	46,486	42,853	0	(8,197)	34,656	(304)	34,352	
Expenditure								
Planning and Environmental Health Division								
Environment and Public Health	895	1,220	0	0	1,220	0	1,220	1,048
Public Order	20	20	0	(8)	12	0	12	12
NRCG Gallery	0	91	0	0	91	0	91	47
Open Spaces –Parks /Reserves	3,479	2,489	0	(120)	2,369	10	2,379	829
Open Spaces - Sporting Fields	600	1,521	0	(261)	1,260	100	1,360	972
Open Spaces Buildings	160	529	0	(280)	249	0	249	162
Strategic Planning	0	143	0	0	143	0	143	158
Civil Services Division								
Asset Management	0	72	0	0	72	0	72	55
Stormwater and Env Protection	1,048	1,426	0	0	1,426	0	1,426	394
Roads and Bridges	22,233	19,236	0	(3,073)	16,163	0	16,163	7,593
Ancillary Transport Services	1,839	2,849	0	(268)	2,581	0	2,581	1,400
Water Transport and Wharves	0	30	0	0	30	0	30	2
Transport for NSW	77	140	0	0	140	0	140	67
Emergency Services	900	225	0	0	225	0	225	87
Waste Management	505	530	0	0	530	(450)	80	69
Corporate and Community Division								
Property	4,440	4,897	0	(2,595)	2,302	0	2,302	708
Flat Rock Tent Park	20	55	0	(30)	25	0	25	25
Ballina-Byron Gateway Airport	4,405	1,970	0	(865)	1,105	0	1,105	183
Community Facilities	1,689	1,573	(626)	(51)	896	0	896	766
Swimming Pools	400	302	0	0	302	0	302	314
Fleet and Plant	2,727	2,729	0	0	2,729	36	2,765	1,570
Facilities Management	924	806	626	(646)	786	0	786	228
Total Expenditure	46,361	42,853	0	(8,197)	34,656	(304)	34,352	16,689

General Fund

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

Planning and Environmental Health Division

Open Spaces – Parks and Reserves

A capital expenditure budget of \$10,000 has been created for the Elizabeth Ann Brown Park Monument with the works funded by the Alstonville RSL.

Open Spaces – Sporting Fields

A capital expenditure budget of \$100,000 is raised for Kingsford Smith Precinct. The total project value is \$3.6m fully grant funded by the State Government.

The 2021/22 and 2022/23 budgets, of \$1.0m and \$2.5m respectively, have been included in the draft DPOP.

Civil Services Division

Waste Management

Capital budget of \$450,000 has been deferred to 2021/22, of which \$375,000 is for the waste centre roof replacement and \$75,000 for solar lighting. These works are likely to take place early in the 2021/22 financial year.

Corporate and Community Division

Fleet and Plant

Budget of \$36,000 has been added to the plant capital budget, for the purchase of two VMS boards (variable message electronic boards), to be used initially on the River Street roads project. This purchase is funded from road reserves as it is cheaper to purchase than hire for extended periods.

Water Fund

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

Capital Funding / Expenditure	Original Budget	Dec Budget	Approved Changes	Revised Budget	Changes for Approval	Mar Budget	Actual to Mar
Water Fund Funding							
Reserves	2,611	2,782	(354)	2,428	0	2,782	
Section 64 contributions	0	215	0	215	0	215	
Total Funding	2,611	2,997	(354)	2,643	0	2,997	
Water Fund Expenditure							
Main renewal	470	1,144	146	1,290	0	1,290	1,279
Reservoirs	0	322	0	322	0	322	16
Water pump and bores	0	52	0	0	0	0	0
Trunk mains	0	32	0	52	0	52	4
Treatment plant	1,708	548	(500)	32	0	32	90
Plant	123	123	0	48	0	48	1
Connections	300	485	0	123	0	123	36
Other	10	291	0	485	0	485	369
Total Capital Expenditure	2,611	2,997	(354)	2,643	0	2,643	2,022

No adjustments are proposed.

Wastewater Fund

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

Capital Funding / Expenditure	Original Budget	Dec Budget	Approved Changes	Revised Budget	Changes for Approval	Mar Budget	Actual to Mar
Wastewater Fund Funding							
Reserves	2,400	2,651	(534)	2,117	0	2,117	
Section 64 contributions	5,134	2,561	(1,076)	1,485	0	1,485	
Total Funding	7,534	5,212	(1,610)	3,602	0	3,602	
Wastewater Fund Expenditure							
Pumping stations	988	662	(160)	502	0	502	242
Treatment plants	4,564	1,969	(1,000)	969	0	969	249
Trunk mains	0	0	0	0	0	0	0
Mains renewals	1,000	551	(150)	401	0	401	81
Service connections	0	0	0	0	0	0	32
Plant	191	422	0	422	0	422	266
Reuse program	775	560	(300)	260	0	260	19
Other	16	1,048	0	1,048	0	1,048	967
Total Capital Expenditure	7,534	5,212	(1,610)	3,602	0	3,602	1,856

No adjustments are proposed.

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	Dec Budget	Approved Changes	Revised Budget	Changes for Approval	Mar Budget
Externally Restricted						
Section 7.11	14,145	12,376	1,000	15,145	(1,500)	13,645
Domestic Waste Management	788	1,163	0	788	44	832
Section 64 Water	10,649	10,812	0	10,649	0	10,649
Water	9,634	10,026	354	9,988	(95)	9,893
Section 64 Wastewater	7,735	6,416	1,064	8,799	0	8,799
Wastewater	5,755	5,456	546	6,301	175	6,476
Total Externally Restricted	48,706	46,249	2,964	51,670	(1,376)	50,294
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	335	395	0	335	0	335
Employee Leave Entitlements	2,994	2,994	0	2,994	0	2,994
Risk Management/Insurance	181	181	0	181	0	181
Community Infrastructure Reserve	3,397	2,024	51	3,448	0	3,448
Property Development Reserve	522	345	195	717	0	717
Wigmore Arcade	496	496	0	496	0	496
Crown Properties Rental	71	40	0	71	0	71
Flat Rock Tent Park	181	206	30	211	43	254
Airport	693	(203)	166	859	664	1,523
Community Facilities	648	179	14	662	0	662
Library Special Projects	190	190	0	190	29	219
Plant Renewal	(119)	(84)	0	(119)	(83)	(202)
Administration Centre and Depot	269	0	400	669	0	669
Bushfire Recovery	300	0	0	300	0	300
Strategic Planning Studies	341	351	0	341	0	341
Sec 7.11 Plan Reviews	385	385	0	385	10	395
Public Art	89	89	0	89	0	89
Quarries Baseline Survey	43	43	0	43	0	43
Healthy Waterways	383	383	0	383	270	653
Coastal Management Plans	115	115	0	115	228	343
Other PEHD	68	68	0	68	0	68
Legal Services	190	490	0	190	40	230
Vegetation Works	217	217	0	217	741	958
Open Spaces	999	74	0	999	0	999
Sports Fields	73	73	0	73	11	84
Cemeteries	315	315	0	315	(30)	285
Stormwater Capital	226	226	0	226	0	226
Stormwater / Environ Mgmt Plans	262	262	0	262	75	337
Canal Dredging	0	0	0	0	170	170
Bypass Funds	3,295	3,295	178	3,473	0	3,473
Roadworks	1,706	1,153	520	2,226	(36)	2,190
Other Civil	25	25	0	25	0	25
Ancillary Footpaths	324	294	86	410	0	410
Boat Ramps and Infrastructure	100	25	0	100	0	100
Rural Fire Service	30	30	0	30	0	30
Quarries	735	738	0	735	(10)	725
Landfill, Resource Management	1,432	1,011	0	1,432	387	1,819
Total Internally Restricted	24,229	19,220	1,640	25,869	2,509	28,378
Total Restricted	64,093	72,935	4,604	77,539	1,133	78,672

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 March 2021, funds invested amounted to \$90,300,000. All restricted monies are included in these investments.
3. Cash has been reconciled to the bank statement as at 31 March to the amount of \$5,200,517.
4. Actual year to date cash and investments amounted to \$95,500,517 at 31 March 2021.

This amount includes cash at bank of \$5,200,517 and funds invested of \$90,300,000 which has been reconciled to bank statements and investment reports.

Comment on Cash and Investment Position

The changes in this report increase the reserves by a net \$1.133 million, resulting in the current forecast restricted reserves of \$78.672 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.

Section 7.11 Reserves

Capital contributions have also been reviewed, with a proposed reduction of \$1.5 million to the forecast section 7.11 contributions for roads, based on how these contributions are trending to date for this year.

Domestic Waste Management

There is an increase of \$44,000 to this reserve representing an improvement in forecast operating result.

Water Reserves

Net reserves decreased by \$95,000 being the net of adjustments made to operating budgets within this report.

Wastewater Reserves

Net reserves increased by \$175,000 being the net of adjustments made to operating budgets within this report.

Flat Rock Tent Park

Net reserves increased by \$43,000, being the net of adjustments made to operating budgets within this report.

Airport Reserves

Net reserves increased by \$664,200, being the net of adjustments made to operating budgets within this report.

Library Special Projects

The increase to reserves of \$29,000 is for special projects funding received this year.

Plant Replacement

Net reserves decreased by \$83,000 being the net of adjustments made to operating budgets within this report.

Section 7.11 Plan Reviews

There is an increase of \$10,000 to this reserve, being the increase to section 7.11 administration fees.

Healthy Waterways and other projects

The Healthy Waterways budget for 2020/21 has been reduced by \$270,000 to \$60,000, with the amount of \$270,000 also transferred to reserves for future works.

Coastal Management Plans

The increase to reserves, of \$227,300 is for grant funding received through the Crown Reserves Improvement Fund (CRIF) for the Lake Ainsworth Coastal Management Plan.

Legal Services

An amount of \$40,000 has been transferred to this reserve.

Vegetation Works

These reserves are increased by \$741,000.

The two more significant budget deferrals are the Indigenous Area Repair Bushfire Recovery, \$275,000 and the Asset Protection Zone Bushfire Recovery, \$140,000.

An amount of \$202,300 is placed in reserve for the BP Compensatory Works and \$30,800 for the North Creek Road compensatory works, with these amounts now received, but works to be completed over the coming five years.

Other deferrals, as noted in the expenditure section of this report were for Crown Land Weed Control, Chickiba Wetlands, Booyal Estate Bushland Reserve compensatory works, Killen Falls rehabilitation works and the Hutley Drive North vegetation works.

Sportsfields

Budgets included an amount of \$54,000 insurance proceeds, which were being transferred to the sports field reserve to be utilised towards future Kingsford Smith works. The actual proceeds received were \$65,000, so a budget adjustment is made to transfer the additional \$11,000 received to the reserve.

Cemeteries

Net reserves decreased by \$30,000, being the net of adjustments made to operating budgets within this report.

Stormwater and Environmental Management Plans

The current year budget for the Ballina Floodplain Management Plan has been reduced by \$75,000, with the amount transferred back to reserve for expenditure in future years.

Canal Dredging

The current year budget for Canal Dredging has been reduced by \$170,000, with the amount transferred back to reserve for expenditure in 2021/22.

Roadworks

The purchase of VMS boards, at a cost of \$36,000, has been funded from these reserves.

Quarries

There is a decrease of \$10,000 to fund the new budget for the review of strategic options for the Tuckombil Quarry.

Landfill and Resource Management (LRM)

There is an increase of \$387,000 to this reserve with a deferral of capital works of \$450,000 offset partly by a deterioration of \$63,000 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 March 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

9.5 Financial Review - 31 March 2021

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 Mar
Actual	Actual	Estimate
3.18:1	2.51:1	2.47:1
Pass	Pass	Pass

Comment

The General Fund is expected to continue to meet this benchmark.

9.5 Financial Review - 31 March 2021

Although this ratio is lower than previous years, this year's forecast has increased since the December quarterly review, due to the large amount of capital works deferrals.

2. Operating Performance Ratio – General Fund

Benchmark: >0

2018/19	2019/20	2020/21 Mar
Actual	Actual	Estimate
3.11%	-1.88%	-3.65%
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 2026/27.

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 Mar
Actual	Actual	Estimate
4.03	3.59	3.36
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 Mar
Actual	Actual	Estimate
94.28:1	81.76:1	61.34:1
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 Mar
Actual	Actual	Estimate
15.47%	8.14%	3.69%
Pass	Pass	Pass

Comments

The Water Fund is anticipated to achieve a positive operating performance ratio, despite the forecast for a small operating deficit, as this ratio is adjusted for losses on disposal.

Future years are also anticipated to achieve positive ratios.

3. Debt Service Cover Ratio - Water

Benchmark: >2

2018/19	2019/20	2020/21 Mar
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 Mar
Actual	Actual	Estimate
0.89:1	1.45:1	0.54:1
Fail	Fail	Fail

Comments

The current LTFP indicates that the wastewater fund will not meet this benchmark in this year or the subsequent two years.

It is anticipated that this fund will meet the benchmark in 2022/23 and following years.

2. Operating Performance Ratio - Wastewater

Benchmark: >0

2018/19	2019/20	2020/21 Mar
Actual	Actual	Estimate
12.18%	12.95%	14.95%
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 Mar
Actual	Actual	Estimate
1.30	1.43	1.84
Fail	Fail	Fail

Comments

This ratio will fail the benchmark for several years due to the 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 indicating that the fund will meet the benchmark in 2027/28.

Section Six – Contractors/Consultants/Legal Expenses

Contractors

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

Contractor Name	Purpose	Amount (GST Incl)	Award Date	Duration of Contract	Incl in Budget Yes/No
The Trustee for the Greenwood Trust t/a Greenwood Landscape Management	Construction Wollongbar District Parkland	\$989,800	25/03/21	6 months	Yes
The Trustee for SK330 Trust t/a CD Excavations	Construction Wollongbar Residential Estate – Stage 3	\$2,172,417	10/02/21	6 months	Yes
Pall Australia Pty Ltd	Lennox head WWTP – Membrane Replacement	\$360,091	4/02/21	6 months	Yes
MSS Security Pty Ltd	Security and Screening Services at the Ballina Byron Gateway Airport	Schedule of Rates	1/03/21	36 months	Yes
The Trustee for SK330 Trust t/a CD Excavations	Construction of Roadway and Associated Components for Roads Reconstruction Program (Kays Lane, Alstonville and Fernleigh Road, Fernleigh)	\$800,988	6/05/21	4 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 March 2021 on consultants that meet this definition is as follows.

Item	Expenditure YTD (excl GST)	Included in Budget Y/N?
Consultancies	\$1,234,200	Yes

Legal Expenses

The next table summarises the expense incurred to the end of March 2021 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	\$593,500	Yes*

**This report proposes an increase of \$100,000 to the General Fund budgets for legal expenses and \$100,000 to the wastewater budgets.*

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 March 2021 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 details 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 this report for the March 2021 Quarterly Financial Review and approves the budget changes identified within the report.

Attachment(s)

Nil

9.6 Policy (Review) - Councillor Expenses and Facilities

9.6 Policy (Review) - Councillor Expenses and Facilities

Section	Communications
Objective	To review the Councillors Expenses and Facilities Policy to provide improved technology support for Councillors.

Background

The objective of the Councillor Expenses and Facilities policy is to ensure that Councillors are provided with appropriate reimbursement of expenses and are provided with the right level of facilities to ensure that they can effectively perform their functions as a Councillor. In 2020 Council staff commenced a review of:

- a) the current technology equipment and support provided to existing Councillors
- b) current policy provisions surrounding the allocation of information technology facilities for Councillors
- c) required information technology facilities to support the onboarding process for Councillors following the upcoming Local Government elections
- d) potential further changes to equipment and systems to support the ability to cease the need to print business papers.

This was in response to feedback from Councillors seeking an improvement in the level of information services and connectivity available to support Councillors.

Clauses 252 to 254 of the Local Government Act (LGA) outlines how the payment of expenses and the provision of facilities to councilors is managed.

Clause 252 (1) states as follows:

(1) Within the first 12 months of each term of a council, the council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councilors in relation to discharging the functions of civic office.

Clause 252 (4) also allows a council to amend the policy from “time to time”.

The review of this policy now does not negate the requirement for Council to undertake a review, in accordance with Clause 252 (1), within 12 months of the September 2021 election. The benefit of undertaking a review now is that the current Council can draw on their own experiences for the past five years.

The focus of this report is specifically in relation to information technology equipment, based on feedback from Councillors, and in preparation for the Councillor induction process following the election.

Key Issues

9.6 Policy (Review) - Councillor Expenses and Facilities

- Whether the policy meets the current needs of Councillors
- Policy is equitable, fair and transparent

Discussion

The objectives of having a Councillor expenses and facilities policy include:

- a) ensuring that no person is disadvantaged and incurring additional private expenses by performing their role as a Councillor - the policy should ensure a Councillor is reasonably reimbursed for activities they are required to perform as a Councillor
- b) ensuring fairness and equity in the operation of the policy – all Councillors should be treated fairly and equally with no Councillor being disadvantaged over another in the application of the policy
- c) the policy should reflect community standards in respect to the provision of facilities and the reimbursement of expenses.

Staff are currently preparing the onboarding material to be delivered to Councillors in September to December 2021 following the Local Government election.

As part of this review, an analysis of existing equipment and support has been completed, which included a survey of Councillors.

This review identified the following areas that need to be examined to better support Councillors in fulfilling their civic duties;

- Concerns about accessibility to the Councillor hub portal
- Inability to access Council's wi-fi system
- Limited access to Microsoft 365 tenant (word, excel, outlook, one drive).
- Requirement for staff to print and deliver hard copy business papers

To improve these areas, it is recommended that the following standard information technology facilities be procured and issued to all Councillors during the induction process following the Local Government elections to be held in September this year:

- Access to a Council email address in the following format to assist with transparency and consistency: *firstname.lastname@ballina.nsw.gov.au*
- Access to Councillor document distribution platform (LG Hub)
- Access to Council's Microsoft 365 tenant to ensure systems available (Word, Excel, Outlook, One Drive)
- Smartphone handset (Apple iPhone)
- Headset (Bluetooth)
- Tablet and keyboard (iPad Pro)
- Monochrome A4 laser printer

9.6 Policy (Review) - Councillor Expenses and Facilities

The issuing of standard equipment will support the capability for staff to provide a consistent and appropriate level of support, address the current inability for Councillors to effectively access essential platforms and systems, and will align these services with established information technology security and support requirements, as currently implemented for Council staff.

Typically some Councillors following the election have elected to retain their own personal equipment (i.e. computer, phone etc) to help save money. This is beneficial, however on balance it can create inconsistencies in service levels, therefore the preference is to standardize the equipment for all Councillors.

Delivery Program Strategy / Operational Plan Activity

The proposed changes to the Councillors Expenses and Facilities Policy aligns with Delivery Program strategy EL2.2 'Use modern systems and equipment'. The changes also supports the following Operational Plan actions:

- EL2.2a 'Implement technology solutions that generate productivity gains'
- EL2.2b 'Enhance our core integrating platforms to improve service and efficiencies'
- EL2.2c 'Continuous improvement of Council's cyber security'

Community Consultation Policy

Section 253 of the Local Government Act 1993 states as follows:

Requirements before policy concerning expenses and facilities can be adopted or amended:

- 1) *A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.*
- 2) *Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.*
- 3) *Despite subsections (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.*
- 4) *A council must comply with this section when proposing to adopt a policy in accordance with section 252 (1) even if the council proposes to adopt a policy that is the same as its existing policy.*

Any submissions received during the public exhibition process will need to be reported back to Council. It is acknowledged that the revised policy will have to be reported back to the July 2021 Ordinary meeting, and if adopted it will not be implemented until after the September 2021 election. However, by adopting these changes prior to the election, staff will be in a position to implement this revised service level with the new Council.

Financial / Risk Considerations

The proposed policy changes will assist Council staff in delivering an improved level of service to support Councillors in their civic duties.

The current policy provides the following limits:

- \$3,000 annual limit (excluding GST) on general travel arrangements
- \$5,000 annual limit (excluding GST) on professional development and conferences (excluding induction training)
- \$80 per month for reimbursement of certain Information and Communication Technology (ICT) expenses, which is in addition to the cost of providing the Council ICT.
- \$1,000 on Home Office Expenses (excluding GST).
- There is no cap on corporate training subject to annual budget limits.

The home office expenses figure has been reduced to \$500 as the equipment provided by Council should largely offset the need for any other expenditure.

The current budget allocation within the exhibited 2020/21 Long Term Financial Plan (LTFP) and Budget provides sufficient provision for the procurement of the proposed equipment set out in Appendix IV of the revised Policy. Improved technology may also help in reducing the printing and delivery of business papers.

Options

1. Council can endorse the revised policy (or amend the draft policy as considered appropriate) and place it on public exhibition. This approach will enable staff to be in a position to support the new Council following the upcoming election.
2. Council can resolve to defer any changes to the policy to after the Local Government elections. This option is not recommended as the changes proposed are considered to be the minimal level of support that should be provided to support Councillors.

RECOMMENDATION

That Council approves the exhibition of the amended Councillor Expenses and Facilities Policy, as per Attachment 1 to this report, for public comment, with a report to be presented back to Council following the exhibition period.

Attachment(s)

1. Policy (Review) - Councillor Expenses and Facilities

9.7 Policy (Review) - Complaints Management

9.7 Policy (Review) - Complaints Management

Section	Communications
Objective	To review the Complaints Management Policy.

Background

Council's policies and procedures are reviewed progressively to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Complaints Management policy.

Council first adopted this policy in 2006. The objective of the policy is to ensure that complaints are dealt with fairly and consistently.

The Office of Local Government and the NSW Ombudsman recommend councils have Complaints Management policies in place.

Key Issues

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

Discussion

The Complaints Management Policy provides a framework to support Council in understanding how our organisation is to receive, assess, respond to, report on, and use complaints to improve our services.

A key part of this policy is to ensure that Council has a robust system to define complaints and to ensure that they are effectively managed and reviewed.

A review of the current policy against the NSW Ombudsman complaint handling resources and guidelines identified the need to undertake a complete review of the policy to ensure that it was contemporary and was meeting our corporate needs.

The NSW Ombudsman resources and guidelines were developed to assist public sector agencies in NSW to handle complaints, and to manage unreasonable complainant conduct.

The revised policy has been developed to achieve the following outcomes:

- Implement responsible and effective complaint handling processes with an emphasis on quality customer service
- Provide a robust system for defining complaints and for the management and review of complaints
- Clearly identify the roles and responsibilities of Council staff and management and external organisations in dealing with complaints
- Implement a four tier complaint handling system and procedure outlining the steps required to effectively manage complaints

9.7 Policy (Review) - Complaints Management

It is important for Council's customers to be aware of how Council will respond to and manage complaints, and the mechanisms available for an external review should the matter not be resolved to the satisfaction of the complainant. The policy responds to these requirements.

Delivery Program Strategy / Operational Plan Activity

The proposed changes to the Complaints Handling Policy aligns with Delivery Program strategy EL3.3 'Deliver responsive and efficient services' and Operational Plan action EL3.3c 'Ensure complaints are dealt with effectively and promptly'.

Community Consultation Policy

The policy has been reviewed against resources and guidelines developed by NSW Ombudsman. The NSW Ombudsman's Office has provided assistance during this review process.

The revised policy will be exhibited for public comment. Any submissions received will be reported back to Council.

Financial / Risk Considerations

The Complaints Management Policy supports our Risk Management Policy objective to maintain the highest possible integrity for services provided by the Council as the policy achieves a clear, transparent and accountable process for the management of complaints.

Options

Council may accept or amend the proposed changes to the policy. It is recommended that the policy be adopted as it aligns with the NSW Ombudsman's resources and guidelines developed to assist public sector agencies in NSW to handle complaints, and to manage unreasonable complainant conduct.

It is also recommended that the policy be placed on exhibition for public comment.

RECOMMENDATIONS

1. That Council adopts the Complaints Handling Policy, as per Attachment 1 to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Policy (Review) - Complaints Management

9.8 Policy (Review) - EEO Policy and Management Plan

9.8 Policy (Review) - EEO Policy and Management Plan

Section	People and Culture
Objective	To review Council's EEO Policy and EEO Management Plan.

Background

To comply with the requirements of the Anti-Discrimination Act 1977 and Section 345 of the Local Government Act 1993, Council is required to prepare and implement an Equal Employment Opportunity (EEO) Management Plan.

Council also adopts an EEO Policy to support the EEO Management Plan and the purpose of this report is to review the EEO policy.

Key Issues

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

Discussion

Council has an existing EEO Policy and EEO Management Plan. To reinforce Council's commitment to EEO, Council's EEO Policy identifies Council's commitment to the principles of EEO.

This policy also makes reference to the EEO Management Plan.

The Management Plan is an operational document that identifies strategies, specific actions and targets to support EEO goals and objectives.

Council's People and Culture Section reviews and updates the EEO Management Plan in consultation with the staff Consultative Committee (this Committee is made up of staff and union representatives from a cross section of all occupational groups) and other members of the workforce.

The review of the EEO Policy identified only minor changes as follows:

- Update of contact details for Anti-Discrimination Board
- Update of Council responsible officer details and internal procedure terminology.

The updated information is marked in yellow. Otherwise the policy is still considered to be contemporary and reflects current legislation therefore no further changes are recommended.

A copy of the amended policy is included as Attachment 1.

The review of the EEO Management Plan focused on streamlining the document and ensuring that it aligned with contemporary requirements.

The key changes made to the plan were:

9.8 Policy (Review) - EEO Policy and Management Plan

- Consolidation of tasks listed in previous plan
- Review of performance indicators and plan tasks to ensure alignment with established monitoring, review and reporting systems.

The updated EEO Management Plan is included as Attachment 2.

Delivery Program Strategy / Operational Plan Activity

The proposed changes to the EEO Policy and EEO Management Plan aligns with Delivery Program / Operational Plan strategy CC3.2 'Assist disadvantaged groups within our community'.

The implementation of the EEO Management Plan also forms part of the Delivery Program actions (CC2.3d).

Community Consultation Policy

An internal consultation process on the review of the EEO Policy and EEO Management Plan has been completed with Council's staff Consultative Committee.

The EEO Policy and EEO Management Plan will be exhibited for public comment. Any submissions will be reported back to Council.

Financial / Risk Considerations

Initiatives in the EEO Management Plan are funded from existing budgets.

Options

The options are to accept or amend the proposed changes to the EEO Policy. The recommendation is to support the proposed changes as they align with legislative requirements and Council's established internal procedures and processes.

RECOMMENDATIONS

1. That Council adopts the Equal Employment Opportunity (EEO) Policy, as per Attachment 1 to this report.
 - a.
2. That Council notes the contents of the EEO Management Plan, as per Attachment 2 to this report.
2. That Council place this policy and plan on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Policy (Review) - Equal Opportunity
2. Policy (Review) - EEO Management Plan (2021-2024)

10.1 Ballina Shire Roads Contribution Plan - 2021 Review

10. Civil Services Division Reports

10.1 Ballina Shire Roads Contribution Plan - 2021 Review

Section	Infrastructure Planning
Objective	To obtain approval to exhibit changes to the Ballina Shire Roads Contribution Plan.

Background

The current Ballina Shire Roads Contribution Plan version 4.1 was adopted by Council in July 2018 and incorporated a revised road network connection between Hutley Drive and Byron Bay Road. Draft Version 4.2 has now been prepared to incorporate the proposed Barlows Road Link between West Ballina and Cumbalum.

The purpose of this report is to seek authorisation for the draft plan to be placed on public exhibition.

Key Issues

- Amend the Roads Contribution Plan to incorporate the proposed Barlows Road Link between West Ballina and Cumbalum and associated adjustments in the contribution plan works schedule, contribution rates and other minor amendments.

Discussion

At 25 March 2021 Ordinary meeting Council resolved as follows:

“That Council progress the Barlows Road Option Project to a preconstruction phase including:

- 1. Preparation of an amendment to the Ballina Roads Contribution Plan and associated public consultation with the aim of including the Barlows Road Option.*
- 2. Subject to the Barlows Road Option being included in an amended Ballina Shire Roads Contribution Plan, an allocation of \$200,000 be included in the draft 2021/22 Delivery/Operational Plan to progress preconstruction activities for this project, including concept design/estimates, environmental assessment, planning assessment/approval and preliminary land acquisition valuations/survey/negotiations.”*

10.1 Ballina Shire Roads Contribution Plan - 2021 Review

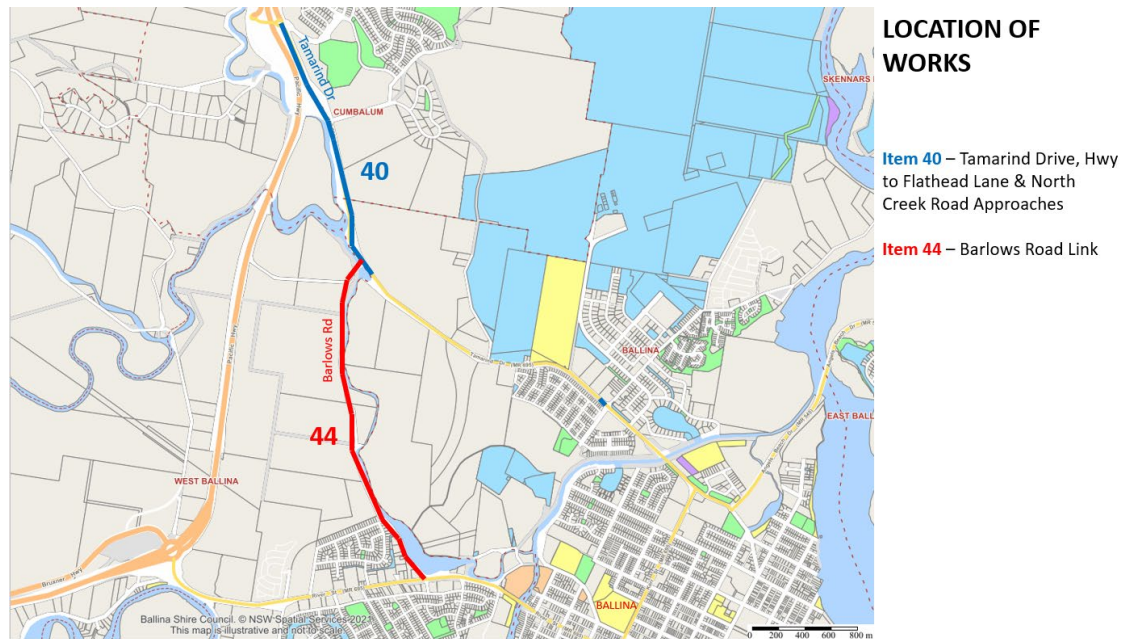
The 25 March 2021 report to Council referred to previous cost estimates of \$3.7M for Barlows Road (Route Option C presented to Council meeting 17 December 2020) and an additional cost of \$2.3M for an associated two lane roundabout at Tamarind Drive/Flathead Lane intersection, for a total estimated cost of \$6M. Council's designers have since further revised the cost estimate to allow for deeper pavement (due to soft soil conditions) and increased the contingency allowance from 10% to 15%. The revised estimate for the Barlows Road Link, including the roundabout is now \$7.756M.

Draft Version 4.2 of the Ballina Shire Roads Contribution Plan (attachment to this report) has been prepared as a preliminary step to implement Item 1 of the above resolution. Amendments included in Draft Version 4.2 are:

Item	Description	Cost	Reasons for Change
Additional Works			
44	Barlows Road Link	\$7,756,000, * 64.5% cost apportioned to Contributions Plan	Additional item
Works Amended			
40 (V4.1)	Tamarind Dr, Four lanes Highway to North Creek Road, 4.15 km	\$10,627,536 100% cost apportioned to Contributions Plan	Superseded item
40 (Draft V4.2)	Tamarind Dr, Four lanes Highway to Flathead Lane and North Creek Road approaches, 1.2 km	\$2,891,015 100% cost apportioned to Contributions Plan	Provision of Barlows Rd Link reduces traffic on Tamarind Drive, part duplication between Flathead Lane and North Creek Road is no longer required
Works Amended			
1a - 43	All other Items	Indexed to Road and Bridge Construction NSW A233685A	Indexation to account for construction price escalation

* 64.5% apportionment of item cost to Contributions Plan based on traffic modelling, Cardno Qld 2021, as attachment to Ordinary Council meeting held 25 March 2021.

The location of the works affected by the amendments are illustrated on the following map.



The main objective of the Contributions Plan amendment is to provide part funding for the Barlows Road Link (New Item 44) between West Ballina and Cumbalum (64.5%).

In the short term (2020s), the Barlows Road Link will provide major improvements to the road network by providing reduced trip times (in flood free periods) between West Ballina/Ballina Island and Cumbalum/North Ballina with the transfer of traffic from congested sections of Tamarind Drive, Bangalow Road and Kerr Street.

The negative traffic impacts of the link will be increased traffic on Horizon Drive and River Street.

In the longer term (2036), the Barlows Road Link will still provide major improvements to the road network by providing reduced trip times between West Ballina/Ballina Island and Cumbalum with transfer of traffic from sections of Tamarind Drive, Bangalow Road and Kerr Street.

The Barlows Road Link also takes some traffic from the future Western Arterial, possibly providing scope for deferring this project by some years.

The reduced traffic volume on Tamarind Drive between Flathead Lane and North Creek Road will permit removal of part of this work (Item 40) from the roads contribution plan works program.

Impacts from the Proposed Changes to Contributions Plan (Version 4.2)

The net impact of the works schedule additions/deletions/changes results in a small net decrease in developer contributions in Draft Version 4.2 as per the following table.

10.1 Ballina Shire Roads Contribution Plan - 2021 Review

Item	Road Contributions			Change
	Version 4.1 Rate Indexed to 1 July 2020	Rate in Draft Version 4.2		
Per trip	\$1,970	\$1,927	2% Decrease	
Per Lot	\$12,704	\$12,432		
Admin per trip	29.46	28.91		
Admin per Lot	190	186		

Proposed Draft Version 4.2 Contribution Rates for a range of development types are shown in Table 1.3 of the Draft Plan.

Delivery Program Strategy / Operational Plan Activity

The Ballina Roads Contribution Plan is a major source of funding for capital road works items in the Delivery Plan/Operational Plan.

Community Consultation Policy

Public exhibition of draft contributions plans must be in accordance with the specific requirements of the Environmental Planning and Assessment Regulation 2000. The level of community participation proposed is "Consult" as outlined in Council's Community Consultation Policy for a proposal of LGA Scale, Low Level Impact.

Following exhibition, the regulation requires that Council must consider any submissions and may approve the plan in the form publically exhibited, approve it with alterations as the Council sees fit or may decide not to proceed with the plan.

Placing the draft plan on public exhibition will enable the public and key stakeholders to assess the proposed contributions plan and associated works program changes and make submissions which Council can assess when the exhibited plan is re-submitted, post exhibition.

Financial / Risk Considerations

Cost estimates for the Barlows Road Link are at a strategic level based on desktop analysis only. The future concept design process will result in more accurate quantity schedules being produced, enabling more accurate cost estimates.

Amendment of the Road Contributions Plan to include the Barlows Road Link will enable part funding for this project to come from developer contributions, with the balance to be funded in the Long Term Financial Plan (LTFP) from loan funds and internal reserves.

The draft LTFP currently on exhibition includes \$200,000 in 2021/22, and \$3m in 2022/23 and \$2023/24 respectively for a total budget of \$6.2m for Barlows Road. The LTFP will now need to be amended at the June 2021 Ordinary meeting, in adopting the Delivery Program and LTFP, by increasing the loan funding for the Council component of the project.

10.1 Ballina Shire Roads Contribution Plan - 2021 Review

The problem with increased loans is that the repayments are offset by reductions in the funding for Council's road renewal program. This means the more loans are taken up, the less recurrent revenue there is available for road reconstruction.

The major Roads Contribution Plan works currently underway, such as the River Street and Fishery Creek Bridge four laning, are only partly funded by developer contributions (49.6% for River Street and Fishery Creek Bridge), with the balance of the funding financed by loans due to the magnitude of the expenditure.

This is having a cumulative negative impact on the recurrent revenue funding available, and ideally State and Federal Government grants are needed to help offset the liability on Council.

The recommendations to this report also authorize the Mayor to make approaches to the relevant Ministers to help secure funding support for the Roads Contribution Plan projects.

It is also important to note that even though the inclusion of the Barlows Road link project in the Roads Contribution Plan reduces the total cost of works in the plan by replacing Tamarind Drive works estimated at \$13,518,551 with the Barlows Road project estimated at \$7,756,000 there is still a negative financial impact on Council. This is because the Tamarind Drive works are 100% funded by developer contributions, meaning there is no financial liability for Council, whereas the Barlows Road apportionment is 64.5% to development, which leaves a \$2,753,400 liability to Council for the remaining 35.5%

Options

1. Place the *Draft Ballina Shire Roads Contribution Plan Version 4.2* on public exhibition.
2. Take no action to amend the existing *Ballina Shire Roads Contribution Plan Version 4.1*.

Option 1 to place the *Draft Ballina Shire Roads Contribution Plan Version 4.2* on public exhibition is the preferred option as it follows the previously resolved position of Council and it facilitates community consultation and stakeholder input which Council can consider when the draft contributions plan is re-submitted after public exhibition.

RECOMMENDATIONS

1. That the Draft Ballina Shire Roads Contribution Plan Version 4.2, as per Attachment 1 to this report, be placed on public exhibition, in accordance with Clause 28 of the Environmental Planning and Assessment Regulation 2000, for a period of not less than 28 days.
2. That Council authorises the Mayor to make representations to the State and Federal Governments to seek grant funding to support the implementation of the works identified in Council's Roads Contribution Plan. This support is needed due to the current high levels of population growth, which in part relate to State and Federal Government policies, with Council not in a position to fund the additional works due to financial constraints placed on councils, such as the annual rate peg limit and the cap on developer contributions.

Attachment(s)

1. Ballina Shire Roads Contribution Plan Version 4.2 (Draft) (Under separate cover)

10.2 Ballina SES Headquarters - Concept Design

10.2 Ballina SES Headquarters - Concept Design

Section Facilities Management

Objective To determine the future direction for the development of the new Ballina SES Headquarters.

Background

Council resolved as follows at the 26 November 2020 Ordinary meeting:

1. *That Council provides in principle support for the construction of the proposed Ballina State Emergency Services (SES) Headquarters at the Clark Street Reserve site, subject to:*
 - *the proposal minimising any impacts on the Clark Street Reserve by reusing as much of the existing SES site as possible, particularly for the car park and hardstand / training areas; and*
 - *the next stage of the concept plan development is to also examine a two storey building area, located at the eastern end of the Clark Street Reserve, to further minimise environmental impacts.*
2. *That Council is to receive a further report back with updated concept plans based on point one, along with estimated costs for the relocation of existing utilities and the shared pathway, prior to proceeding to the detail design and planning stage of the project.*

Concept designs and costing have been prepared in accordance with this resolution.

In addition to the actions from this resolution, as verbally advised at the April 2021 Ordinary meeting, the feasibility of using the Council owned land at 26 Endeavour Close has also been examined.

The reason for this additional work is due to concerns in respect to the impact on the public open space, for the Clark Street Reserve option, and Council is still to determine the long term use for 26 Endeavour Close.

The report that follows provides an update on the feasibility of both sites and seeks Council direction in moving forward on this project.

Key Issues

- Meet upgrade requirements of the Ballina SES Headquarters
- Develop a concept design that minimise impacts to the site
- Determine most appropriate site taking into account all social, environmental and economic considerations

10.2 Ballina SES Headquarters - Concept Design

Discussion

The design development of the SES Headquarters has been based on areas required under the NSW Public Works guidelines for SES facilities that are rated as medium to large.

Three concept designs have been prepared in accordance with the Council resolution for Clark Street, each including the following operational areas:

Building	745 m ²
Garage	390 m ²
Hardstand	485 m ²
Carpark	1,100 m ²

Each of the designs have attempted to minimise impacts to the Clark Street Reserve, to reduce tree removal and the general occupation of public open space.

This minimisation has been achieved by physically locating the facility to the far eastern end of the site, where there are fewer trees, while still allowing driveway access and egress to Hogan Street.

The existing site, where the SES is currently located, has also been used in all three concepts for car parking. The car parking component of the facility was the most logical component to physically separate from the building and garage areas.

Concept 1 and 2 (see figure one and two) are designs for a single storey building.

With the building located in identical positions, these concepts differed in terms of the positioning and functionality of the garage.

Figure 1 – Concept 1



Figure 2 – Concept 2



Concept 1 has the garage placed adjacent to the building, and in this configuration, only allows for vehicles to enter and exit from one side.

Concept 2 allows the garage to have drive through ability.

This is achieved by repositioning the hardstand area between the buildings, and adds an additional driveway of 240m² to the exit of the garage.

SES representatives have advised that the ability to have a drive through garage is their preference.

Being a double bay garage, this assists with positioning of vehicles for quick response, minimises the need to reposition vehicles and may reduce risks associated with reversing vehicles on the site.

The disadvantage of this is the additional consumption of reserve land and Council needs to balance this operational preference, which is not essential, against the loss of open space.

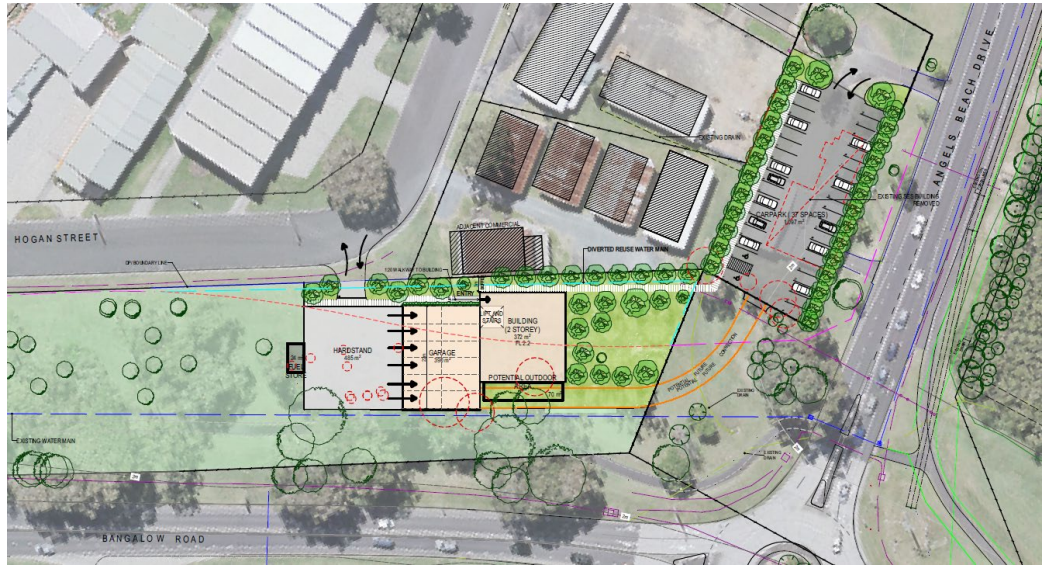
The total area of each of these designs, along with anticipated tree removal and high-level cost estimates are summarised below.

Reference	Total surface area on reserve	Trees to be removed	Estimate
Concept 1	1,714 m ²	14	\$3,014,800
Concept 2	1,954 m ²	15	\$3,069,400

The design for Concept 3 (see figure three), presents the building as a multistorey facility.

It illustrates how to achieve the smallest impact on the site, with a two storey building and single access/egress garage.

Figure 3 – Concept 3



Compared to concept 1, with a similar garage configuration, concept 3 offers a reduced impact on the site, saving 373 m² of public space.

This reduction comes at an additional cost of \$333,800 due to it being a two storey building.

Reference	Total surface area on reserve	Trees to be removed	Estimate
Concept 3	1,341 m ²	13	\$3,348,600

With SES preferring a drive through garage configuration, there would be the option of providing this ability in Concept 3, which would include extra surface area of 250 m², at an additional cost of \$25,200.

All three concept designs presented avoid the need to relocate the existing footpath and the water main.

However the recycled water pipeline currently located under the proposed building footprint needs to be relocated.

Each of the designs require the removal of a significant number of trees.

The trees within the reserve that would need removal are healthy and mature.

They currently provide some shading along the footpath and visual screening of the industrial area from the street.

Images of the trees are provided in the following photos.

Image 1 – Mature trees in Clark Street Reserve, looking east



Image 2 - Mature trees in Clark Street Reserve, looking west



Image 3 - Mature trees in Clark Street Reserve, looking north-east



26 Endeavour Close

As flagged at the April 2021 Ordinary meeting, with Council still to determine the long term future for 26 Endeavour Close, and with two storey options being considered for the Clark Street Reserve, this provides an opportunity to assess the merits of 26 Endeavour Close as a potential SES site.

There is also the synergy with the Ballina Fire Station located almost opposite this site.

The current status of 26 Endeavour Close is that Council is currently entering into a 12 month community lease with TS Lismore Cadets and the Rainbow Region Dragon Boat Club for the use of this site.

These leases are due to expire 31 May 2022.

The use of this site, beyond this time, has not yet been determined by Council, and is subject to a further report on the results of the co-use arrangement.

Also, the SES project is still not fully yet funded, with the Long Term Financial Plan including \$800,000 in 2022/23 and \$1,700,000 in 2023/24 for the project.

These funds are sourced from Council's Community Infrastructure Reserve and based on the estimated costs in this report, the funding will need to be increased, or grant funds secured.

Based on this, two concept designs have been prepared for 26 Endeavour Close, Ballina.

The designs for this alternate site, Concept 4 and 5 (figure four and five), have been prepared using the same floor areas requirements applied to the previous designs.

This means they provide the same operational capability as the concepts presented for the Clark Street reserve.

Both options incorporate a two storey building and a garage with configuration that only allows vehicles to enter and exit from one side.

Concept 4 has a reduction in available on-site carparks.

This concept could only cater to 25 car spaces, rather than 37.

However, the advantage to this concept is that the hardstand area provides a potential route through the site to provide access to the water.

Figure Four – Concept 4



Figure Five – Concept 5



Concept 5 is able to provide the 37 car spaces, by extending the building over the car park. Offering six spaces with undercover parking.

For this concept the water access could be provided through the garage.

The smaller ground floor level, subject to planning requirements, could be an entry, publicly accessible spaces and amenities associated with the garage.

10.2 Ballina SES Headquarters - Concept Design

The estimate for these two designs would be in the order of the estimate provided for the two storey facility (concept 3) at \$3,348,600. However, the cost could be slightly more due, to the design and construction of a more complicated building shape and the need to remove existing buildings from the site.

There are several key advantages for the use of this site including:

- The building will be compatible with the locality
- Closely located to the Ballina Fire Station
- The two storey building can be designed with a water outlook as a feature to improve the amenity of the building
- There are no environmental impacts or use of a public reserve
- Car parking is available on site and on street
- Access to the road network is convenient
- Access to the water for training

In addition, the existing SES building site, which is located on Crown land that has no associated commercial value, has potential for other uses, albeit that approval from the State Government would be needed to change the Reserve Purpose, which is currently for emergency services, to be compatible with any new proposal.

As one example, an option could be to convert the site into a location for the storage and garaging of equipment for community groups. Council constantly receives submissions from local charities, land care groups and other community associations looking for storage facilities.

Typically these requests cannot be supported due to space and access restrictions at Council's operational sites such as our depot, wastewater treatment facilities, and waste centre.

This means the requests are directed to sporting fields or community land which are generally inappropriate sites for this purpose.

Delivery Program Strategy / Operational Plan Activity

The delivery of the SES Headquarters is an activity (CC1.3c) within the Delivery Program and Operational Plan. It sits under the strategy for ensuring adequate plans are in place for natural disasters and environmental changes (CC1.3), providing benefit of the community being prepared.

Community Consultation Policy

Consultation on the suitability of the Clark Street Reserve site and the concept designs has continued with the SES.

As the project proceeds into the detail design and technical specification phase, further consultation will continue with the SES representatives.

The community has not been consulted on the site or the concept designs, however it would be reasonable for Council to continue developing the detail design and invite community feedback during the planning assessment phase.

Financial / Risk Considerations

The Long Term Financial Plan has a total allocation of \$2.5 million for the construction of the SES Headquarters with \$800,000 available in 2022/23 and \$1,700,000 in 2023/24, funded from the Community Infrastructure Reserve.

If the Council elects to proceed with the development design and the planning application for the facility, \$80,000 is required to fund this next stage of works. The budget for 2021/22 does not currently provide this allocation. There should be sufficient funds, as at 30 June 2021, in the Community Infrastructure Reserve to finance this expenditure.

The completion of detail design and planning approval would put Council in a position for making applications for grant funding for the remaining capital funds required for the project.

Options

There are four main options.

Option 1 – Concept Design 1

The design for Concept 1 is the lowest cost option, at an estimate of \$3,014,800. It consumes 1,714 m² of the reserve site. While SES believe they could make this design work for their operations, their preference is to have a garage with drive through capabilities.

Option 2 – Concept Design 2

The design for Concept 2 is an adaption of the first concept design, however it incorporates the drive through garage, as preferred by SES. This concept takes up the most area on the site, at total area of 1,954 m², with an estimated cost of \$3,069,400.

Option 3 – Concept Design 3

The design for Concept 3 takes up the least amount of physical space on the site, consuming 1,341 m². This is possible by incorporating a multi-storey building. It is the most expensive option, with a total estimated cost of \$3,348,600. By having a multi-storey building, the footprint of the facility can be reduced by 373m². With the SES preferring a drive through garage, this could be incorporated in this design, and still have a smaller impact on the site than the two single level concept designs.

If the Clark Street Reserve site is preferred, then option 3 is the recommended option from the above options as it has the smallest impact on the reserve. This option will still require the removal of approximately 13 to 14 mature trees.

Option 4 – 26 Endeavour Close (Concept Design 4 or 5)

This option has several advantages. The development is compatible with the surrounding location, avoids the impacts on a reserve area and the building can be designed with features that will improve the amenity including an outlook and access to water.

10.2 Ballina SES Headquarters - Concept Design

This option also provides Council with the opportunity to use the existing SES site for other community use, subject to State Government approval to change the reserve purpose.

In conclusion, the Council's existing direction for the Clark Street Reserve remains an option for Council. Concept Design 3 is the recommended option for this site. However based on the significant advantages provided by the 26 Endeavour Close site, it is recommended this site be selected as the preferred site.

As there is an existing resolution stating Council's preference for the Clark Street Reserve site, consultation has not been undertaken with the key stakeholders (the SES, TS Lismore Cadets and the Rainbow Region Dragon Boat Club) in respect of this option. Therefore the recommendation for this report is to consult with these groups to understand their feedback and consider the options for their future direction in response to this preference.

RECOMMENDATIONS

1. That Council provides in principle support for the construction of the proposed Ballina State Emergency Services (SES) Headquarters at 26 Endeavour Close.
2. That the General Manager consult with the Ballina SES, TS Lismore Cadets and the Rainbow Region Dragon Boat Club to consider their future direction and needs in response to point one above.
3. That the General Manager provide a further report following the consultation in point two, with this report to also consider funding options for the preconstruction activities required to advance this project.

Attachment(s)

1. Design Concept 1 - SES Headquarters
2. Design Concept 2 - SES Headquarters
3. Design Concept 3 - SES Headquarters
4. Design Concept 4 - SES Headquarters
5. Design Concept 5 - SES Headquarters

10.3 Water Loss Reduction Program

10.3 Water Loss Reduction Program

Section	Water and Wastewater
Objective	To consider water loss reduction strategies.

Background

At the November 2020 Ordinary meeting, Council resolved as follows :

- 1. That Council prepare a strategic plan to improve the performance of our water supply network in respect of reducing the amount of unaccounted water with progress reported to Council on an annual basis.*
- 2. That staff provide a report on how the Demand Management Areas and Pressure Management Zones are performing. That the report be inclusive of water consumption for each zone in ranking order: pressure reduction performance for each zone, non-revenue water for zone, water main failure history for each zone and the associated scheduled replacement date.*
- 3. That Council support increased efforts in water conservation through the Regional Demand Management Plan.*

This report summarises the work completed to date and outlines the future program of work for water loss reduction, as well as reporting on other initiatives which support the water loss reduction program.

Key Issues

- Reducing the amount of water loss

Discussion

Water Loss

Water loss in water supply networks can be divided into three main categories:

- Undetectable losses
- Detectable losses
- Inaccurate measurement of water, such as through water meter inaccuracies.

Different mitigations are required for water losses that occur in each of these categories.

Water losses classed as undetectable are typically so small on an individual level that the cost required to find them is not economically feasible.

The main strategy employed to reduce these losses is pressure reduction.

10.3 Water Loss Reduction Program

Detectable losses are larger and easier to locate within a network, and are typically found through a variety of active leak detection activities, for example network flow monitoring and sonic analysis of the network.

Timely repair of leaks and main breaks is also important to mitigate water loss in this category.

Inaccurate measurement is mitigated through regular maintenance and calibration of flow meters and maintaining the water meter fleet. Council aims to replace water meters every fifteen years.

A planned water main renewal program also supports the reduction of water loss in the network.

Unauthorised water consumption, such as unmetered water consumption or water theft, can also contribute to non-revenue water, however this is typically only a very small component of water loss.

Economic Level of Leakage

Achieving a zero non-revenue water result is theoretically possible, but is not an economic approach to managing a water reticulation network.

The economic level of leakage is the level at which it is no longer economical to make further investment to achieve further leakage reductions.

This does not mean that all water loss reduction activities cease at this point, as maintaining a low level of non-revenue water requires sustained effort.

The economic level of leakage varies with changing water and infrastructure costs, but is generally reported in the water industry to be between five and ten percent non-revenue water.

Ballina Shire Unaccounted Water

Council tracks and reports levels of unaccounted or non-revenue water as part of the quarterly Delivery Program and Operational Plan reporting.

The most recent non-revenue water result is 15.6%, recorded in the third reporting quarter of 2020/21.

Over the last four years, Council's non-revenue water percentage has ranged between fourteen and seventeen percent, indicating that further investment in water loss reduction work is appropriate.

In order to calculate non-revenue water, a water mass balance must be conducted, which is effectively a comparison of the water being fed into the network (the bulk supply), and the water leaving the network (water consumption, and non-revenue water/water leaks).

There is no single initiative that will achieve large scale reduction of water loss in Council's water supply network, as the water loss is occurring through a large number of small leaks rather than any large singular leaks.

10.3 Water Loss Reduction Program

To help narrow down areas where these leaks may be more prevalent, it is important to be able to perform water mass balances at a more local level, and a key component of the program will be to ensure the network and its monitoring systems are set up to support regular monitoring of the water mass balances.

The pressure management and flow measurement zones within the water supply network are integral to this work.

As a result, the water loss reduction program is being developed and trialed in a single pressure management zone, before being more broadly implemented across the reticulation network.

This will enable testing and refinement of the overall approach to support efficient water loss reduction.

Recent Program

Over the last few years, Council has continued to invest in its water loss reduction program.

These activities have included two significant capital projects; the Smith Drive main renewal, and the design and installation of Pressure Management and Flow Monitoring Zones, as well as the engagement of consultants for water loss assessments and sonic leak detection work.

The implementation of the Pressure Management and Flow Monitoring Zones was the fundamental step needed to advance our capacity to improve water loss management compared to what was being achieved historically.

Over the last year Council has invested significant effort in the development of a Network Asset Master Plan.

Among other considerations for sustainable long term operation of our network, the Master plan will identify any other opportunities within our network for additional pressure management and flow monitoring zones.

Further information is set out below about the ongoing work to develop this infrastructure.

While the level of unaccounted water is higher than preferred, the implementation of the Pressure Management and Flow Monitoring Zones has confirmed to the best of our knowledge, Council does not have any outstanding known leaks or other direct infrastructure issues that are significant in respect of the unaccounted water result.

This makes improving the result a challenge as there is no obvious backlog of works to address or other immediate quick fixes or any identified new program solution to implement.

For this reason, steps have been taken to focus on establishing a pilot zone with a set of controls. This will enable us to invest in a range of possible activities and measure the outcomes including cost, benefit and community response. The results can then be used to inform our strategic planning. The pilot program is also discussed as follows.

10.3 Water Loss Reduction Program

Pressure Management and Flow Monitoring Zones

There are twelve pressure management and flow monitoring zones in Council's water supply network.

While the initial creation of these zones has been undertaken, because of network changes, such as growth, and changes in operating conditions, not all of these zones are functioning in the preferred final design configuration.

A program of work is currently underway to confirm the setup and operation of these zones to allow the accurate collection of information.

This work includes confirmation of zone boundaries, calibration of monitoring equipment, and SCADA system improvements.

It is anticipated that this physical work will be complete by the end of June 2022.

Finalising zone operation will require engagement with customers. For example, there are three pressure management zones on Ballina Island, which are currently being operated as one zone to facilitate supply pressures that will support fire flow pressures for some commercial customers.

This is consistent with a supply pressure that has historically been provided, which is well above minimum standards of service.

Customer expectation is that this pressure will continue to be provided, even though it is not operationally optimal for Council.

Consultation with these customers will be required, along with clarification of Council and customer obligations to allow network configuration which will support water loss reduction.

The proposed pilot zone has the potential for Council to test the improvements in water loss from reduced pressure.

By quantifying local the water loss savings attributed to pressure reduction, Council can then assess and determine the best position overall when balancing the need to achieve water loss reduction against customer satisfaction in respect of pressure.

Pilot Zone – West Ballina

The West Ballina pressure management zone has been selected as the pilot zone for the water loss reduction program. The zone is currently operating with a nominal pressure reduction at night time, between 11pm and 6am.

Work to date in the zone has included:

- confirmation of zone boundaries and operating conditions
- profiling zone customers, including placing smart meters on large commercial customers in the zone to understand consumption levels and patterns
- water meter age profile, and identification of meters due for replacement
- night flow monitoring to identify background leakage levels

10.3 Water Loss Reduction Program

- field monitoring of pressure within the zone to calibrate the hydraulic model of the zone
- night flow field step test to check areas within the zone for leaks
- repair of identified leaks (unused water services)
- identification of further operational improvements, such as valve replacements to improve the ability to isolate sections of the network for monitoring and leak detection
- review of current SCADA performance and engagement of a consultant to assist with identification of improvements

Work to be completed in the zone includes:

- replacement of identified water meters
- additional field testing, including a zero pressure test to confirm zone integrity
- modelling pressure reduction scenarios to confirm potential pressure reduction while maintaining standards of service
- night trial of modelled pressure reductions
- replacement of identified valves
- additional active leak detection work following valve replacements, and any repairs as required
- SCADA improvements
- ongoing monitoring of night flows and zone performance in response to the above work

The results of this work will be used to create a checklist for zone operation, and a program of work to be rolled out across the network.

Water Main Renewal Program

Council has an annual water main renewal program, which is necessary to keep the water reticulation network operating effectively.

An effective water main renewal program will minimise water main bursts and other maintenance requirements, as well as reducing the level of water leakage in the network.

The risk assessment process for prioritising water main renewal has been improved for the coming financial year, including assessment of pipe age, material, criticality, and reported main breaks.

The water main renewal program progress will be monitored and correlated with water loss reduction monitoring to identify the impacts of the program on water loss in the network.

Main breaks are monitored and reported upon as part of the quarterly delivery program and operational plan reporting.

The reporting indicator is the number of main breaks per 30km of network.

Good practice is considered to be a result of less than one break per 30km of network in a year. Over the last four years, Council's result in this area has dropped from 5.8 to 1.55 breaks per 30km of main.

10.3 Water Loss Reduction Program

Maintaining consistent investment in water main renewals has supported this significant improvement, through replacing water mains before they deteriorate to the point of breakage.

Water Meter Replacements

Timely water meter replacements have a range of benefits, including accurate billing for customers, reduced maintenance call outs and more accurate measurements for the water mass balance informing non-revenue water calculations.

Water meters are mechanical devices which wear with age and use. As they wear, water meters become less accurate in their measurement, often under reading water consumption.

While we do not have any confirmation data at this point in time, based on some information researched from other water utilities, it is possible in a network of the size of council's, that the age of the meter fleet is under reading the amount of water consumed by a factor that is material (possibly in the range of 2-4%).

Without evidence of ongoing major leaks or an unexpected level of main breaks, it is a reasonable theory that an increased investment in water meter replacements could be an important strategy.

As noted, the pilot zone is an opportunity to research this theory directly in the local context.

To address a backlog of water meter replacement work, an external contractor has recently been engaged to support the meter replacement program, with an additional 256 meters replaced since contract commencement in April 2021.

The impact of the meter replacements on non-revenue water levels will be monitored through the quarterly meter reading cycle and the optimum rate for renewals will be determined.

Rous County Council has recently announced its intention to install smart metering across its meter fleet.

It has invited constituent council participation in this program to improve the economies of scale in implementation and support demand management initiatives across the region.

This invitation has included an offer of upfront funding support for constituent councils.

Ballina Shire Council's smart metering program has been largely trade waste focused at this stage with opt-in options for customers.

Participation in the Rous smart metering project is seen as a good opportunity to accelerate Council's smart metering program and support regional demand management. Therefore in principle support has been provided to Rous to join the proposed program.

10.3 Water Loss Reduction Program

Water Loss Reduction Forward Program

The priorities and timeframes for the water loss reduction program are outlined in the table below.

Activity	Timeframe
Completion of operational improvements in West Ballina zone	August 2021
Testing of water loss reduction actions in West Ballina	December 2021
Water meter replacement	Rolling program
Water main renewal	Rolling program
Rous County Council smart metering project	Commencing July 2021
Rollout of operational improvements across network	June 2022
Rollout of water loss reduction actions across network	June 2023

The results of the pilot program in West Ballina are intended to inform whether or not our rolling programs should be accelerated on a cost/benefit basis in regards to water loss.

The pilot program will also be the source of information in respect of what other water loss reduction actions are possible.

Delivery Program Strategy / Operational Plan Activity

The development of a water loss reduction strategy supports Delivery Program / Operational Plan Activities *HE2.2c Implement water loss reduction program*, and *HE2.2d Reduce the volume of unaccounted water*.

Community Consultation Policy

Community consultation will be required if operational changes such as pressure reduction that will impact customers are identified as part of the program. When the impacts of these changes are sufficiently understood, this consultation will be conducted in accordance with the Consultation Policy.

Financial / Risk Considerations

Council maintains recurrent funding in the Water Fund for main renewal, meter replacement and leakage detection. This funding amounts to just under \$2 million in the current financial year. As the water loss reduction program progresses, this funding will be reviewed to ensure the level remains appropriate.

Completion of the operational improvements in the West Ballina pilot zone will inform any required budget adjustments for rolling out the work across the network.

10.3 Water Loss Reduction Program

It has been estimated that an investment in the order of \$2.5 million will be required to convert Council's entire meter fleet to smart metering, however this program is now the subject of a potential collaboration with Rous County Council.

Options

The information in this report noted the recommended forward activities for our Water Loss Reduction Program.

As per the report, the critical actions are the continued optimisation of the pressure zone management system and the ongoing implementation of the mains renewal program which are both established essential, business as usual activities.

Monitoring for refinements in the investment in these actions will continue and will be informed by planning including the Network Masterplan which is now well advanced.

The other important activity that has been occurring has been the development of a project to establish a pilot zone.

This zone will allow us to test how changes to the infrastructure, water meter replacement and pressure influence the water loss for the zone.

The data and findings from this work will inform actions for the other areas in the Shire.

The work already completed confirms there is no immediate activities that can be deployed at specific locations to achieve a material difference in the current water loss performance figures.

This is why the pilot program is important as it will focus on overall network optimisation, management and administration.

It is likely pressure reduction is the option that can potentially make a significant contribution to improving the water loss result.

It is also possible increasing the rate of renewal of our meters to improve their overall system accuracy will assist, albeit this does not save water, rather it provides a more accurate assessment for the water loss which is likely to be overstated.

It is recommended that the forward activities described be adopted for now as the strategic plan required by the previous resolution.

Once the pilot zone program has been completed, Council will be in the best position to consider a further Shire wide strategic plan inclusive of long term performance indicators, actions and budget information.

The alternative option is for Council to add other activities to the suggested program.

RECOMMENDATIONS

1. That Council adopts the following table as a guide to the Water Loss Program for 2021/22.

Activity	Timeframe
Completion of operational improvements in West Ballina zone	August 2021
Testing of water loss reduction actions in West Ballina	December 2021
Water meter replacement	Rolling program
Water main renewal	Rolling program
Rous County Council smart metering project	Commencing July 2021
Rollout of operational improvements across network	June 2022
Rollout of water loss reduction actions across network	June 2023

2. That Council, following the completion of the West Ballina Pressure Management Zone Water Loss Reduction pilot project, receive a further report assessing the outcomes of the pilot and the opportunities to document a shire wide strategic plan for water loss management.

Attachment(s)

Nil

10.4 Policy (Review) - Naming of Council Owned Facilities

10.4 Policy (Review) - Naming of Council Owned Facilities

Section	Infrastructure Planning
Objective	To review the Naming of Council Owned Facilities Policy.

Background

All of Council's existing policies are progressively reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Naming of Council Owned Facilities Policy.

The policy provides direction in respect of considering and assessing proposals for the naming of Council owned facilities.

Council first adopted this policy in September 2012.

Key Issues

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

Discussion

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

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

The changes have been marked in yellow.

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

Delivery Program Strategy / Operational Plan Activity

This report relates to Strategy EL1.2 Involve our community in our planning and decision making processes.

Community Consultation Policy

As the changes are only minor it is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment. If any submissions are received they can be reported back to Council however there will not be a need for any further report if there is no public comment.

10.4 Policy (Review) - Naming of Council Owned Facilities

Financial / Risk Considerations

There are no financial or risk factors associated with the implementation of this policy.

Options

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

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

RECOMMENDATIONS

1. That Council adopts the Naming of Council Owned Facilities Policy, as per Attachment 1 to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

Attachment(s)

1. Policy (Review) - Naming of Council Owned Facilities

11.1 Notice of Motion - Policing in Alstonville

11. Notices of Motion

11.1 Notice of Motion - Policing in Alstonville

Councillor

Cr Eoin Johnston

I move

That Council make urgent representations requesting that the NSW Police Minister and the Local Area Commander review the allocation of Police numbers in the Ballina Shire with specific emphasis on the actual rostered shifts on the Alstonville Plateau.

Councillor Comments

It is a basic requirement of Local Government that new residential areas should be supported by adequate essential services. Health, Education and Policing are the core requirements necessary to meet the needs of our citizens.

Alstonville has benefited from the presence of a Police officer in residence and a second officer on call when a shift is operational in the area. These two officers have been well received and they have gained the respect of the community at large.

However, their ability to patrol Alstonville and Wollongbar on a regular basis is limited. They are frequently rostered on at the Ballina or Lismore Stations and Ballina has the extra responsibility of policing the rapidly expanding Lennox Head precinct.

I have received a number of complaints personally and I have viewed social media posts, all pointing to an acceleration of petty and nuisance crime in the streets and on properties, mostly after dark.

Residents have invested heavily in their future by moving into these attractive growth areas and they deserve to be afforded the basic right to feel safe and protected in their neighbourhood.

This is a frequently revisited issue but it could be addressed by an increase in Police numbers at the Ballina Station which would then allow for more effective rostering out of Alstonville.

Staff Comments

Council resolved as follows at the March 2021 Ordinary meeting:

That Council write to the NSW Minister for Police seeking support for the following:

- *Review of Police numbers assigned to the Police Stations in the Ballina Shire to assist in the ever increasing need for local officers to deal with not only crime, but also with mental health issues.*

11.1 Notice of Motion - Policing in Alstonville

- *Clarification regarding future planning for a new Police Station at Lennox Head based on current and forecast population growth for this township*
- *That Council acknowledges and thanks the Police Officers in the Richmond Command for the excellent service that they provide to our community.*

This correspondence has been sent to the Minister, with no response to date. If this notice of motion is supported, a follow up letter can be sent to the Minister.

This notice of motion does not amend the previous resolution, which means that it is able to be included in the business paper, even though it has only been two months since the March 2021 resolution.

COUNCILLOR RECOMMENDATION

That Council make urgent representations requesting that the NSW Police Minister and the Local Area Commander review the allocation of Police numbers in the Ballina Shire with specific emphasis on the actual rostered shifts on the Alstonville Plateau.

Attachment(s)

Nil

11.2 Notice of Motion - Byron Studios

11.2 Notice of Motion - Byron Studios

Councillor

Cr Smith

I move

1. That Council receive a report on the merits, costs and timeframes, to undertaking a rezoning of the Tuckombil Quarry Site to allow uses such as that being undertaken by Byron Studios at the Alstonville Cultural Centre.
2. This report is to examine the benefits of this proposal, including consultation with the key stakeholders, such as Byron Studios, NSW Planning and the current lessees (Boral and Ron Southon) to confirm whether the proposal can be fast tracked to coincide with the termination of the current licence agreement for Byron Studios at the Alstonville Cultural Centre.

Councillor Comments

Byron Studios has been occupying the Alstonville Cultural Centre for a number of months now and it's important from both the Council's perspective and Byron Studios that a long term strategy exists to provide certainty for both the community and the studio.

The Boral lease at Gap Road is due to expire in December 2024.

There is interest from both parties to seriously consider this option as a way of providing Byron Studios a site which meets their criteria, while simultaneously providing Council with a long term plan for the site post Boral's occupation of the site.

There may even be opportunities to encourage an earlier vacation of the site by the existing lessees, or possibly co-location until the leases expire.

This is ultimately a win-win outcome for Council, the community and the studio, thus deserving of Council's support.

Staff Comments

Staff comments have been provided on this proposal in the Financial Review – 31 March 2021 report, earlier in this agenda.

A copy of the Deposited Plan (DP 1130300) and an aerial map showing the site are attached.

The Deposited Plan and aerial map have been marked showing occupation of the land as follows:

Lot 1 - Boral

Lot 2 - Tuckombil Quarry

Lot 3 - Ron Southon Pty Ltd.

COUNCILLOR RECOMMENDATIONS

1. That Council receive a report on the merits, costs and timeframes, to undertaking a rezoning of the Tuckombil Quarry Site to allow uses such as that being undertaken by Byron Studios at the Alstonville Cultural Centre.
2. This report is to examine the benefits of this proposal, including consultation with the key stakeholders, such as Byron Studios, NSW Planning and the current lessees (Boral and Ron Southon) to confirm whether the proposal can be fast tracked to coincide with the termination of the current licence agreement for Byron Studios at the Alstonville Cultural Centre.

Attachment(s)

1. Deposited Plan
2. Aerial map

11.3 Notice of Motion - Bruxner Highway Upgrade

11.3 Notice of Motion - Bruxner Highway Upgrade

Councillor

Cr Smith

I move

That Council write to the Minister for Roads and also to Transport for NSW requesting the strategic planning for the Bruxner Highway road corridor be advanced as a priority.

Councillor Comments

The Bruxner Highway from the western end of the Alstonville Bypass through to Goonellabah needs to be upgraded to improve safety and traffic management.

There are community concerns in respect of safety and access at the intersection of Lindendale Road and the Bruxner Highway. The upgrade of this intersection cannot be undertaken until a strategic infrastructure plan for the whole of the road corridor has been completed.

Furthermore, traffic volumes on the Bruxner Highway are increasing and therefore it is important to complete the planning for this corridor now so that the community is informed about the future direction and the plan can inform the considerations for prioritising funding for the highway network.

COUNCILLOR RECOMMENDATION

That Council write to the Minister for Roads and also to Transport for NSW requesting the strategic planning for the Bruxner Highway road corridor be advanced as a priority.

Attachment(s)

Nil

11.4 Notice of Motion - Coast Road, Speed Limit Reduction

11.4 Notice of Motion - Coast Road, Speed Limit Reduction

Councillor

Cr Cadwallader

I move

That Council write to Transport for New South Wales (TfNSW) requesting the speed limit for the Coast Road at Angels Beach be reduced from 80 km/hr to 60 km/hr to improve pedestrian and wildlife safety.

Councillor Comments

The Local Traffic Committee (LTC) has considered on several occasions representations from residents concerned with the safety for children crossing the Coast Road at Angels Beach to access the bus stop.

TfNSW has agreed to undertake a speed zone review at this location and the determination of the review is yet to be advised to Council. The LTC is considering alternative strategies because it is possible the request to reduce the speed zone will not be approved having regard to the function of the Coast Road.

The purpose of this motion is ensure the community preference for a reduced speed zone is reported to TfNSW.

COUNCILLOR RECOMMENDATION

That Council write to Transport for New South Wales requesting the speed limit for the Coast Road at Angels Beach be reduced from 80 km/hr to 60 km/hr to improve pedestrian and wildlife safety.

Attachment(s)

Nil

11.5 Notice of Motion - Tintenbar Road, Speed Limit Reduction

11.5 Notice of Motion - Tintenbar Road, Speed Limit Reduction

Councillor

Cr Cadwallader

I move

That Council request Transport for NSW undertake a speed zone review for Tintenbar Road generally between the intersection with Fernleigh Road and Friday Hut Creek Road to assess a reduction in the speed zone from 80 km/hr to 60 km/hr.

Councillor Comments

The local community has concerns regarding intersection safety at this location and seek a reduction in the speed zone to help mitigate the risks.

Asking TfNSW to complete a speed zone review ensures the appropriate authority completes an assessment and determines whether the request for a 60 km/hr speed zone is supported.

COUNCILLOR RECOMMENDATIONS

That Council request Transport for NSW undertake a speed zone review for Tintenbar Road generally between the intersection with Fernleigh Road and Friday Hut Creek Road to assess a reduction in the speed zone from 80 km/hr to 60 km/hr.

Attachment(s)

Nil

11.6 Notice of Motion - 4WD Beach Permits - Seven Mile Beach, Lennox Head

11.6 Notice of Motion - 4WD Beach Permits - Seven Mile Beach, Lennox Head

Councillor Cr Jeff Johnson

I move

1. That Council limits beach 4WD permits on Seven Mile Beach, Lennox Head to vehicles registered in the Ballina Shire.
2. That Council only issue six month or 12 month permits.

Councillor Comments

Ballina Shire is one of the few areas along our coastline that allows vehicles to access the beaches. The NSW Government recently closed the 4WD access to the beach that runs from South Ballina down to Broadwater.

It is my concern that the closure of South Ballina beach will increase the number of 4WD vehicles heading to Seven mile beach, particularly from outside our area.

While the beaches are Crown Reserves, they are managed by Ballina Shire Council and rate payers pay for maintaining the access tracks, administration of the permits and periodic monitoring and compliance.

Reducing the number of vehicles to Ballina Shire registered vehicles will provide a greater level of compliance with the existing 'Guidelines for 4WD vehicles on Seven Mile Beach'.

A key reason for the closure by the NSW Government of the beach south of Ballina was the hoons coming down from QLD and disrespecting other beach users and the environment. Having a 'locals only' permit system removes the risk of 4WD tourism and large numbers of vehicles heading to Lennox to access the beach.

I support local families, fishermen, surfers, and those with disabilities to continue to access the remote area of Seven Mile Beach. The link to the 4WD permit information and guidelines, on Council's website, is as follows:

<https://ballina.nsw.gov.au/4wds-on-beaches>

Staff Comments

Council currently has an automated ticketing machine at the four wheel drive entrance to Seven Mile Beach, which allows drivers to access tickets based on the following pricing (2021/22 pricing is on exhibition):

Permits	2020/21	2021/22
One Day Permit	18	20
30 Day Permit	50	55
Six Month Permit	70	77
Annual Permit	120	132

11.6 Notice of Motion - 4WD Beach Permits - Seven Mile Beach, Lennox Head

The automated machine does not have the ability to determine whether a registration is Ballina Shire based, therefore a manual ticketing system would need to be implemented if the motion is supported. The manual system then helps with confirming resident status as Ballina Shire resident vehicles are not always registered to a Ballina Shire address (e.g. business vehicles, new residents etc).

The preference for a manual system, particularly if it is for six or 12 months only, is for tickets to be sold through Council's facilities, such as the Administration Centre, Visitor Information Centre and possibly the Lennox Head Cultural Centre as this will allow Council staff to confirm resident status.

The Visitor Information Centre is also open on weekends and most public holidays to assist with sales outside of normal business hours.

It is important to acknowledge that Crown Reserves, under Council's control, are managed by Council, on behalf of the entire State of NSW. A key principle is that Council is managing those reserves on behalf of all residents of NSW, and not just the people who are fortunate enough to live in the Ballina Shire. The assumption in the notice of motion is that residents of Ballina Shire will behave better than visitors from outside the Shire, and there is no evidence to support this position.

It is correct that four wheel drive use of Seven Mile Beach has increased in recent years with the income figures as follows:

Year	Revenue (\$)
2020/21 to date	114,000
2019/20	71,000
2018/19	66,000
2017/18	59,000
2016/17	46,000

In terms of the breakdown of permit types, permits numbers for the 2019/20 year and the 2020/21 year to 14 May are set out as follows:

Type	2019/20	2020/21
One Day	2,086	3,015
30 Day	96	129
Six Month	139	268
Annual	290	309
Total	2,611	3,721

In relation to vehicle numbers, a traffic counter was placed at the 4WD entry between 1 April 2021 and 30 April 2021. The counter recorded a total of 2,883 vehicles using the beach access during this period. Saturdays and Sundays were the periods of highest utilisation, with late morning to early evening typically being the period of highest volumes for entry to and from the beach.

While the removal of the short term passes (one day and 30 days) should result in reduced numbers, there is the risk that the removal of a system that does not utilise the automatic ticketing approach will lead to increased non-compliance with respect to having a permit. This then creates increased enforcement demand, not necessarily achieving less beach use and a loss of the short term pass revenue.

11.6 Notice of Motion - 4WD Beach Permits - Seven Mile Beach, Lennox Head

With respect to enforcement, Council Rangers regularly patrol the area and Council also arranges paid Police patrols of the beach during anticipated peak usage periods (such as the Easter weekend).

Generally compliance with the permit system and operating rules is good and although it is evident at times, major non-compliances such as dune impact are not regularly observed. From an operational perspective the permit system is working well.

The ever increasing mix of four wheel drive vehicles, the off-leash dog area, people walking, exercising, surfing, fishing etc means that Council needs to proactively monitor the use of the beach, to ensure that there are limited or no negative environmental impacts and that there is the right balance of uses occurring on the Crown Reserve

Council is currently in the process of reviewing the Ballina Shire Coastal Reserve Plan of Management, and the forthcoming community consultation will seek feedback on the preferred uses of the Coastal Crown Reserves.

If Council wishes to reduce the use of four wheel drives on Seven Mile Beach, options that could be examined as part of that consultation include:

- Pricing – As per the notice of motion, removing the shorter term pricing options, should potentially reduce usage. It is likely that one outcome of this would be that a large part of the ticket sales would be for people who live in the region, as they're in a better position to obtain value for their purchase. Price increases would also help to reduce demand, although that impacts more negatively on people with lower incomes and possibly retirees.
- Access Limitations – Some authorities limit access during peak periods, for example holidays. As a result of the COVID-19 pandemic, Council now has a gate installed at the four wheel drive entrance. This allows Council the option of closing four wheel drive access, as required. Council could decide certain holiday periods result in over use of Seven Mile Beach, and close access during those periods.

If user conflict is of concern to Council, another way to look at this issue is to limit use by other users (e.g. reduce the dog off-leash area available).

This approach is not advocated but the needs of each user group should be considered and this can be done holistically through the review of the Coastal Reserve Plan of Management.

One advantage to the mixed use of the area is that there is regular surveillance of the area. This kind of regular surveillance from different user groups helps reinforce community standards

The preferred position is to assess all the uses on Seven Mile Beach as part of the review of the Coastal Reserve Plan of Management, as this then ensures there is a high level of community engagement.

It also provides a documented report, submitted to Council, which outlines the range of views that may exist on what are often complex, and sometimes competing, issues.

11.6 Notice of Motion - 4WD Beach Permits - Seven Mile Beach, Lennox Head

As shown through the recent closure of four wheel drive access to South Ballina Beach, even though that decision was ultimately made by the State Government, Council can be subject to criticism for not following a thorough consultation process, therefore Council needs to be careful in making significant policy decisions based only on the contents of a notice of motion.

With the proposed pricing for 2021/22 currently on exhibition, as part of the draft Delivery Program and Operational Plan (DPOP), Council will also have the opportunity to review the pricing at the June 2021 Ordinary meeting, when all submissions to the DPOP are considered.

If Council wants any pricing information to be considered as part of that June report, direction could be provided as part of any resolution arising from this motion.

COUNCILLOR RECOMMENDATIONS

1. That Council limits beach 4WD permits on Seven Mile Beach, Lennox Head to vehicles registered in the Ballina Shire.
2. That Council only issue six month or 12 month permits.

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 April 2021 Ordinary meeting are as follows:

<u>Date</u>	<u>Function</u>
20/4/21	Meeting – Chris Culvenor – CEO Eureka Productions
21/4/21	Wardell Progress Association
23/4/21	Beverley's Covid Jab – Martin Street
23/4/21	Meeting – John Curren and Pat Carney
26/4/21	Grant Funding Announcement – Lennox Head – Ben Franklin
26/4/21	Northcott Reconciliation Action Plan – Launch - River Street
1/5/21	BACCI Art Exhibition
1/5/21	Blade Battle 4 – NSW Rollerblading Competition
2/5/21	Commemoration Park Markets
2/5/21	Our Kids Day Out – Missingham Park
2/5/21	Community Garden – Composting Day
4/5/21	Delivery Program and Operational Plan – Live Stream
5/5/21	Delivery Program and Operational Plan – Wardell
6/5/21	Meeting – Essential Energy – Zoom
6/5/21	Delivery Program and Operational Plan – Lennox Head
7/5/21	NRJO Meeting – Zoom
9/5/21	Commemoration Park Markets
9/5/21	Mothers' Day Classic
10/5/21	Church Group
10/5/21	Inspection Byron Studios
11/5/21	Meeting – Alison Crook – Enova Energy
11/5/21	'A' Ward Committee
12/5/21	Meeting Peter Leotta – G J Gardner Homes
13/5/21	'C' Ward Committee
13/5/21	Northern Rivers Community Gallery Launch
13/5/21	Water Polo Match – Aust v Under 19's
16/5/21	North Coast Academy of Sport – Opening
16/5/21	Commemoration Park Markets
16/5/21	Ballina Markets
17/5/21	'B' Ward Committee
18/5/21	Charter Lunch – Satellite Club of Ballina Lifestyle – Cove
20/5/21	Northern RPP – Determination Briefing – Site Visit
20/5/21	Tour - Marom Creek Treatment Plant, Council Quarries
21/5/21	Meeting – Alstonville Resident
22/5/21	Ballina Bombers AFL Club Invitation
23/5/21	Commemoration Park Markets
27/5/21	Council Meeting
28/5/21	Ballina Croquet – Friendship Day
30/5/21	Country Music Club – Charity Day – RSL
30/5/21	Commemoration Park Markets

RECOMMENDATION

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

Attachment(s)

Nil

14. Confidential Session

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

14.1 Swimming Pool, Jarrett Street, Ballina - Compliance Action (Confidential)

Refer to Item 8.8 of this agenda.

14.2 Filling of Land, Cumbalum - Compliance Action (Confidential)

Refer to Item 8.9 of this agenda.

RECOMMENDATION

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

14.1 Swimming Pool, Jarrett Street, Ballina - Compliance Action (Confidential)

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(e) (g) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- e) information that would, if disclosed, prejudice the maintenance of law; and
- g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the commencement of legal action is being examined and legal advice will be discussed as part of the report.

14.2 Filling of Land, Cumbalum - Compliance Action (Confidential)

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(e) (g) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- e) information that would, if disclosed, prejudice the maintenance of law;
and
- g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the commencement of legal action is being examined and legal advice will be discussed as part of the report.