

Agenda

Ordinary Meeting **23 September 2021**

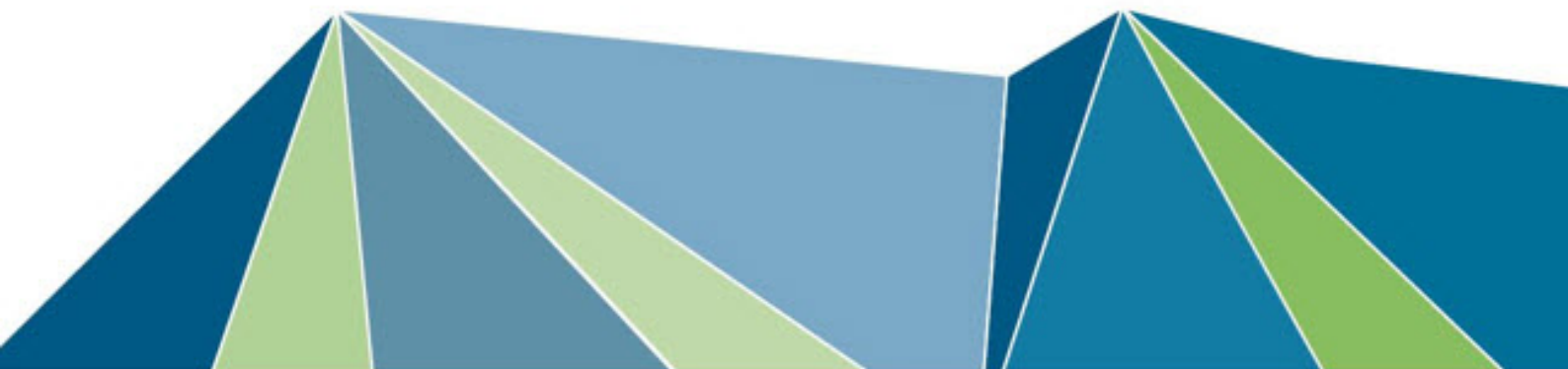
An Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **23 September 2021 commencing at 9.00am.**

1. Australian National Anthem
2. Acknowledgement of Country
3. Apologies
4. Confirmation of Minutes
5. Declarations of Interest and Reportable Political Donations
6. Deputations
7. Mayoral Minutes
8. Planning and Environmental Health Division Reports
9. Corporate and Community Division Reports
10. Civil Services Division Reports
11. Notices of Motion
12. Advisory Committee Minutes
13. Reports from Councillors on Attendance on Council's behalf
14. Confidential Session

Paul Hickey
General Manager

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

Due to COVID-19 the relevant NSW Public Health Orders must be complied with. Please contact Sandra Bailey (6686 1273) to clarify the ability to participate in the meeting. You may access this meeting via our Live Streaming link ballina.nsw.gov.au/agendas-and-minutes



Deputations to Council – Guidelines

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

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

- A public question time has been set aside during the Ordinary meetings of the Council. The Ordinary meeting will be adjourned from 12.45 pm for Public Question Time. If the meeting does not extend to 12.45 pm Public Question Time will be held after the meeting closes.
- The period for the public question time is set at a maximum of 15 minutes.
- Questions are to be addressed to the Chairperson. The period is set aside for questions not statements.
- Questions may be on any topic, not restricted to matters on the Ordinary meeting agenda.
- The Chairperson will manage the questions from the gallery to give each person with a question, a "turn".
- People with multiple questions will be able to ask just one question before other persons with a question will be invited to ask and so on until single questions are all asked and, time permitting, multiple questions can be invited and considered.
- Recording of the questions will not be verbatim and will not form part of the minutes of the Ordinary meeting.
- The standard rules of behaviour in the Chamber will apply.
- Questions may be asked from the position in the public gallery.

Recording and Livestreaming of Council Meetings

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- Attendance at the meeting is taken as consent by a person to their image and/or voice being webcast.
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- 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
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 7. Mayoral Minutes
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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

4. Confirmation of Minutes

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 26 August 2021 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 26 August 2021.

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 LEP Amendment Request - Anchorage Avenue, Lennox Head

8. Planning and Environmental Health Division Reports

8.1 LEP Amendment Request - Anchorage Avenue, Lennox Head

Section	Strategic Planning
Objective	To seek Council's direction regarding the initiation of an LEP amendment request relating to land located within the Epiq Estate, sites 2, 6 & 12 Anchorage Avenue, Lennox Head.

Background

Council has received a request to prepare a planning proposal to amend the Ballina Local Environmental Plan (LEP) 2012. Newton Denny Chapelle (NDC) has submitted the request on behalf of the owners of Lots 36-38 DP 1257681, located at 2, 6 & 12 Anchorage Avenue, Lennox Head (the site).

The site is located within the landholding known locally as the 'Epiq Estate'. The Epiq Marketplace shopping centre is situated immediately to the west of the site.

The LEP amendment request seeks Council's support to amend the LEP with respect to zoning and minimum lot size. Currently there are two zones and three differing lot sizes applicable to the site. The LEP amendment aims to rectify the mixed land zoning and minimum lot size over the three lots in order to provide consistency with the approved Concept Plan (Major Project 07_0026).

A copy of the LEP amendment request is included as Attachment 1.

The site is identified by red outline in Figure 1. Table 1 outlines the subject lands and the current land zoning and minimum lot sizes.

Figure 1: Site Location Diagram



8.1 LEP Amendment Request - Anchorage Avenue, Lennox Head

Table 1: Land Holdings Subject to the Planning Proposal

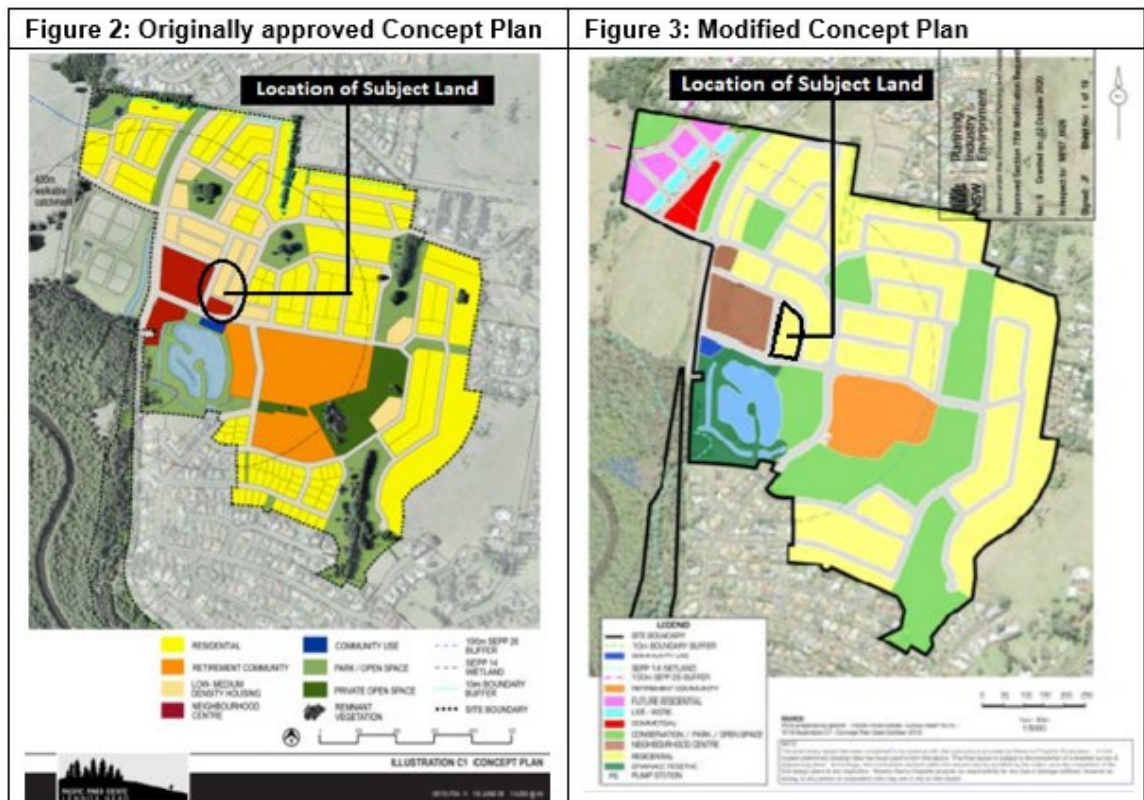
Lot/DP	Property Address	Land Zoning	Min. Lot Size (m ²)
36 / 1257681	12 Anchorage Avenue, Lennox Head	R3 Medium Density Residential	450 600
37 / 1257681	6 Anchorage Avenue, Lennox Head	R3 Medium Density Residential	450 600
38 / 1257681	2 Anchorage Avenue, Lennox Head	R3 Medium Density Residential B1 Neighbourhood Centre	450 600 800

Concept Plan – Major Project 07_0026

On 12 November 2008 the Minister for Planning granted approval to the Pacific Pines Estate (now known as Epiq Estate). In particular, Concept Plan Approval was given for a neighbourhood centre, a retirement community, residential subdivision, medium density housing, areas for revegetation and a road network. Project approval was also given to the first stage of the project.

The current land zonings and lot sizes reflect the Concept Plan land use designation which was current at the time the Ballina LEP 2012 was gazetted. Figure 2 shows the subject land as being designated partly for low/medium density housing and part neighbourhood centre.

The Concept Plan has been modified on several occasions to address the subdivision layout and land use designations over the Epiq Estate. The current Concept Plan (Figure 3) shows the site designated solely for residential land uses.



8.1 LEP Amendment Request - Anchorage Avenue, Lennox Head

As the current Concept Plan provides for the residential use of the subject land, the provisions of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017, Schedule 2, Clause 3B(2)(f) as provided below prevail:

3B(2)(f) the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan.

Accordingly, despite the land containing a mixed zone, including the B1 Neighbourhood Centre over part of the land, the utilisation of the land for residential development under the Concept Plan prevails.

In line with the approved Concept Plan, the subdivision of the land into three residential lots was approved under Development Application 2017/204 on 28 September 2017. The subdivision was ultimately registered in October 2019.

Development consent (DA 2020/618) was subsequently issued on 28 May 2021 for an integrated multi-dwelling development comprising 25 residential dwellings.

However, a review of the development feasibility has resulted in the developer seeking to progress via the subdivision of land into smaller allotments capable of single dwelling or dual occupancy development.

The purpose of this report is to consider the key issues relating to the request and seek the Council's direction regarding the progress of the proposed amendment.

Key Issues

- Processing of LEP amendment request
- Flexibility in the use of residential land
- Diversity in housing forms
- Consistency with outcomes of approved Concept Plan

Discussion

In order to facilitate the orderly and economic development of the land, it is appropriate that the zoning and lot size applicable to the land be amended.

This will facilitate the future subdivision of the site and will remove inconsistencies between the provisions of the BLEP 2012 and the Concept Plan approval which applies to the site.

The thumbnail maps in Figures 4 and 5 show the existing land use zoning and minimum lot sizes applicable to the site, and the proposed amendments to zone boundaries and lot size (as requested by the proponent).

A number of zoning inconsistencies also exist with respect to the adjacent commercial site and adjoining road reserves. These inconsistencies can also be addressed in association with the requested changes.

Figure 4: Existing and Proposed Land Zoning

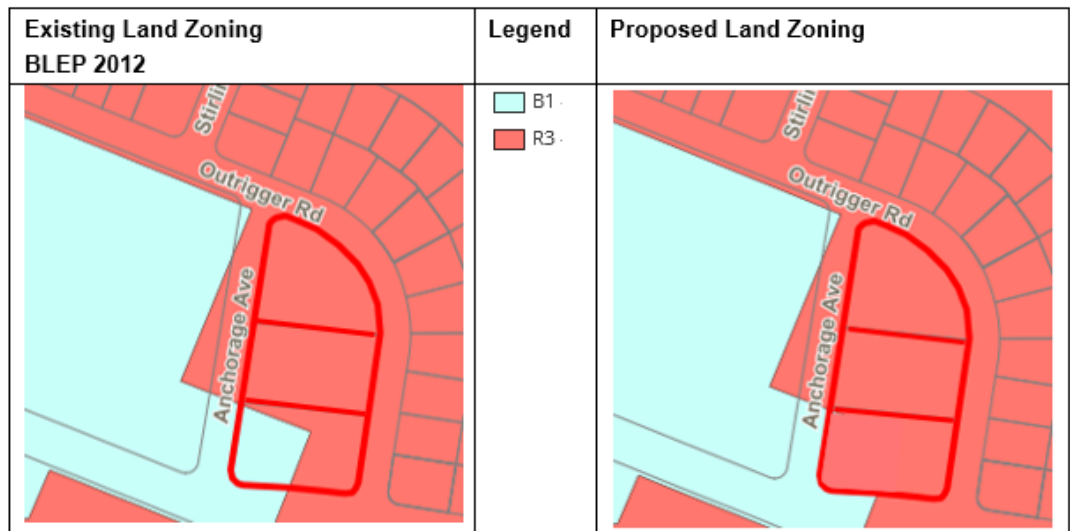
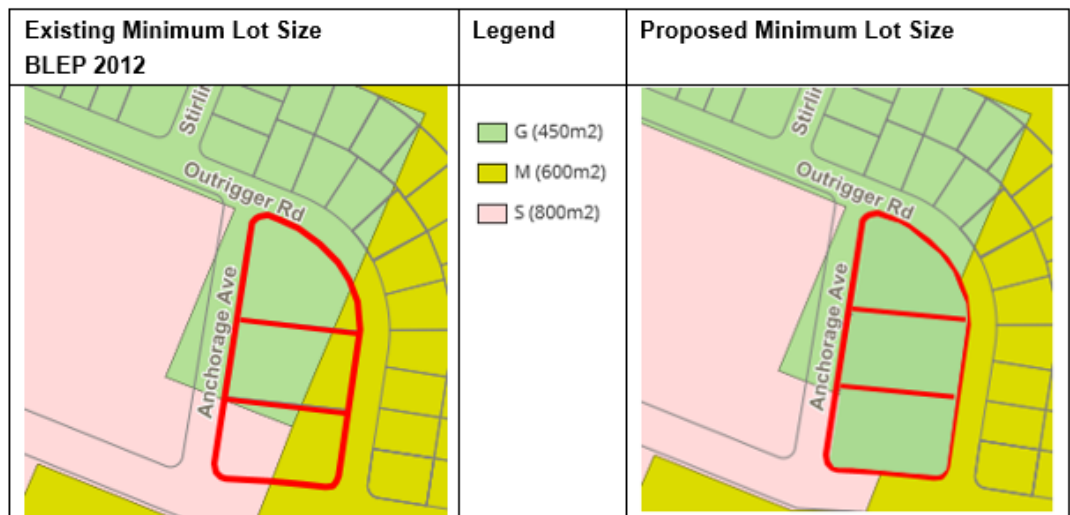


Figure 5: Existing and Proposed Lot Size



The planning proposal is consistent with the following local and regional plans.

North Coast Regional Plan 2036 (NCRP)

The proposal supports the achievement of Direction 23 of the NCRP which encourages housing diversity through the following action:

Action 23.1 - Encourage housing diversity by delivering 40 per cent of new housing in the form of dual occupancies, apartments, townhouses, villas or dwellings on lots less than 400m² by 2036.

Ballina Shire Growth Management Strategy 2012 (BSGMS)

The planning proposal is consistent with the following principles of the BSGMS:

8.1 LEP Amendment Request - Anchorage Avenue, Lennox Head

- *Facilitate opportunities for well-designed higher density residential development in central areas, within proximity to community and commercial facilities.*

Lennox Head Structure Plan 2004 (LHSP)

The subject land falls within the provisions of the LHSP which apply to the Pacific Pines Estate (now known as the Epiq Estate). The key actions for the land prescribed under the LHSP are:

- *That any future development of the site comply with the development principles documented in Section 2.3.3 (NB: these principles include provision of a range of housing types and densities);*
- *That the revised layout include the community and commercial infrastructure envisaged in the current endorsed layout; and*
- *That the revised layout include opportunities for the provision of the southern extension of Hutley Drive as outlined in Section 4.8.3.*

The LHSP envisaged residential development on the subject land and consequently, the Structure Plan informed the initial Concept Plan for the Epiq Estate. The planning proposal is generally consistent with the LHSP.

Recommendation

Having regard to the contents of this report, it is recommended that a planning proposal be prepared. The planning proposal would seek to amend the land zoning of the site to R3 Medium Density Residential and apply a minimum lot size of 450m² to the site.

Once the planning proposal has been prepared it is proposed to seek a Gateway determination from the Department of Planning, Infrastructure and Environment (DPIE) to allow the proposal to proceed to public exhibition.

Council would then be invited to further consider and confirm the merits of the planning proposal and its finalisation following public exhibited.

Delivery Program Strategy / Operational Plan Activity

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

Community Consultation Policy

No community or agency consultation has occurred to date with respect to this matter.

This matter will be subject to the usual community and agency consultation requirements associated with planning proposals and would be subject to the terms of any Gateway determination issued by DPIE.

A minimum public consultation period of 28 days is proposed.

Financial / Risk Considerations

The preparation of a planning proposal can be accommodated within existing resources. Costs associated with the preparation and processing of the planning proposal will be met by the proponent in line with Council's fees and charges.

It is also considered appropriate that delegation of plan making powers be sought from DPIE with respect to this matter.

The legal effect of the LEP amendment would be to enable the lodgement of a development application for subdivision of land to a minimum of 450m² on the land, with various forms of housing permissible within the residential zone.

Options

The following options are presented for Council's consideration:

Option 1 – Council could resolve to prepare a planning proposal to amend the Ballina LEP 2012 to apply the R3 Medium Density Residential zone and 450m² minimum lot size requirement to the subject site (Lots 36-38, DP 1257681).

This option would involve the preparation of a planning proposal for referral to the Department of Planning, Industry and Environment for Gateway determination.

This option is recommended on the basis that the proposed LEP amendments are consistent with the existing pattern of development within the Epiq Estate and more specifically, will provide consistency with the approved Concept Plan for the development site.

Council also needs to determine whether to exercise its delegated plan making functions for this LEP amendment. In this instance it is recommended that Council seeks agreement from DPIE to exercise the plan making delegation.

Option 2 – Council could resolve to decline the planning proposal request.

Adoption of this option would prevent the subdivision of the entire site into smaller allotments capable of single or dual occupancy development.

At this stage this option is not recommended for the reasons outlined in Option 1 above.

Option 3 – Council could defer consideration of the matter.

Should Council require additional information, the matter could be deferred for a briefing or provision of additional details.

This option is not recommended as the proposal has sufficient merit to proceed to preparation of a planning proposal. Additionally, the proposal will be the subject of a further report to the Council once exhibited to allow Council to reconsider the merits of the proposal and its finalisation.

RECOMMENDATIONS

1. That Council proceed to prepare a planning proposal to amend the land zoning and minimum lot size maps of the Ballina LEP 2012 to apply an R3 Medium Density Residential zone and 450m² minimum lot size to Lots 36 – 38, DP 1257681, sites 2, 6 & 12 Anchorage Avenue, Lennox Head.
2. That the planning proposal also make adjustments to the land zoning and minimum lot size in the immediate vicinity of Lots 36 – 38, DP 1257681, sites 2, 6 & 12 Anchorage Avenue, Lennox Head to provide for consistency with approved and constructed subdivision and land use outcomes.
3. That the planning proposal be forwarded to the Department of Planning, Industry and Environment for a Gateway determination.
4. That the Department of Planning, Industry and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.
5. That upon an affirmative Gateway determination being received from the Department of Planning, Industry and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.
6. That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.

Attachment(s)

1. Proponent's Planning Proposal_PP-2021-5092 - 2, 6 & 12 Anchorage Avenue, Lennox Head

8.2 Lennox Head Strategic Plan - 2022/23

8.2 Lennox Head Strategic Plan - 2022/23

Section	Strategic Planning
Objective	To outline the intended method and timeframe for the preparation of a renewed Lennox Head Strategic Plan.

Background

In early 2000, Ballina Shire Council commenced preparation of a place based strategic plan for Lennox Head (inclusive of Skennars Head).

The decision was made in response to significant community interest about how the Lennox Head area should be planned and developed in the future and the provision of appropriate services and amenities.

In 2002 the *Lennox Head Community Aspirations Strategic Plan* was adopted by Council.

The Plan outlined the principles by which development of future residential areas could proceed and listed actions Council would take to facilitate the orderly release of land and the coordination of infrastructure provision.

In 2004 the *Lennox Head Structure Plan* was adopted by Council.

The plan identified potential candidate release areas for urban development and addressed infrastructure provision.

Since the *Lennox Head Structure Plan 2004* was adopted, many of the candidate release areas and the associated infrastructure have been delivered. This has occurred in a manner consistent with the strategic plan and structure plan.

The review of the planning framework for Lennox Head is listed in Council's current Delivery Program and Operational Plan. Preliminary discussion with stakeholders as well as background research has commenced.

The purpose of this report is to outline the proposed approach to the delivery of the strategic plan and seek Council's endorsement of the intended project methodology.

The report also provides an overview of the status of the actions and outcomes contained in the 2002 strategic plan and 2004 structure plan.

Key Issues

- Definition of the plan area
- Scope of matters to be addressed
- Consultation and timeframe

Discussion

A review of both the Lennox Head Community Aspirations Strategic Plan 2002 and the Lennox Head Structure Plan 2004 has been completed. Copies of the adopted plans are contained in Attachments 3 and 4.

The purpose of the review is to outline the progress in delivering on the actions in these plans and to inform the scope of the Lennox Head Strategic Plan 2022/23.

The rate of residential development occurring in Ballina Shire is currently above that required to meet the dwelling targets set out in the North Coast Regional Plan 2017.

A substantial portion of this development has occurred in the Lennox Head and Skennars Head areas since the adoption of the regional plan.

A detailed review of the strategic actions in the Lennox Head Community Aspirations Strategic Plan 2002 is provided in Attachment 1 to this report. A review of candidate release areas in the Lennox Head Structure Plan 2004 is provided in Attachment 2 to this report.

Project Scope

The Lennox Head Strategic Plan 2022/23 will have a twenty year horizon with aims to:

- Recognise and define the character of existing precinct areas and plan for connectivity between precincts.
- Identify any further greenfield development opportunities and protect key sites to maintain rural scenic amenity and inter-urban breaks.
- Articulate community needs in relation to education, community services, open space and community facilities.
- Identify areas of environmental significance and opportunities for environmental enhancement.
- Articulate the need for employment lands within the plan area, define specific sites for potential rezoning and outline the preferred mix of uses.
- Identify infrastructure needs such as car parking.
- Identify opportunities for the recognition and celebration of cultural heritage (Indigenous and European).
- Reflect the strategic intent of the Ballina Coastal Reserve Plan of Management, Lennox Head village centre upgrade and the Lake Ainsworth Management Plan 2020.

The proposed plan area will include the Lennox Head village and residential surrounding areas (including Fig Tree Hill) and Skennars Head.

8.2 Lennox Head Strategic Plan - 2022/23

Timeframe

The Lennox Head Strategic Plan 2022/23 is proposed to progress through the following four phases:

Phase 1 November 2021 – May 2022	Phase 2 June – August 2022	Phase 3 September 2022 – Jan 2023	Phase 4 February – May 2023
Technical Research Phase	Initial Consultation Phase	Plan Drafting Phase	Public Exhibition and Council Adoption Phase
Deliverable: Councillor briefing outlining policy data and ideas	Deliverables: <ul style="list-style-type: none">• Community Planning team workshops• Targeted stakeholder meetings and• Council listening booth	Deliverables <ul style="list-style-type: none">• Councillor briefing• Draft Lennox Head Strategic Plan to Council	Deliverables <ul style="list-style-type: none">• Public exhibition• Post exhibition report to Council with Final Plan for adoption

Delivery Program Strategy / Operational Plan Activity

A review of the planning framework for Lennox Head is identified in Council's Delivery Program Operational Plan 2021-2025 as follows:

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

HE3.1e Review of the Planning Framework for Lennox Head

Community Consultation Policy

A rigorous community consultation strategy is proposed for this project.

Following the four phase approach outlined above, the following community consultation phases and activities are proposed:

Phase 2 - Initial Consultation Phase

The formation of a Community Planning Team including representatives from key organisations within Lennox Head to engage in workshops with the purpose of providing relevant background and planning context, identifying key issues and developing options for key policy areas.

Several one-to-one stakeholder meetings are also intended to present research and explore specific policy options with concerned and affected stakeholders.

For the general community a Council listening booth (COVID permitting) at central locations in Lennox Head is planned to encourage general feedback and discussion with a broad range of community members.

Phase 4 - Public Exhibition Phase

The draft Lennox Head Strategic Plan 2022/23 will be placed on public exhibition for a minimum six week period and public submissions invited.

8.2 Lennox Head Strategic Plan - 2022/23

Information boards will be produced and displayed in central locations and events in Lennox Head. Online engagement information and submission processes will be developed.

Financial / Risk Considerations

It is estimated that the cost of the plan preparation including community engagement initiatives and resources will be in the order of \$20,000. This cost can be met from the existing strategic planning budget.

Options

Options available to progress this matter include the following:

1. *Endorse the scope and timeframe of the preparation of the Lennox Head Strategic Plan 2022/23 in accordance with the details in this report.*

This is the preferred option as it supports the continuation of this project within available resources.

2. *Endorse the preparation of the Lennox Head Strategic Plan subject to any amendments Council may wish to make with respect to the proposed project scope or timeframe.*

Whilst not recommended, this option is provided should the elected Council wish to identify changes to the proposed approach particularly with respect to the project scope and/or timeframe.

3. *Defer the preparation of the Lennox Head Strategic Plan 2022/23.*

This approach is not recommended on the basis that the review of the strategic plan for Lennox Head is timely having regard to pace of change currently occurring, the progression of the village centre upgrade works, that the previous plan's objectives have largely been achieved and in order to meet timeframes outlined in Councils' Operational Plan.

RECOMMENDATIONS

1. That Council notes the outcomes of the Lennox Head Community Aspirations Strategic Plan 2002 and the Lennox Head Structure Plan 2004 outlined in Attachments 1 and 2 to this report.
2. That Council endorses the scope and timeframe for making the new Lennox Head Strategic Plan.

Attachment(s)

1. Review of Lennox Head Strategic Plan 2002
2. Review of Lennox Head Structure Plan 2004
3. Lennox Head Community Aspirations Strategic Plan - BSC - November 2002 (Under separate cover)
4. Lennox Head Structure Plan - Ballina Shire Council - 2004 (Under separate cover)

8.3 Companion Animals Management Plan - Adoption

8.3 Companion Animals Management Plan - Adoption

Section Public and Environmental Health

Objective To consider submissions following the public exhibition of the revised Companion Animals Management Plan and seek direction on the finalisation and implementation of the plan.

Background

Council at the 27 May 2021 Ordinary meeting resolved to place on public exhibition the draft Companion Animals Management Plan following a revision of the current plan.

The draft plan was placed on public exhibition with a closing date of 11 August 2021. 33 submissions were received, copies of which are contained in Attachment 2.

17 of these submissions were in objection to the change of use at the reserve named Killarney Park located at the end of the cul-de-sac in Cromwall Place, Wollongbar. The proposal was to change the area from being a children's playground to an off leash dog exercise area.

There are six submissions supporting the plan, including the creation of an off leash dog exercise at Killarney Park.

Eight of the submissions propose the banning of dogs from sporting events and some of these are also requesting Council consider the provision of an open green space within Ballina Island that is a no dog zone. This is to allow people to have an opportunity to recreate and picnic without dogs.

One submission supports dogs being allowed at sporting events, however on leash and under the responsibility of their owner.

One submission requests that Council have a better process to enable the identification of deceased cats and dogs located in public spaces to enable owners to be identified and notified. The review of Council's current process in this regard has already commenced and any improvements will be made accordingly.

The purpose of this report is to provide an overview of the public exhibition process and seek direction on the finalisation of the revised Companion Animals Management Plan.

Key Issues

- Content and direction of the plan
- Address submissions including consideration of off leash dog exercise area at Killarney Park

8.3 Companion Animals Management Plan - Adoption

Discussion

The draft plan was exhibited for a period of 28 days to allow for public comment.

The exhibition was notified via Council's website and by way of community notices.

Copies of the document were made available at Council's Community Access Points.

Of the 33 submissions were received, the majority of issues raised suggest that the policy might be improved in respect to removing at this stage the concept to create an off leash dog exercise area at Killarney Park.

Table 1 provides an overview of the concerns raised in submissions relating to Killarney Park.

Killarney Park was identified as a possible off leash dog exercise area as Council is currently undertaking the construction of Wollongbar District Park, which will be located within 100m with Killarney Park. Hence new playground facilities will be available in the locality in the near future.

In relation to the Killarney Park play equipment, regardless of the Companion Animals Management Plan, it is appropriate that consideration be given to alternative uses within Killarney Park, particularly having regard for the existing playground catchment criteria applied by Council (this aims to have playgrounds located to serve catchments with on the basis of a 500m radius).

This will be further examined at the next review of the Playground Upgrade Plan, which is planned for commencement in late 2021.

Submissions on off leash dog exercise areas also raised the use of the Wollongbar Sports Fields (summarised in Table 1).

There is currently no available space identified within the Wollongbar Sports Fields complex suitable for a defined off leash dog exercise area. This is due to space being dedicated for sporting activities or required as a consent condition for the provision of parking.

Specifically, some of the submissions highlighted an area at the Wollongbar Sports Field Complex which is located to the west of the ovals.

However this is dedicated as an overflow car parking area and is a requirement under the consent for the use of the sporting complex.

There is support identified in the submissions for additional dog facilities and areas where dogs and their owners can exercise freely and that further investigation should be undertaken to identify potential alternative locations in the Wollongbar / Alstonville precinct.

In this regard additional consideration can be given to the current dog off leash exercise area at Gap Road and embellishments that potentially could be undertaken to improve access and opportunities on site for exercising dogs.

8.3 Companion Animals Management Plan - Adoption

Table 1: Summary of key items raised in the majority of submissions relating to the proposed off leash dog exercise area

Key Items from Submissions	Concerns
Killarney Park as an off leash dog exercise area	<ul style="list-style-type: none"> • Loss of playground and recreational space for children and families in the housing estate. • That this playground supports a lot of use and allows for people to have access to additional park areas. • Concerns with traffic safety and the crossing of Rifle Range Road to access other recreational spaces. • Limited space and too small to facilitate dog exercise adequately. • Park areas should facilitate separate areas for large and small dog breeds. • Located too close to residential housing. • Traffic concerns and limited parking in cul-de-sac. • Odour and smell concerns from dog faeces. • Inadequate waste provision. • Noise from dogs barking and disturbance on dogs owned by adjoining properties. • General disturbance to amenity of the adjoining residence and neighbourhood. • Provision of fencing to separate park from other fencing of adjoining residences. • Lack of maintenance of the area that may create ongoing problems.
Create an off leash dog exercise area at Wollongbar Sports Fields	<ul style="list-style-type: none"> • This area is already popular for people to exercise with their dogs. • Has more opportunity to facilitate a larger exercise space. • Doesn't immediately adjoin residential properties. • Opportunity for greater car parking.

Based on the issues raised, reference to Killarney Park as a possible off leash dog exercise has been removed from the recommended plan.

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

It is recommended that Council further investigate alternative sites and options for off leash dog exercise areas in Wollongbar and Alstonville.

This is reflected in the actions contained within the plan.

Turning to other matters raised in the submissions, the prohibition of dogs at sporting events and sporting fields is not considered feasible, and reasonable, at this time.

Further consideration though may need to be given to this at future reviews.

8.3 Companion Animals Management Plan - Adoption

If this was to be given further consideration by Council then additional consultation should be undertaken with all sporting clubs and their members by way of a topic specific and stakeholder group targeted process.

It is recommended that Council write to sporting groups to encourage them to educate and inform their members of their responsibilities in relation to bringing dogs to events.

Dog owners need to be responsible at all times to ensure everyone in the community feels safe and this principle is reinforced throughout the Companion Animals Management Plan and State Government legislation.

With respect to playground areas, Council signage at children's playgrounds does include no dogs within 10 metres of a playground restriction as regulated by the Companion Animals Act 1998.

An audit of this signage will be undertaken to ensure all signage is clear and correct.

In addition, Council received after the closing of the exhibition period correspondence from two members of the community, one requesting Angels Beach be considered as an off leash dog exercise location and the other submission requesting dogs be banned from Angels Beach.

The discussion around Angels Beach as a dog exercise area has been debated for many years and a mixture of views and opinions exist for this location.

Currently the status quo is supported, being dogs are allowed on leash, in this area. Rangers have increased their presence in coastal reserves and in particular along Angels Beach, Flat Rock Beach and Sharpes Beach.

This presence is to support responsible dog ownership and ensure dogs remain on leash and under the correct supervision and effective control.

Delivery Program Strategy / Operational Plan Activity

The review of the Companion Animals Management Plan relates to the following elements of the current Delivery program and Operational Plan:

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

The draft policy was placed on public exhibition with the closing date of Wednesday 11 August 2021.

Copies of the submissions are contained in Attachment 2.

Financial / Risk Considerations

The draft plan has been prepared using existing funding.

The plan provides a framework for the operations of Council in relation to legislative requirements for companion animal management.

Where additional facilities are identified through the actions of the plan these are considered on a case by case basis in relation to operating budgets, the annual budget cycle and the long term financial plan.

Options

Option 1 - Council can adopt the policy as exhibited and retain the proposal to change the use of Killarney Park.

Option 2 - Council can amend and adopt the plan as contained in Attachment 1 (or with other amendments as considered appropriate). This option removes the reference to Killarney Park as an off leash dog exercise area at this time.

Option 3 - Council can determine to not adopt the policy or to defer adoption of the plan.

Option 2 (adopting the amended plan as attached to this report) is the recommended approach. Under this approach, Council would continue to apply companion animal management strategies similar to those applied in the recent past.

As part of the implementation of the revised plan, it is recommended that Council undertake a community education program in relation to responsible pet ownership.

This would have a particular focus on coastal areas and beaches given observed usage patterns and the popularity of these areas in relation to the circumstances associated with COVID-19.

Option 1 is not recommended having regard for the issues raised in the submissions received.

Option 3 is not recommended as there are no outstanding issues associated with the overall plan and the plan has been well recognised and administered in the community for several years.

8.3 Companion Animals Management Plan - Adoption

RECOMMENDATIONS

1. That Council adopts the Companion Animals Management Plan, as contained in Attachment 1 to this report.
2. That Council provide public notice of the adoption of the Companion Animals Management Plan.
3. That Council investigate embellishments to the design and access arrangements for the current off leash dog exercise area located at Gap Road, Alstonville.
4. That Council undertake a public education program regarding companion animal ownership responsibility with a particular focus on coastal areas and beaches.
5. That Council write to sporting clubs and playing field users to provide companion animal management educational material and encourage responsible pet management amongst members and field users.

Attachment(s)

1. Companion Animals Management Plan – Final (under separate cover)
2. Companion Animals Management Plan - Submissions

8.4 Policy (New) - Biodiversity Compensatory Habitat and Offsets

8.4 Policy (New) - Biodiversity Compensatory Habitat and Offsets

Section	Strategic Planning
Objective	To report on the outcomes of the public exhibition of the draft Biodiversity Compensatory Habitat and Offsets Policy and seek direction on the adoption of the policy.

Background

Council, at the 22 July 2021 Ordinary meeting, considered the (New) Biodiversity Compensatory Habitat and Offsets Policy and resolved as follows:

- 1. That Council adopts the Biodiversity Compensatory Habitat and Offsets Policy, as per Attachment 1, to this report.*
- 2. That Council place this policy on exhibition for public comment for a minimum period of 28 days, with any significant submissions received to be resubmitted back to Council. If no significant submissions are received then no further action is required.*

The draft policy was placed on public exhibition for 28 days with the closing date of 1 September 2021. Three submissions were received, copies of which are provided in Attachment 2.

This report presents a summary and analysis of the public exhibition submissions and recommends a series of changes to the policy for adoption and implementation.

Key Issues

- Submissions review
- Improvements to wording for application and interpretation
- Outline of amendments made to draft policy

Discussion

The draft policy document was exhibited for a period of 28 days for public comment. The exhibition was notified via Council's website and by way of community notices.

Three submissions were received in response to the exhibition of the Biodiversity Compensatory Habitat and Offsets Policy. Copies of all submissions are provided in Attachment 2.

A summary of the submissions and the response is provided in Table 1. A copy of the amended policy (as recommended for adoption) is included as Attachment 1 of this report.

8.4 Policy (New) - Biodiversity Compensatory Habitat and Offsets

Table 1: Submissions Summary

Submission 1	Ballina Environment Society (BES)
Submission comment	<ol style="list-style-type: none"> 1. Ballina Environment Society (BES) congratulates Ballina Shire Council's (BSC) attempt to create 'an effective, efficient, and transparent framework' for biodiversity offsetting. 2. BES states that biodiversity offsets too often provide a loophole for development of ecologically and culturally significant land and as such should not be considered or enacted without great care. 3. The Policy should state explicitly that the policy does not over-ride the provisions of Ballina Local Environmental Plan 2012 (BLEP 2012) including the overlay of Environmental Zones from Ballina Local Environmental Plan 1987 (BLEP 1987), rather than '<i>in association with the provisions of the Ballina Local Environmental Plan 1987...</i>' The wording should clearly state there is no provision to provide an offset for, or on, existing Environmental Zoned land. 4. BES does not agree that there should be any triggers to reduce the required Biodiversity Offset ratios for Public Works, especially for economic benefits (such as improved transit times from road network upgrades). 5. BES questions the need for the policy to prescribe an exemption to the reduced ratios for 'Important Habitat Features' and asks what future decisions could determine to be 'in relation to maintenance works'. BES requests this phrase be removed if reduced habitat offsets are retained and that no reduction should be applicable for Very High Biodiversity Value habitat as it is for Koala habitat. 6. BES congratulates BSC for proposing higher ratios than surrounding councils, but BES questions where the rehabilitation ratios originated given that CSIRO research has found: "<i>Major species include koalas, the red-tailed black-cockatoo, and the green and golden bell frog which required 19 times more habitat to achieve no net loss.</i>" 7. The principle a preventing serious and irreversible impact should be the first and primary objective of the Policy. 8. BES also stresses that, if the Policy is progressed, appropriate security of tenure terms for offsets proposed outside the Development Application area should be prescribed, e.g. land purchased by Council or covenant on land title. 9. BES suggests that a schedule for review of the progress of works should be prescribed, along with requirements to notify any change to the Management Plan or contractors involved in the works, and prescribe penalties for failure to comply with the offset management plan. Compliance and enforcement are recognised as key design and implementation features in the OECD Biodiversity Offsets Effective Design 10. BES references and agrees with reports from Greenpeace, Society for Conservation Biology and Nature Conservation Council, regarding the failure of biodiversity offsetting and the many instances where biodiversity offsetting has failed to deliver a net environmental benefit. 11. In summary, If BSC proceeds with a Biodiversity Offset Policy, the draft needs to be modified to include: <ol style="list-style-type: none"> a. The principle a preventing serious and irreversible impact should be the first and primary objective of the Policy.

8.4 Policy (New) - Biodiversity Compensatory Habitat and Offsets

	<ul style="list-style-type: none"> b. No possibility of offsets for, or in, Environmental Zones defined in the Ballina Environmental Plan. c. No reductions or exemptions. d. Prohibit offsets for Very High Biodiversity Vegetation areas. e. 19:1 for High Biodiversity Vegetation. f. Limits on the total % of area and the total area a development can offset. g. Quota of 20:1 for old growth, hollow-bearing or ecologically significant trees. h. Prescribed compliance and enforcement measures. i. Prescribed terms for security of tenure. j. Inclusion of cultural heritage and appropriate liaison with First Nation Representatives in management plans. k. Offsets established prior to approval of destructive activities.
Response	<ol style="list-style-type: none"> 1. Acknowledged. 2. The majority of development proposals (Part 4) will be captured and assessed under the state Biodiversity Offsets Scheme (BOS). This policy seeks to create a formalised biodiversity offsetting pathway for development proposals which are not captured by other development assessment pathways. The policy also applies to Part 5 development works carried out by or on behalf of Council and sets a clear framework and expectation in relation to when offsets can be used and how they are to be applied (where they are deemed acceptable). 3. This policy will not override either of the BLEPs or DCP. This policy will continue to be applied in association with the listed instruments where provisions of these instruments are applicable. During the development assessment process, biodiversity offsets can only be accepted where appropriate - in accordance with the policy. The proponent is required to provide an analysis of the proposed development with respect to the principles of avoid, minimise and mitigate. This must include reasoning as to why an offset is sought over avoidance of the identified impacts. Consideration of offset sites on a case by case basis is intentionally enabled in the policy. With respect to environmental protection zoned areas, there are scenarios where rehabilitation of environmental protection zoned land can result in a sound ecological outcomes (such as restoration of public areas of coastal land, reforestation of scenic escarpment areas that are currently grazed). 4. No changes is proposed to the biodiversity offset ratios for public works in recognition of the balancing of the typical public benefits associated with public works. However, the policy has been adjusted to clarify that public works do not include development for commercial purposes (e.g. commercial enterprises of Council such as the airport) and minor changes to the wording in the public works section have been made. 5. See response to point 4 above. 6. It is acknowledged that there are various views on what constitute optimal offset ratios. The proposed ratios are based on an analysis of the approach taken by other councils and Council's experience in preparing the Ballina shire Koala Management Strategy. No changes to the ratios are proposed.

8.4 Policy (New) - Biodiversity Compensatory Habitat and Offsets

	<p>7. This policy is not designed to enable an offset in all circumstances. This policy will only apply to developments where an offset is deemed appropriate through the development assessment process. Impacts will be evaluated by Council officers during the development assessment process.</p> <p>8. Agreed. Where an offset is appropriate, the proponent is required to demonstrate security of tenure to enable the required offset works and ongoing maintenance of the works.</p> <p>9. Compliance initiatives with respect to offset works will be undertaken as resources permit.</p> <p>10. It is recognised that there are different views about the suitability of offsets from a conservation perspective. This policy has sought to be clear about when offsets can be utilised and if they are used, how this is to be done.</p> <p>11. The points raised in item 11 of the BES submission are addressed in the responses above.</p>
Submission 2	Joanna Osborn
Submission comment	1. Suggests Council should protect as much intact habitat along the Lennox/Ballina coast as possible. Habitat fragmentation is evident along the coast and retaining small patches of habitat on development sites is noble but ineffective. Suggests vegetation should become a national park.
Response	1. The Biodiversity Compensatory Habitat and Offsets Policy supports Council's role in protecting and enhancing our natural assets by setting out the circumstances where offsets are enabled and how they are to be carried out. Council also uses other mechanisms such as environmental protection zoning and development control plan based provisions to address vegetation preservation and retention with the bounds of NSW State Government legislation.
Submission 3	Claudia Greenhalgh
Submission comment	1. Supports the changes proposed by the Ballina Environment Society. There should be more explicit wording to prevent the degradation of land and ecosystems for financial gain by developers.
Response	1. Noted. This policy is not designed to enable an offset in all circumstances. Environmental impacts (including whether an offset is appropriate) will be evaluated by Council officers during the development assessment process.

Based on information received throughout the exhibition period (including further feedback from staff) the following key amendments were made to the policy as exhibited in Attachment 1;

- Definition of key terms via footnotes
- Inclusion of offsetting ratios for indirect impacts
- Additional text relating to offset plan content requirements and plan duration
- Various wording amendments throughout to improve clarity and interpretation.

Importantly, this policy is not designed to enable an offset to be used to mitigate ecological impacts in all circumstances.

8.4 Policy (New) - Biodiversity Compensatory Habitat and Offsets

This policy serves to provide clarity as to when an offset can be considered and what is required to justify and offset, as well as provide clarity in the application of an offset through consistent ratios and implementation requirements.

Delivery Program Strategy / Operational Plan Activity

The Biodiversity Compensatory Habitat and Offsets Policy is not specifically identified in Council's adopted Delivery Program and Operational Plan.

However, this policy is part of broader biodiversity initiatives. This policy supports delivery of a biodiversity strategy for the shire, being Delivery Program and Operational Plan action - *HE3.2h – Prepare a Biodiversity Strategy*.

Community Consultation Policy

The draft policy was placed on public exhibition for 28 days with the closing date of 1 September 2021.

Financial / Risk Considerations

The policy will assist Council employees, developers and consultants by providing information on compensatory habitat offset requirements and obligations in Ballina Shire.

Finalisation and implementation of the policy can be undertaken within existing resources.

Options

Option 1 - Council can adopt the policy, as amended, in Attachment 1

This approach is recommended.

The policy was placed on exhibition for 28 days with submission now summarised above in Table 1.

A series of changes have been made to the policy to improve clarity and interpretation.

Option 2 - Council can further amend and adopt the policy as attached to this report.

Council may adopt the policy with further amendments.

This approach is not recommended given that the policy has already been placed on exhibition and various amendments are recommended.

Option 3 – Defer a decision

Council could defer this matter in order to seek additional information, or to consider amendments.

8.4 Policy (New) - Biodiversity Compensatory Habitat and Offsets

This approach is not recommended as the issues arising from the public exhibition process have been suitably addressed, including through a number of changes to the policy text.

RECOMMENDATION

That Council adopts the Biodiversity Compensatory Habitat Offsets Policy, inclusive of amendments outlined in this report, and as contained in Attachment 1.

Attachment(s)

1. Policy (New) Biodiversity - Compensatory Habitat and Offsets - As Amended
2. Biodiversity Compensatory Habitat and Offsets Policy - Submissions

8.5 Development Applications - Works in Progress - September 2021

8.5 Development Applications - Works in Progress - September 2021

This report provides an overview of current development application activity. Year to date as well as comparative year data is provided to identify trends and key information.

The data for the current year is to the end of the month prior to the date of this report (i.e. this report provides data to the end of August 2021).

Development Applications not yet determined that have been under assessment for a period of greater than 90 days is attached.

The 90 day threshold has been chosen as it provides a good indication of the volume of DAs that are in progress and overall workload, noting that many DAs are determined within a much shorter timeframe.

The data and reporting is currently being refined and it is expected that further information will be presented in future reports.

There may also be adjustments that result in minor alterations to the data sets as the reporting is improved and reviewed.

Outstanding DAs by Month

The following table provides an indication of the number of DAs (including modifications) under assessment with reference to various timeframes. This gives an indication of assessment timeframe trends.

Assessment Timeframe	2021							
	Jan	Feb	Mar	Apr	May	Jun	July	Aug
More than 365 days	54	52	49	48	46	43	42	40
180 to 365 days	69	70	72	67	61	52	47	41
90 to 180 days	61	72	108	146	178	174	144	106
Less than 90 days	97	93	83	88	89	108	108	151
TOTAL	281	287	312	349	374	377	341	338

Since May there has been a reduction in the numbers of applications that have been under assessment for more than 90 days.

The increase in the number of applications under assessment for less than 90 days in August reflects the progression of applications through the NSW Planning Portal.

The portal system was introduced in late June and applications flow through this system differently compared to the previous lodgement process.

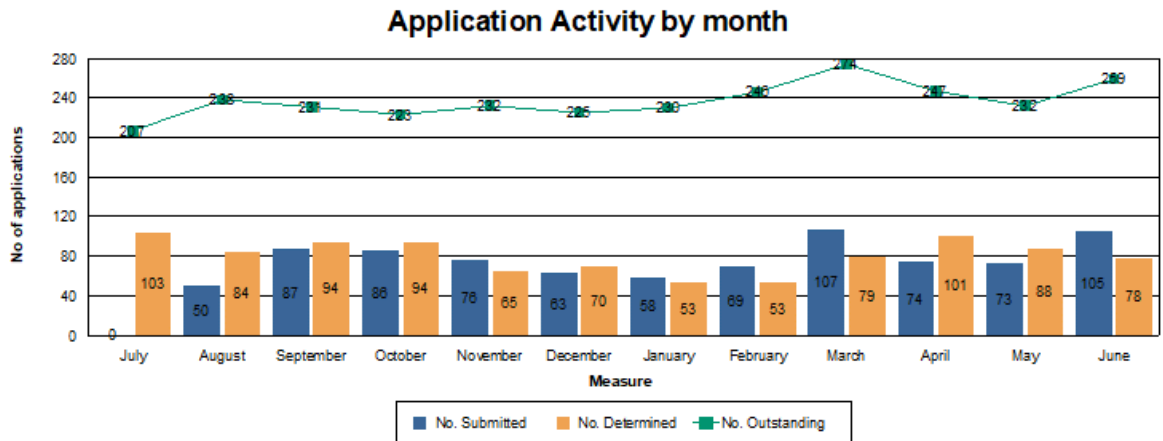
A number of applications were submitted in July but not accepted as lodged, until August 2021.

8.5 Development Applications - Works in Progress - September 2021

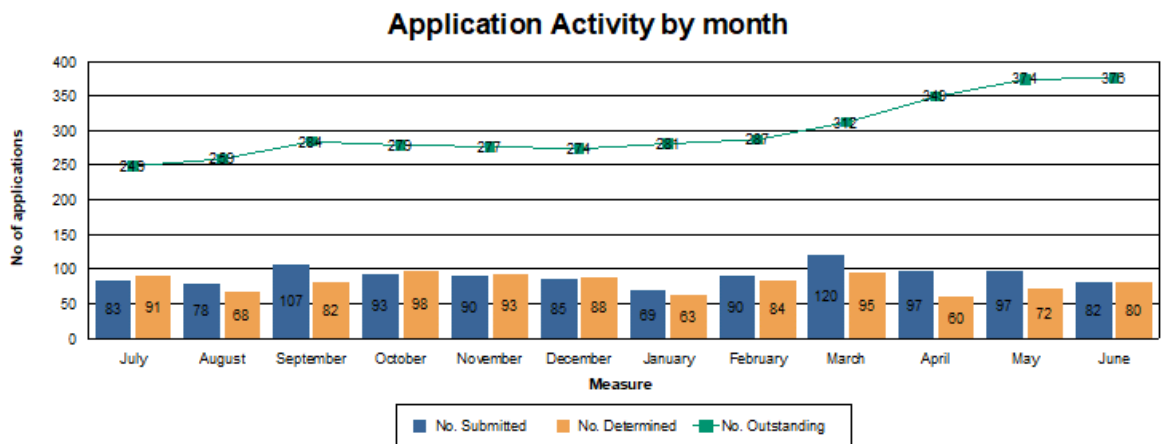
DA Determination Trend (Financial Year Comparison)

The following charts indicate the volume of DAs received and determined by month as well as the total number of applications not determined.

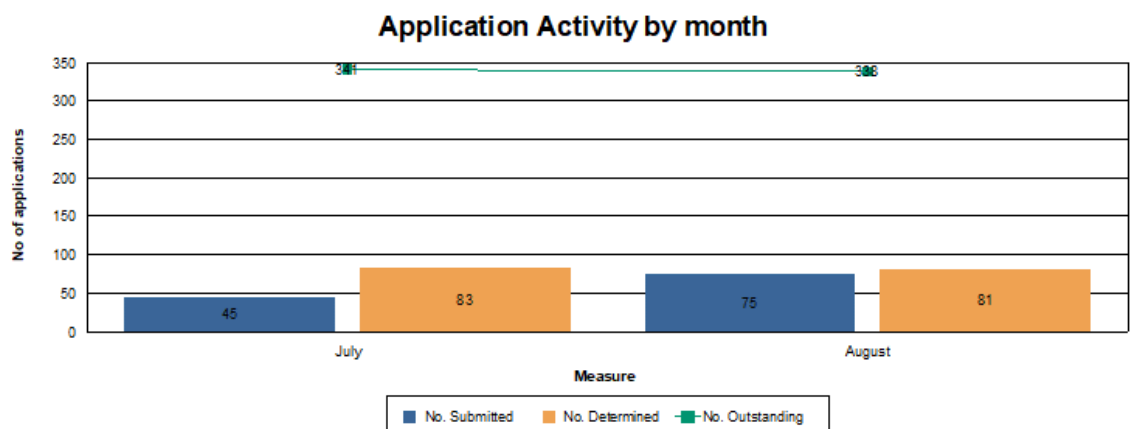
2019/2020 Year



2020/2021 Year



July-August



8.5 Development Applications - Works in Progress - September 2021

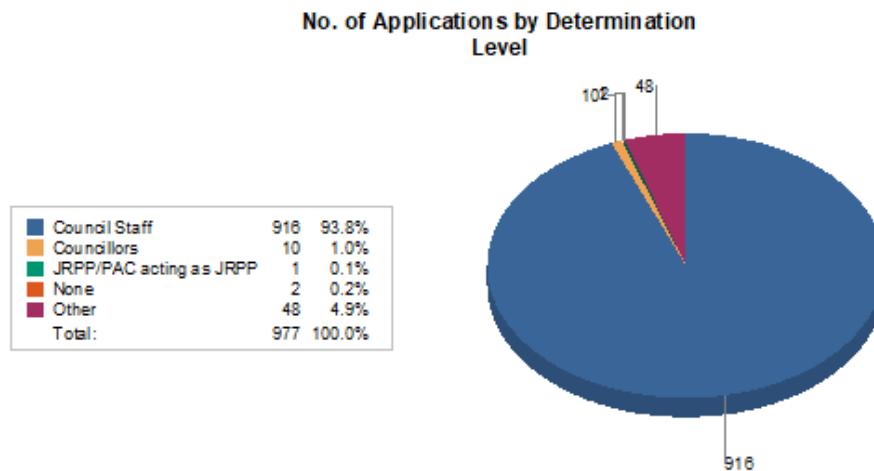
Since March 2021, there has been an increasing number of DAs remaining undetermined in Council's assessment system. This is a reflection of volumes and complexity as well as some position vacancies. The current volume of undetermined DAs is consistent with numbers reported by Tweed and Byron Shire Councils.

Determination Method

The following pie charts provide an overview as to how applications are being determined.

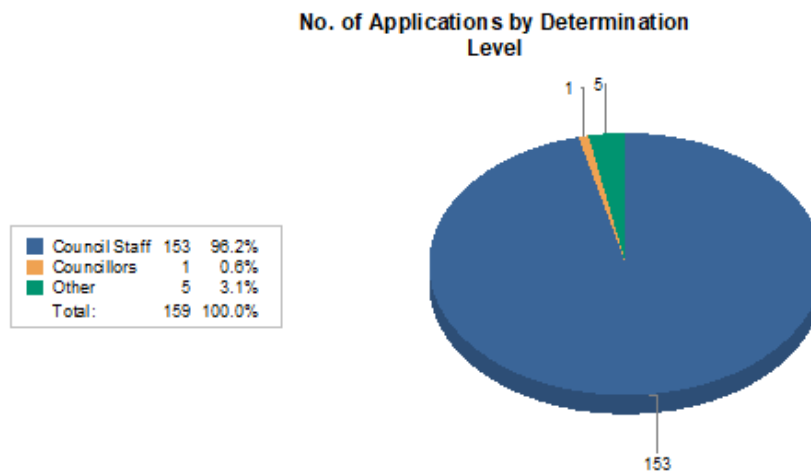
'Other' denotes applications withdrawn. 'None' denotes applications rejected. In both cases, the applications do not progress to determination.

2020/2021 Year



The percentage of applications determined under delegation for 2020/21 was 98.9% (not including 'other' and 'none' as these applications do not progress to determination). The percentage of total applications resolved by staff under delegation was 99%.

July and August 2021



8.5 Development Applications - Works in Progress - September 2021

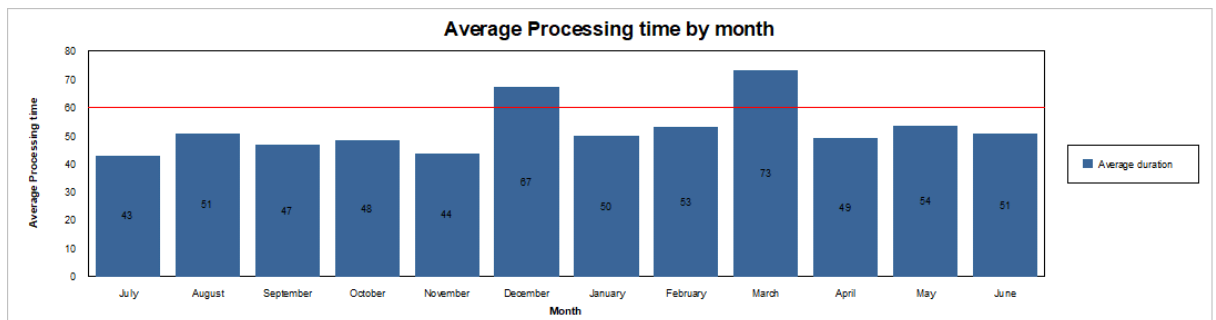
In the current financial year to date, 99.35% of applications have been determined under delegated authority.

The target for the percentage of applications determined under delegated authority in the 2021/22 Delivery Program and Operational Plan is > 95%.

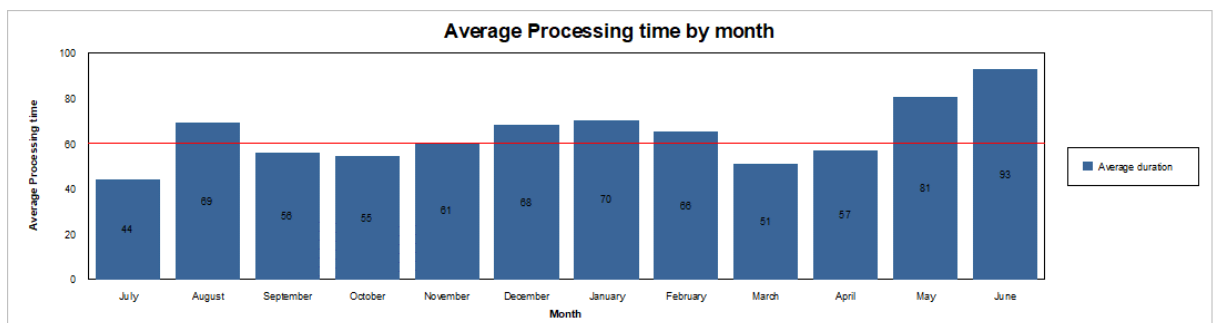
Processing Time

The following indicates average processing times for DAs by month. In the charts the red line depicts the average monthly processing time adopted in the 2021/22 Operational Plan.

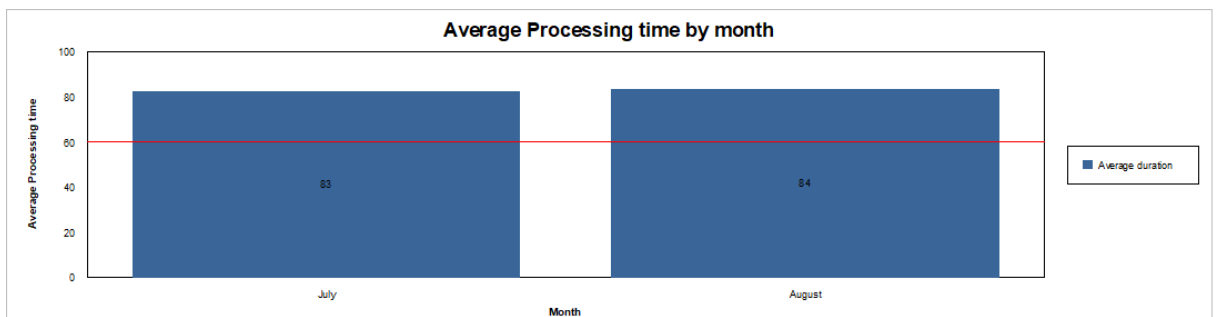
2019/2020 Year



2020/2021 Year



July & August 2021



Current processing times are a reflection of the volume and complexity of applications.

8.5 Development Applications - Works in Progress - September 2021

There have also been a number of older DAs determined recently, which has contributed to the higher average determination times since May 2021.

Total DA Volume

The next table provides an indication of the total volume of DAs annually. The figures are for DAs and section 4.55 modifications and do not include complying development certificates.

	Year				
	17/18	18/19	19/20	20/21	21/22 YTD
No. of DAs Received	861	890	976	1,093	122
% Change	N/A	+3.37%	+9.66%	+12%	N/A

Relativity with Other Local Government Areas

Information in the table below is provided for the most recent financial year based on the Local Development Performance Monitoring Data published by the Department of Planning Industry and Environment. Figures include DAs, modifications and Complying Development Certificates. This data is the same as that provided in the July 2021 report.

2018/2019 Year

	LGA							
	State	Ballina	Tweed	Coffs Harbour	Port Macquarie	Lismore	Byron	Richmond Valley
Total No. of Applications	103,894	944	1,335	1,288	1,594	571	938	304
Total No. of Determinations	101,855	935	1,250	1276	1,591	571	913	301
Average Determination Time	72	54	65	60	53	66	88	44
No. DAs Determined per EFT Staff	49	109	38	104	133	49	67	39
Value	\$59.59B	\$358M	\$262M	\$214M	\$436M	\$184M	\$195M	\$60M

The above data is as reported by each council to the DPIE. There is likely to be some aspects of the information that is not standardised (e.g. staffing numbers relative to applications) as each council may report differently. It is not possible to determine from the data where these points of data difference may occur. Therefore, the above should be considered as a general guide.

DAs Called in for Determination by Council

The following table lists DAs that have been called in for determination by the elected Council.

8.5 Development Applications - Works in Progress - September 2021

DA Number	Summary
DA 2020/839	Lodged: 16 December 2020 Applicant: Newton Denny Chapelle Overview: Multi-Dwelling Housing and Strata Title subdivision of three single storey dwellings and associated works – 51 Habitat Way, Lennox Head Called in by Council: 28 January 2021 (Resolution No. 280121/8) Status: Determination pending (see comments below)

DA 2020/839 was lodged with Council on 15 December 2020. The DA is for a multi dwelling housing development comprising three attached dwellings with subsequent Strata Title subdivision. The application was called up to be reported to Council for determination at the January 2021 Ordinary meeting (Resolution No. 280121/8). This resolution was made shortly after lodgement and at the commencement of the assessment process for the application.

Under the provisions of Council's Community Participation Plan, the application was notified according to Level 2 Three Step Notification. During the notification period (13 January to 29 January 2021) two submissions were received, which were signed by 15 residents from Karalauren Court, objecting to the development.

The key issues raised by the submissions related to inconsistency with surrounding character and over-intensification (adjoining properties with single dwellings on larger lots), stormwater drain (eastern unit adjoining open stormwater drain – concerns regarding stability of drain), unsuitable landscaping and private open space, lack of privacy and noise pollution.

A review and assessment of the application raised several issues with the application. The key issues raised by Council staff related to:

- non-compliances with landscaped open space requirements; and
- the eastern wall of Dwelling 3 adjoining the existing open rock lined drain, with no access way along the eastern side.

The proposal has been modified through the preparation of amended plans, which has resulted in a reduced development footprint thereby achieving compliance with the landscaped open space requirements in Chapter 4 of Council's DCP and also separation between the eastern wall of Dwelling 3 and the existing open rock lined drain and easement (similar to other developments along Habitat Way).

The amended proposal was re-notified to all submitters (19 July to 4 August 2021), with an outline of the changes to the proposal.

There were no submissions received as result of this re-notification.

The subject land is zoned R3 Medium Density Residential under the provisions of the Ballina Local Environmental Plan (BLEP) 2012 and multi dwelling housing is a permissible landuse in the R3 zone. Additionally, the site has an overall lot size exceeding 1,000m², which is consistent with the existing lot sizes in the locality.

8.5 Development Applications - Works in Progress - September 2021

Compliance with applicable provisions of the BLEP 2012 and Ballina DCP 2012 has been achieved through the amended plans for the proposal.

The proposal is consistent with other applications in the immediate locality (Habitat Way) including multi dwelling housing and dual occupancies.

This application is one that would not normally be reported to Council for determination and would be completed with under delegated authority. As a result of the amendments made, there are no unresolved issues with the application.

The assessment of the application is now complete and having regard for the above, it is recommended that Council endorse staff proceeding to determine this matter under delegated authority given the resolution of issues through the assessment process and the nature of the amended proposal.

This approach is also administratively more efficient and will result in a shorter timeframe for determination compared to proceeding to report this matter to the next Council meeting.

Regional Development

The following lists applications that are classed as regional development. The Northern Regional Planning Panel is the determining authority for this type of applications.

DA Number	Summary
2020/192	<p>Lodged: 27 March 2020 Applicant: Planners North</p> <p>Overview: 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</p> <p>Status: This matter has been the subject of a Class 1 Appeal – Deemed Refusal in the Land and Environment Court. The Court hearing was held between 2 and 6 August 2021. Council is now awaiting the Court's judgement.</p>

RECOMMENDATIONS

1. That Council notes the contents of the report on the status of outstanding development applications for September 2021.
2. That Council approves the determination of DA 2020/839, by the General Manager, or nominated delegate, under delegated authority.

Attachment(s)

1. Undetermined DAs (under Assessment >90 days)

9.1 Deputy Mayor - Election

9. Corporate and Community Division Reports

9.1 Deputy Mayor - Election

Delivery Program

Governance

Objective

To determine whether Council wishes to appoint a Deputy Mayor and if so, how that position is to be elected.

Background

The Local Government Act states:

- (1) *The councillors may elect a person from among their number to be the deputy mayor.*
- (2) *The person may be elected for the mayoral term or a shorter term.*
- (3) *The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.*
- (4) *The councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no deputy mayor has been elected.*

The Office of Local Government Circular 21-20 states:

Deputy mayors hold their office for the term specified by the council's resolution. If a deputy mayor's term expires before election day on 4 December 2021, an election may need to be held for deputy mayor. It should be noted however, that councils are not required to have a deputy mayor.

Council's September 2020 resolution elected the Deputy Mayor for the period until September 2021. It is Council's decision whether it wishes to have a Deputy Mayor from September 2021 to the end of the term, being 4 December 2021.

It is normal practice for Council to elect the Deputy Mayor for one year although Section 231(2) allows the election to be for any period up to the entire term of Council.

Nominations for the office of Deputy Mayor are to be submitted in writing to the General Manager, signed by the nominee and at least one other Councillor, prior to this report being discussed at the Ordinary meeting.

Copies of the nomination forms are attached under separate cover.

The Deputy Mayor can be paid an allowance for such time as the Deputy Mayor acts in the office of the Mayor. The Office of Local Government has advised that such an allowance cannot be established on an annual basis and paid as an annual figure. It must reflect actual time acting as the Mayor.

9.1 Deputy Mayor - Election

This means the Deputy Mayor will only receive an allowance if the Mayor is on a period of extended leave and Council has resolved to pay an allowance.

Key Issues

- To determine whether Council wishes to appoint a Deputy Mayor
- A council who chooses to elect a Deputy Mayor must determine the method of voting

Discussion

An election must be held if more than one nomination is received. Council must determine whether the voting is to be by preferential ballot (if three or more candidates nominated), ordinary ballot (secret ballot) or open voting.

Section 251(5) of the Local Government (General) Regulation states:

Voting at a council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.

*Note: Part 11 of this Regulation provides that a council is to resolve whether an election by the councillors for mayor or deputy mayor is to be by preferential ballot, ordinary ballot or open voting (clause 394 and clause 3 of Schedule 7). Clause 3 of Schedule 7 also makes it clear that **ballot** has its normal meaning of secret ballot.*

Delivery Program Strategy / Operational Plan Activity

EL1.2 – Involve our community in our planning and decision making processes.

Community Consultation Policy

Not applicable.

Financial / Risk Considerations

There is no obligation for Council to elect a Deputy Mayor.

Options

The options are to have, or not have, a Deputy Mayor. The recommendation reflects Council's traditional practices.

In respect to voting, if Council resolves to have a secret ballot (i.e. preferential or ordinary) and any Councillors attend this meeting remotely, it will be a matter for the returning officer (the General Manager) to collect their votes.

The preferred option for this will be to have councillor(s) email their vote (or text) to the returning officer, which would result in the loss of some confidentiality.

9.1 Deputy Mayor - Election

In September 2020, the General Manager received text messages and emails from Councillors remotely attending the meeting.

RECOMMENDATIONS

1. That Council elect a Deputy Mayor for the period to 4 December 2021.
2. That the method of voting for the election of Deputy Mayor be by way of ordinary (secret) ballot.
3. That Council allow the voting through text messaging or emails for Councillors accessing the meeting remotely.
4. That the number of votes at the ballot be revealed at the meeting and that the General Manager, following the meeting, destroy the ballot papers and text messages and emails for Councillors attending remotely.

Attachment(s)

1. Deputy Mayor nomination form (Under separate cover)

9.2 Investment Summary - August 2021

9.2 Investment Summary - August 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 August 2021.

Key Issues

- Compliance with Investment Policy

Discussion

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

The total balance of investments as at 31 August 2021 was \$87.6m being \$6m less than the balance as at 31 July 2021. Council's investments at 31 August were invested at a weighted average interest rate of 0.545%, which was 0.531% higher than the August average 90 Day Bank Bill Index (BBSW) of 0.014%.

The balance of the Commonwealth Bank business account as at 31 August 2021 was \$22,425,887. This was an increase of \$16,718,482 from the balance as at 31 July 2021. The movement in the total investment portfolio and bank account balances since 31 July was a net increase of \$10,718,482.

Council's Investments Officer found limited opportunities to invest in fossil fuel free institutions or in new green deposits in both July and August. Due to this and the continued decline in the 90 Day BBSW (0.021% as at 31 July 2021 to 0.012% as at 31 August 2021), the decision was made to hold the cash at bank, rather than in term deposits.

TCorp's monthly Economic Commentary report for August 2021 can be reviewed online using the following link:

<https://www.tcorp.nsw.gov.au/resource/Monthly%20Economic%20Report%20-%20August%202021%20Sec.pdf>

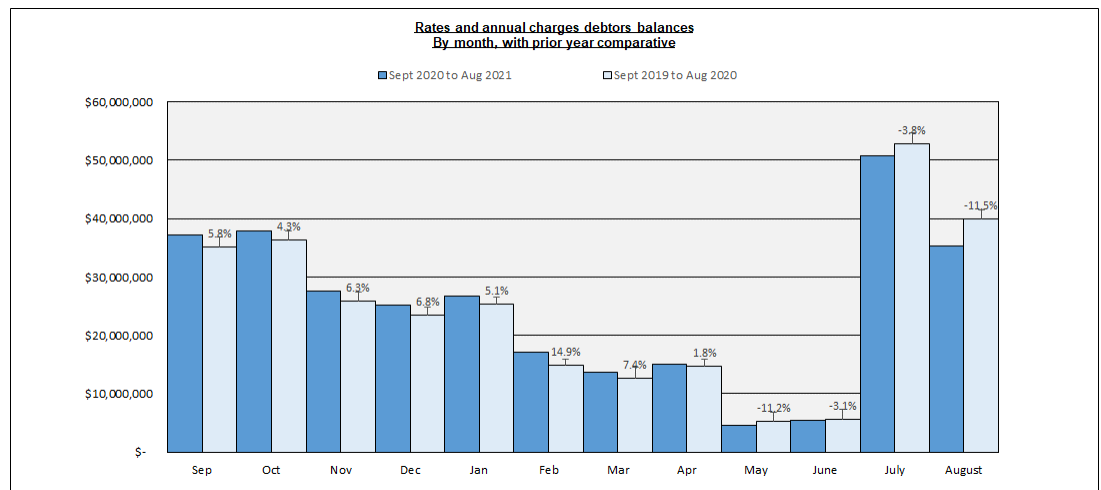
9.2 Investment Summary - August 2021

The majority of Council's investment portfolio is restricted by legislation (external) and Council (internal) uses for specific purposes. The following table has been updated to reflect the portfolio percentages based on reserve balances as at 30 June 2021.

Reserve Name	Restriction	% Portfolio*
Wastewater (incl developer contributions)	External	17.7%
Water (incl developer contributions)	External	19.6%
Section 7.11 Developer Contributions	External	14.2%
Bonds and Deposits	External	3.8%
Other External Restrictions	External	2.1%
Carry Forward Works	Internal	3.2%
Bypass Maintenance	Internal	3.4%
Management plans and studies	Internal	1.8%
Airport	Internal	2.8%
Landfill and Resource Management	Internal	2.1%
Employee Leave Entitlements	Internal	2.8%
Quarries	Internal	0.7%
Property	Internal	5.9%
Plant and Vehicle Replacement	Internal	1.3%
Road Works	Internal	3.0%
Open Spaces	Internal	2.1%
Community Facilities	Internal	0.9%
Miscellaneous Internal Reserves	Internal	4.4%
Financial Assistance Grant in Advance	Internal	2.3%
Unrestricted		5.9%
Total		100.00%

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

Rates debtors as at 31 August 2021 were 11.5% lower than the balance as at 31 August 2020, consistent with the noted improvement over recent months.



9.2 Investment Summary - August 2021

A. Summary of investments by institution

Funds Invested With	Fossil Fuel Free / Green	Rating S&P	Previous Month \$'000	Current Month \$'000	Quota %	% of Total
AMP Bank	No	BBB	5,500	4,500	10%	5.2%
Auswide Bank	Yes	BBB	2,000	2,000	10%	2.4%
Bank of Communications	No	A-	1,000	1,000	20%	1.1%
Bank of Queensland	No	BBB+	6,000	3,000	10%	3.4%
Bendigo & Adelaide Bank	Yes	BBB+	7,000	8,000	10%	9.1%
Commonwealth Bank	No	AA-	1,000	1,000	20%	1.1%
Commonwealth Bank (Green)	Yes	AA-	11,000	11,000	20%	12.6%
Great Southern Bank ¹	Yes	BBB	600	600	10%	0.7%
Defence Bank Ltd	Yes	BBB	6,000	6,000	10%	6.8%
IMB Ltd	Yes	BBB	6,000	6,000	10%	6.8%
ME Bank	Yes	BBB+	7,500	7,500	10%	8.6%
Macquarie Bank Limited	No	A+	1,000	1,000	20%	1.1%
My State Bank Ltd	Yes	BBB+	1,000	1,000	10%	1.1%
National Australia Bank	No	AA-	4,000	-	20%	-
Newcastle Perm Build Society	Yes	BBB	2,700	2,700	10%	3.1%
Suncorp Limited	Yes	A+	17,300	16,300	20%	18.6%
Westpac Bank Corp	No	AA-	9,000	9,000	20%	10.3%
Westpac Bank Corp (Green)	Yes	AA-	5,000	7,000	20%	8.0%
Total			93,600	87,600		100%

¹Great Southern Bank was announced as the new trading name of Credit Union Australia, effective 1 June 2021.

Credit Rating Summary as per the Investment Policy	Maximum Allowed		Value	Value	%	%
	%	Value	Previous	Current	Previous	Current
A- or Higher	100%	87,600	49,300	46,300	52.7%	52.9%
BBB	60%	52,560	44,300	41,300	47.3%	47.1%
Total			93,600	87,600	100%	100%

B. Summary of Investments: Fossil Fuel Aligned and Green Investments

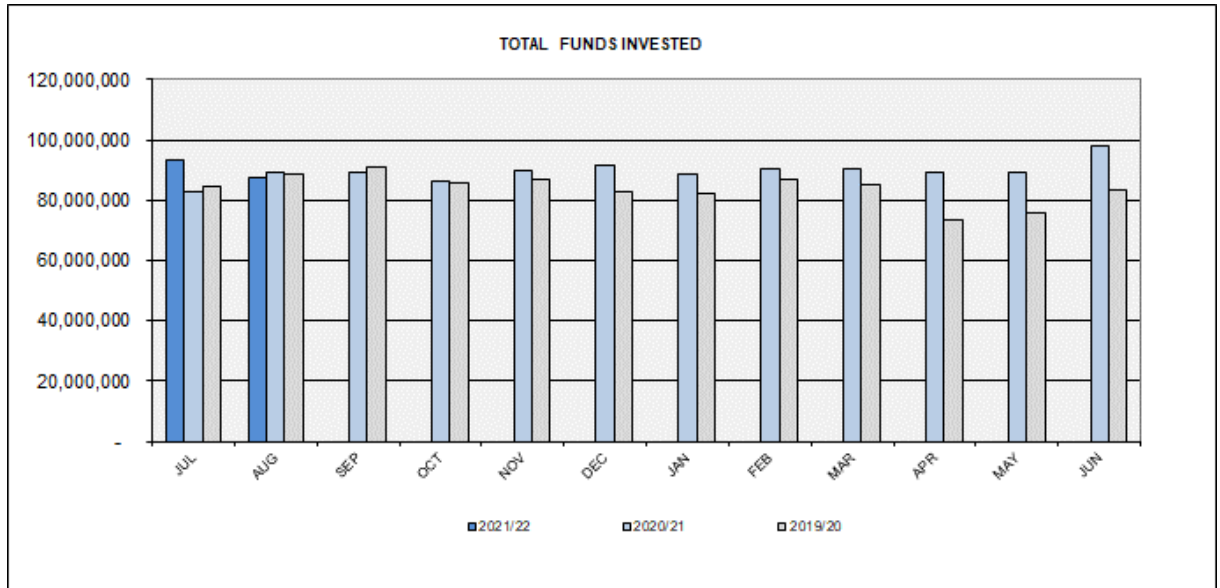
Environmental Classification	Previous Month		Current Month	
	(\$'000)	(%)	(\$'000)	(%)
Fossil Fuel Aligned and Non-Green Investments	27,500	29	19,500	22
Fossil Fuel Free Investments	50,100	54	50,100	57
Green Investments	16,000	17	18,000	21
Total	93,600	100	87,600	100

In August 2021, eight investments totaling \$17m matured. Five investments totaling \$9m were fossil fuel free or green investments, and three investments totaling \$8m were held with fossil fuel aligned institutions.

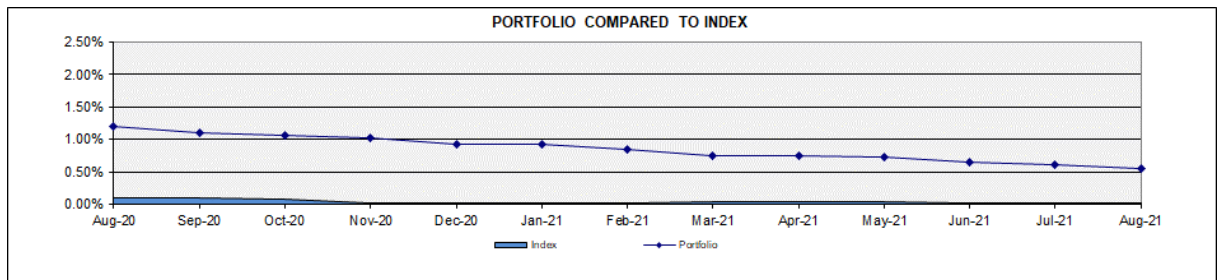
Council staff were able to reinvest four of the five fossil fuel free or green investments totaling \$8m. In addition, Council invested in a new fossil fuel free investment of \$1m and a new green investment of \$2m.

Although the investment activity in August has strengthened the proportion of Council's investments in fossil fuel free and green investments, it is important to highlight that staff are experiencing challenges in sourcing fossil fuel free and green investments.

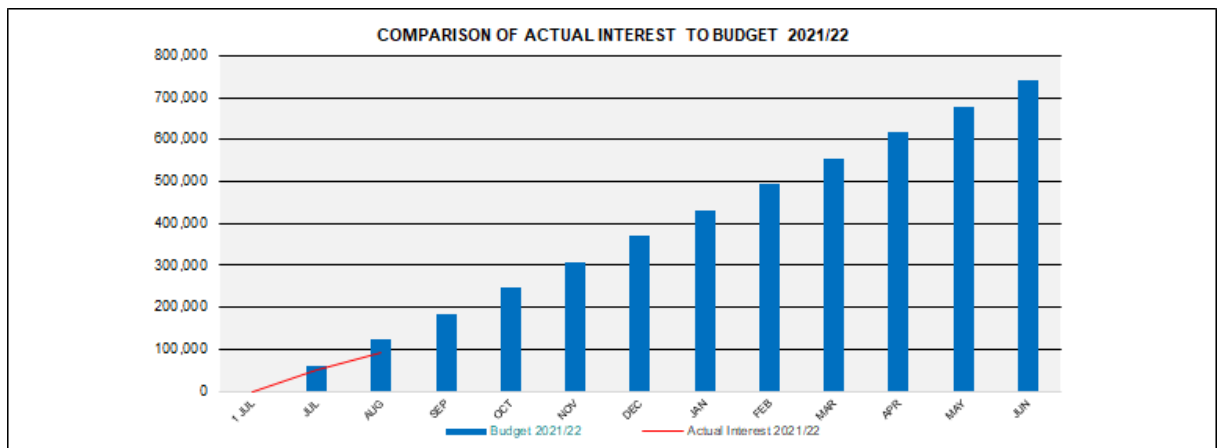
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



9.2 Investment Summary - August 2021

F. Investments held as at 31 August 2021

Purch Date	Issuer	Type	Rate	Final Maturity Date	Purchase Value \$'000
03/08/17	Westpac Banking Corporation	FRN	1.0690%	03/08/22	2,000
18/08/17	Westpac Banking Corporation	FRN	1.0600%	18/08/22	1,000
06/02/18	Newcastle Permanent Bld Society	FRN	1.4150%	06/02/23	700
30/07/18	Westpac Banking Corporation	FRN	0.9505%	31/07/23	1,000
31/07/18	Westpac Banking Corporation	FRN	0.9505%	02/08/23	1,000
06/09/18	Great Southern Bank	FRN	1.2750%	06/09/21	600
06/09/18	Newcastle Permanent Bld Society	FRN	1.4150%	06/02/23	1,000
10/09/18	AMP Bank	FRN	1.1050%	10/09/21	1,500
11/01/19	Commonwealth Bank of Australia	FRN	1.1552%	11/01/24	1,000
08/02/19	Westpac Banking Corporation	FRN	1.0650%	06/02/24	2,000
01/08/19	AMP Bank	FRN	1.1050%	10/09/21	2,000
26/08/19	AMP Bank	FRN	1.1050%	10/09/21	1,000
28/10/19	Bank of Communications	FRN	0.9099%	28/10/22	1,000
31/08/20	Westpac Banking Corporation	TD	0.7600%	03/09/21	2,000
02/09/20	Bendigo & Adelaide Bank	TD	0.7000%	01/09/21	2,000
14/10/20	Bendigo & Adelaide Bank	TD	0.6000%	13/10/21	2,000
16/12/20	Commonwealth Bank - Green	TD	0.4800%	15/12/21	1,000
22/12/20	Macquarie Bank Limited	TD	0.7000%	15/12/21	1,000
04/02/21	Auswide Bank	TD	0.5000%	18/01/22	2,000
15/02/21	Commonwealth Bank - Green	TD	0.4100%	08/02/22	4,000
22/02/21	Commonwealth Bank - Green	TD	0.4300%	15/02/22	2,000
23/02/21	Defence Bank Ltd	TD	0.4400%	22/02/22	1,000
24/02/21	Suncorp-Metway Limited	FRN	0.4607%	24/02/26	1,300
01/03/21	ME Bank	TD	0.4500%	14/09/21	2,000
01/03/21	ME Bank	TD	0.4500%	21/09/21	1,000
02/03/21	Defence Bank Ltd	TD	0.4500%	01/03/22	1,000
02/03/21	Defence Bank Ltd	TD	0.4500%	01/03/22	2,000
04/03/21	Newcastle Permanent Bld Society	FRN	0.6563%	04/03/26	1,000
09/03/21	Suncorp-Metway Limited	TD	0.3000%	14/12/21	2,000
20/04/21	ME Bank	TD	0.5000%	19/04/22	2,000
27/04/21	ME Bank	TD	0.5000%	26/04/22	1,500
04/05/21	My State Bank Ltd	TD	0.5000%	03/05/22	1,000
11/05/21	Suncorp-Metway Limited	TD	0.3300%	10/05/22	3,000
18/05/21	Westpac Banking Corporation-Green	TD	0.3000%	17/05/22	2,000
24/05/21	ME Bank	TD	0.5000%	17/05/22	1,000
02/06/21	IMB Bank	TD	0.2300%	05/10/21	3,000
08/06/21	Westpac Banking Corporation-Green	TD	0.2800%	02/06/22	1,000
08/06/21	Suncorp-Metway Limited	TD	0.3300%	07/06/22	2,000
15/06/21	Suncorp-Metway Limited	TD	0.3000%	09/11/21	2,000
18/06/21	Bendigo & Adelaide Bank	FRN	0.6750%	18/06/26	1,000
18/06/21	Defence Bank Ltd	TD	0.3000%	30/11/21	1,000
25/06/21	Suncorp-Metway Limited	TD	0.3300%	22/06/22	2,000
28/06/21	Bank of Queensland	TD	0.3500%	01/12/21	2,000
28/06/21	Bank of Queensland	TD	0.3500%	01/12/21	1,000
29/06/21	Suncorp-Metway Limited	TD	0.3300%	28/06/22	2,000
30/06/21	Westpac Banking Corporation-Green	TD	0.3100%	14/06/22	2,000
27/07/21	Suncorp-Metway Limited	TD	0.2700%	26/10/21	2,000
28/07/21	IMB Bank	TD	0.2400%	25/01/22	2,000

9.2 Investment Summary - August 2021

Purch Date	Issuer	Type	Rate	Final Maturity Date	Purchase Value \$'000
05/08/21	Bendigo & Adelaide Bank	TD	0.3000%	08/03/22	1,000
05/08/21	Bendigo & Adelaide Bank	TD	0.3000%	08/03/22	2,000
17/08/21	Commonwealth Bank - Green	TD	0.3100%	16/08/22	4,000
18/08/21	Westpac Banking Corporation-Green	TD	0.2600%	16/08/22	2,000
25/08/21	Defence Bank Ltd	TD	0.3500%	24/08/22	1,000
23/08/22	IMB Bank	TD	0.2800%	22/08/22	1,000
	Totals				87,600
	TD = Term Deposit	FRN = Floating Rate Note			

RECOMMENDATION

That Council notes the report of banking and investments for August 2021.

Attachment(s)

Nil

9.3 Donations - Community

9.3 Donations - Community

Section	Communications
Objective	To consider a donation request from DAISI Services Inc received outside the nominated timeframe

Background

Council approved a number of community donations at the July 2021 Ordinary meeting for the 2021/22 financial year. Generally if applications are received outside of the standard advertising timeframe, applicants are advised to re-apply in the following financial year. This allows Council to assess all applications at the one time and to achieve a more equitable distribution of funding.

Council received a request from DAISI Services Ltd. on 16 September 2021 seeking support for a donation towards the payment of hire fees for use of the Gawandii Room at the Ballina Surf Club for a Carers Week event (refer Attachment 1).

This request is justifiable in reporting to Council for separate consideration due to the nature and timing of the event.

Key Issues

- Community benefit
- Funding available

Discussion

Council received a donation request on 16 September 2021 seeking costs for a Grandcarers' event to be held on 15 October 2021 in one of Council's community facilities. The hire fee is estimated at \$288 and they are seeking 50% of the charge, being \$144.

The event is part of a broader Grandcarers' Project, seeking to address disadvantage that grandparents experience when becoming full time carers of grandchildren, by supporting them in their role. This first initiative is seeking to celebrate the role they play in the community. DAISI Services Ltd meets the eligibility policy requirements under the *Donations – Financial Assistance for Community Groups*.

Delivery Program Strategy / Operational Plan Activity

The provision of donations to community groups and sporting groups contributes to Delivery Program Strategies:

- CC2.1 Create events and activities that promote interaction and education as well as a sense of place
- CC2.2 Encourage community interaction, volunteering and wellbeing

9.3 Donations - Community

- CC2.3 Assist disadvantaged groups within our community

Community Consultation Policy

The Community Donations program is subject to formal public exhibition and Council attempts to ensure that all donations are considered at the same time, to ensure there is equity in the allocation process.

Financial / Risk Considerations

Council has an allocated budget of \$79,000 for 2021/22 Financial Assistance for Community Groups. At the July 2021 meeting, Council allocated \$66,400 of this budget and a further allocation of \$1,908 to the Ballina Lions Club in August 2021. This leaves a balance of \$10,692.

Options

The options are to either support, amend or not support the donation request.

As the request aligns with the policy provisions, it is recommended that this request be supported.

RECOMMENDATION

That Council approves a donation of \$144 to DAISI Services Ltd. for community facility hire for 2021/22 for the Grandcarers' Project.

Attachment(s)

1. Financial Assistance for Community Groups Application 2021/22 - DAISI Services Ltd

9.4 Financial Support Package - COVID-19 Lockdown - Recovery

9.4 Financial Support Package - COVID-19 Lockdown - Recovery

Section Governance

Objective To obtain Council approval for a financial support package in response to the COVID-19 pandemic and recent lockdowns.

Background

Council, at the 26 March 2020 Ordinary meeting endorsed a financial support package designed to assist our residents/ratepayers and business community with the impact of the COVID-19 pandemic.

The support package provided in 2020 included:

Fees and Charges	Waiver Details
1. Interest on Overdue Rates and Charges	0% to 30 June 2021
2. Community Facility Hire Fees	Full refunds
3. Flat Rock Tent Park	Full refunds
4. Northern Rivers Community Gallery	Three month waiver of fees
5. Commercial Use of Footpaths	Full waiver from 1 April 2020 to 30 June 2021
6. Club Lennox	Full waiver from 1 April 2020 to 30 June 2021
7. Commercial Surf Schools	100% waiver for six months
8. Parking Fines	Education focus to 30 June 2020
9. Health / Public Pool Regs and Inspections	100% waiver from 1 April 2020 to 30 June 2021
10. Market Fees	100% waiver from 1 April 2020 to 30 June 2021
11. Ferry Casual Fees	Casual fee exemption to 30 June 2020
12. Commercial Tenants	Rent relief on a case by case basis
13. Ballina – Byron Gateway Airport Tenants	Rent relief on a case by case basis

This support package was provided in recognition of the important role that councils play in supporting their communities and in anticipation of the impact of the pandemic on the local economy.

During that uncertain time Council was also receiving a number of requests from our residents and business community to help ensure the on-going viability of our economy (and the related jobs).

The impact of the Delta COVID strain has resulted in another lockdown of our community creating further uncertainty for residents and businesses.

Since 2020 there have been a range of Federal and State Government grants and payments released for individuals, households and businesses with the Governments making adjustments to financial support and legislation to meet the ongoing impact of the pandemic on our economy.

9.4 Financial Support Package - COVID-19 Lockdown - Recovery

The experience in 2020 has highlighted that support should be tailored, recognising that the impact can vary significantly depending on individual circumstances. This is evidenced through some businesses performing exceptionally well during the pandemic, whilst others have struggled.

This report provides an overview of the proposed Council support package in response to the latest impacts of the COVID-19 pandemic, particularly due to lockdowns, with the commercial property rental relief information included in a confidential report later in this agenda.

Key Issues

- Ongoing impacts to Council tenants and the community from COVID-19
- Financial cost to Council and the community in providing financial support
- Equity of any assistance provided

Discussion

In respect to the recent lockdown the State Government reintroduced the *Retail and Other Commercial Leases (COVID-19) Regulation 2021* (the "Regulation"). The Regulation prescribed period is 13 July 2021 and ending on 13 January 2022.

One of the changes to the Regulation is the definition of an "impacted lessee" who may be eligible for State Government grants to support businesses, with the eligibility being turnover less than \$50 million during 2020/21

Council has a number of commercial properties that are leased to tenants.

The Regulation requires Council, as the landlord, to work with tenants and where appropriate, provide reductions in rent payable in the form of waivers and or deferrals to impacted lessees.

This support is to be based on the reduction in the tenant's turnover during the COVID-19 pandemic period and a subsequent reasonable recovery period.

For Council to provide further support to our tenants, any calculation of rent reduction requires Council to be provided with evidence of the financial impact on the business turnover and must take into consideration any payments from Government COVID grants that the business has already received.

Full details on the requirements of the Regulation are in the following link:

<https://legislation.nsw.gov.au/view/html/inforce/current/sl-2021-0379>

Commercial tenant details are included in the confidential report later in this agenda.

In addition to the commercial tenants, Council has been receiving requests for assistance from ratepayers and other businesses impacted by the COVID-19 lockdown and on-going impacts of the pandemic.

In response, Council staff have reviewed our entire operations and are recommending the following level of financial support:

9.4 Financial Support Package - COVID-19 Lockdown - Recovery

1. Interest rate on overdue rates and charges - The current rate is 6% which is the maximum figure set by the Office of Local Government for 2021/22.

Since the current lockdown, Council has received 26 calls from ratepayers (out of 20,000 rate notices issued) concerned about interest being charged on rates.

The majority of these calls were related to Council closing its Customer Service Centre and the perceived impact this would have on the ratepayer not being able to pay their rates during this period.

In response Council increased its communication to residents on the alternative payment options.

During the current lockdown period Council has not received any formal applications for financial hardship for payment of rates and charges however we have experienced an increase in dishonour fees, where a ratepayer payment bounces due to insufficient funds or a closed bank account. During the lockdown period there were 10 dishonour fees.

Although the Office of Local Government sets the maximum figure for interest, Council is allowed to set the annual rate at any figure up to the maximum. This means that Council may approve a further interest waiver on overdue rates and charges.

The information provided by adjoining councils (at the time of writing this report) has identified a range of proposed responses to managing interest on overdue rates and charges.

Council	Proposed response to COVID-19
Lismore City Council	No change to interest with overdue letters to be issued.
Byron Shire Council	Propose to stop interest from 1 October 2021 to 28 February 2022 and legal debt recovery with overdue letters to still be issued.
Richmond Valley Council	Propose to stop interest from 1 October 2021 to 31 December 2021 and to proceed with issuing overdue letters.

Council's overdue rates reminder letters were issued on 14 September 2021. The date provided on the letter requesting payment was extended from the (usual) 1 October 2021 to 8 October 2021.

It is recommended that Council provides a waiver for August and September 2021 covering the lockdown period. The annual budget for interest on overdue rates is \$50,000. The estimated income that would be foregone for the two month period is \$8,000.

2. Northern Rivers Community Gallery - Gallery Exhibition and Ignite Studio Tenants. A full waiver of gallery exhibition fees during the lockdown period is recommended.
3. Commercial Use of Footpaths – No change to commercial use of footpath fees are proposed due to the relatively low fees.

9.4 Financial Support Package - COVID-19 Lockdown - Recovery

4. Community Group Tenancy Council owned or controlled land that pay more than the minimum statutory rental. There are two community based organisations that pay more than the statutory rent being the Ballina Hockey Club and Club Lennox.

The Ballina Hockey Club has not requested any financial support and have not advised that they have been impacted this year.

Club Lennox has requested rental relief in excess of the NSW Regulations. Attachment 1 contains a request that the rental on the two leases held by the Club be reduced by 80%, along with setting out the reasons for such a request.

A time period for relief was not initially identified by the Club, however a subsequent email was sent by the Club's General Manager on 9 July, 2021 requesting that the rental discount of 80% run for a period of twelve months from 1 July, 2021.

The following points provide a brief summary of rental relief afforded to the Club over the past few years:-

- a) The Club holds two leases:-
 - A lease over the site that the club is located upon. The rental noted in the lease is \$71,648 p.a. + GST; and
 - A lease over a portion of the King Street road reserve. The rental noted in the lease is \$7,210 p.a. + GST.
 - Total rental as per leases; \$78,858 p.a. + GST.
- b) The rentals were assessed by independent valuation in 2019.
- c) At the Commercial Services meeting held 11 March, 2019 Council resolved to discount the rental payable by the Club by 50% until the two leases expire on 31 December, 2024; a discount of \$39,429 p.a. (incl. GST).
- d) At the 26 March, 2020 Ordinary meeting, Council resolved to endorse the Mayoral Minute – Financial Support Package in response to the COVID-19 pandemic. The resolution included granting a 100% waiver to Club Lennox on both leases from 1 April 2020 till 30 June 2021.

The current rent of \$39,429 represents a 50% discount to market. Based on this it is recommended that Council provide rent relief for a three month period being 1 July to 30 September 2021. This represents a figure of \$9,857 for the discounted \$39,429 total rent.

This is higher than is currently being offered to other commercial tenants and once the 50% discount is taken into account, the total reduction of \$49,286 represents a reasonable reduction to market rates for a commercial business, particularly when the last review to market was before rents substantially increased during the pandemic.

The three month 100% rent relief can also be reviewed later in the financial year, dependent on future trading conditions.

9.4 Financial Support Package - COVID-19 Lockdown - Recovery

5. Commercial Surf Schools - Council has received written requests from the Surf School Licensees seeking a licence fee reduction, or waiver, due to the impact of the Queensland border closure and COVID-19 lockdown.

It is recommended Council provide a three month waiver on fees. The estimated value is \$11,915.

6. Parking Fines - In March 2020 Council resolved to forgo revenue on parking and focus on education and information until 30 June 2020. It is recommended that Council continue with normal enforcement program.
7. Health Inspections (eg food, skin penetration etc) - It is recommended that there are no registration or inspection fees for the period 1 August 2021 to 30 September 2021. The estimated value is \$24,200.
8. Market Fees – Due to minimal impact on markets, no waiver is recommended.
9. Ferry Casual Fees – No changes proposed to these fees.
10. Commercial Tenants – Rent Relief. Details provided in the confidential report in this agenda.

The following actions have already been taken:

- Flat Rock Tent Park - During the development of the 2021/22 Fees and Charges increased flexibility was included for circumstances such as responding to Public Health Orders.

This has enabled the ability to process credits or enable cancellations outside of the standard timeframes.

- Swimming Pools – In response to the inability to access the pools during the force lockdown period, the annual and three month passes will be adjusted to extend the pass for the lockdown period.
- Community Facilities - The standard notice period for cancellations was not applied during the lockdown period enabling customers to cancel their bookings.

Delivery Program Strategy / Operational Plan Activity

The objectives within this report are consistent with Delivery Program Strategy PE2.3 Operate Council business activities that support economic development and activity PE2.3e Proactively manage our commercial properties.

Community Consultation Policy

Council staff have liaised with tenants who have requested rental relief.

Financial / Risk Considerations

The financial support package has been developed taking into consideration the State and Federal Government support provisions and the impact of the pandemic within our community.

9.4 Financial Support Package - COVID-19 Lockdown - Recovery

Based on the available information, it is proposed that the following financial assistance be provided:

Table One

Fees and Charges	Waiver Details
Interest on Overdue Rates and Charges	0% - 1 August to 30 September 2021
Northern Rivers Community Gallery	100% waiver of exhibition fees during lockdown period
Club Lennox	100% waiver for three months
Commercial Surf Schools	100% waiver for three months
Food and Commercial Premises Inspections (health and beauty businesses)	Waiver from 1 August 2021 to 30 September 2021
Commercial Tenants	Rent relief on a case by case basis
Ballina – Byron Gateway Airport Tenants	Rent relief on a case by case basis

Options

Council has the option to support or amend the proposed package.

It is recommended that Council support the financial support package as outlined in Table One in this report.

RECOMMENDATION

That Council adopts the financial support package, as per Table One of this report, and authorises the General Manager to implement the necessary actions to deliver this package to our community.

Attachment(s)

1. Letter of request for financial assistance - Club Lennox

9.5 Tender - Ballina Byron Gateway Airport Terminal Expansion

9.5 Tender - Ballina Byron Gateway Airport Terminal Expansion

Section Commercial Services

Objective To report the outcomes of the tender evaluation for the Tender - Ballina Byron Gateway Airport Terminal Expansion

Background

A recent change to legislation has required additional aviation security screening equipment to be installed and operated within the Ballina Byron Gateway Airport passenger terminal.

The works to be undertaken under this contract are for the expansion of the terminal to accommodate the additional mandated equipment and improve the passenger facilitation process.

Tenders were called in August 2021 and at the close of tenders on 18 August 2021, six tender submissions were received.

This report outlines the results of the tender process.

Key Issues

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

Discussion

Sixteen companies downloaded the documentation with tenders received from:

- AGS Commercial Pty Ltd
- Alder Constructions Pty Ltd
- Bennett Constructions (NSW) Pty Ltd
- Greg Clark Building Pty Ltd
- Lloyd Group Pty Ltd
- Woollam & Son Pty Ltd t/a Woollam Constructions

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

- The Tenderer has completed all returnable schedules
- The Tender submission fully complies to the technical specification
- The Tenderer has provided evidence of a Quality Management System developed in accordance with ISO9000
- The Tenderer has a minimum \$20M Public Liability Insurance Policy, for the tenderer and all nominated sub tenderers
- The Tenderer has in place a Workers Compensation Insurance Policy

9.5 Tender - Ballina Byron Gateway Airport Terminal Expansion

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

- Pricing structure 40%
- Local and community 15%
- Project methodology 25%
- Capability/experience 20%

Lloyd Group 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 a confidential memorandum.

Delivery Program Strategy / Operational Plan Activity

The Ballina Byron Gateway Airport terminal expansion is included in the Ballina Delivery Program / Operational Plan 2021 - 2025 under Strategy PE2.2 - Enhanced connectivity to capital cities and Activity Pe2.2b - Ensure the ongoing viability of the Ballina Byron Gateway Airport.

Community Consultation Policy

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

Financial / Risk Considerations

The Ballina Byron Gateway Airport terminal is funded through the Commonwealth RASI and the Airport's Capital Works budget with a budget of \$2,200,000.

The total cost of the preferred tender is \$2,057,179.93 (excluding GST).

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 accept the tender from Lloyd Group Pty Ltd.

This firm has an office at Southern Cross Drive, Ballina, has completed projects within the region, and their high standard of work was supported by reference checks.

9.5 Tender - Ballina Byron Gateway Airport Terminal Expansion

RECOMMENDATIONS

1. That Council in accordance with the *Local Government (General) Regulation 2005 Section 178(1)(a)*, accepts the tender and awards the contract to Lloyd Group Pty Ltd for the Tender - Ballina Byron Gateway Airport Terminal Expansion for the total amount of \$2,057,179.93 (excluding GST).
2. That Council authorises the General Manager to sign the contract documents.

Attachment(s)

1. Confidential memorandum - RFT1523 - Tender for Ballina Byron Gateway Airport Terminal Expansion Project (Under separate cover)

9.6 Tender - Supply of Quarry Products (including Fill Sand)

9.6 Tender - Supply of Quarry Products (including Fill Sand)

Section	Engineering Works
Objective	To report the outcomes of the tender evaluation for the Tender - Supply of Quarry Products (including Fill Sand)

Background

The works to be undertaken under this contract are the Supply and Delivery of Quarry Products (including Fill Sand). The contract is initially for the period 31 August 2023, with an option for Council for a further 2 x 1 year periods.

There is provision in the contract to enable Council to call for separate quotations (at Council's discretion) for construction projects that require larger quantities of material than might ordinarily be required for a routine project. This allows Council to have access to tendered rates for the tender period, whilst also providing the opportunity to seek fresh competitive pricing on individual projects.

Tenders were called in August 2021 and at the close of tenders on 17 August 2021, six tender submissions were received.

This report outlines the results of the tender process.

Key Issues

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

Discussion

Seven companies downloaded the documentation with tenders received from:

- Boral Country Resources Pty Ltd
- Holcim (Australia) Pty Ltd
- KIS Plant Pty Ltd t/a KIS Quarry
- Ballina Sands Pty Ltd
- B & N Unit Trust t/a Action Sands
- WF & SL & MW & AE Sullivan Pty Ltd t/a Richmond Sand and Gravel

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

- The Tenderer has a minimum \$20M Public Liability Insurance Policy, for the tenderer and all nominated sub tenderers.
- The Tenderer has in place a Workers Compensation Insurance Policy.
- Compliance with the relevant material specifications.

All tender submissions met the mandatory assessment.

9.6 Tender - Supply of Quarry Products (including Fill Sand)

No scored assessment criteria have been applied to this panel contract as this is a product supply contract with compliance requirements in respect of material specifications.

Details of the assessment and a general guide for rate comparisons have been provided to Councillors by a confidential memorandum.

Delivery Program Strategy / Operational Plan Activity

The content of this report is not specifically identified in the Delivery Program with quarry products forming part of numerous projects and services.

Community Consultation Policy

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

Financial / Risk Considerations

Purchases under this tender are costed against program budgets.

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 accepts all the tenders.

RECOMMENDATIONS

1. That Council in accordance with the *Local Government (General) Regulation 2005 Section 178(1)(a)*, accepts the tenders from Boral Country Resources Pty Ltd, Holcim (Australia) Pty Ltd, KIS Plant Pty Ltd t/a KIS Quarry, Ballina Sands Pty Ltd, B & N Unit Trust t/a Action Sands, WF & SL & MW & AE Sullivan Pty Ltd t/a Richmond Sand and Gravel for the Tender - Supply of Quarry Products (including Fill Sand) for the rates tendered.
2. That Council authorises the General Manager to sign the contract documents.

Attachment(s)

1. Confidential memorandum - RFT1478 - Tender for Supply and Delivery Quarry Products

9.7 Tender - Ballina Quays Dredging

9.7 Tender - Ballina Quays Dredging

Section	Engineering Works
Objective	To report the outcomes of the tender evaluation for the Tender - Ballina Quays Dredging

Background

The works to be undertaken under this contract are the ongoing dredging management of the Ballina Quays Canals.

At the 22 September 1994 Ordinary meeting, Council resolved to undertake canal dredging of Ballina Quays and review the condition of the canals every five years. Maintenance of Ballina Quays canals was last undertaken in 2015.

In May 2021 hydrographic surveys of the Ballina Quays were completed to assess the need for dredging. These surveys enabled a comparison of the existing bed levels of the canals with the original design profile. These surveys, together with anecdotal evidence from local residents, confirmed the need for dredging and informed the scope of works in the specification for this tender.

Dredging will reinstate slumping of the shoreline, reduce the incidence of pontoons resting on the canal bed during low tides and reinstate eroded sections of the foreshore.

Tenders were called in July/August 2021 and at the close of tenders on 12 August 2021, one tender submission was received.

This report outlines the results of the tender process.

Key Issues

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

Discussion

Seventeen companies downloaded the documentation with tender received from R&B Dredging Pty Ltd T/as Coastal Dredging Services

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

- Conforming tender (all schedules completed and compliance with the contract terms and conditions)
- Compliant insurances
- Compliant work health and safety management systems

The tender submission met the mandatory assessment and were assessed using the following weighted assessment criteria:

9.7 Tender - Ballina Quays Dredging

- Pricing structure 70%
- Local and community 15%
- Capability and relevant experience 15%

Details of the assessment and pricing options have been provided to Councillors by a confidential memorandum.

Delivery Program Strategy / Operational Plan Activity

The works are identified in the operational budget.

Community Consultation Policy

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

A number of requests for this work to be undertaken were recently received from residents of properties adjoining the canals, which confirms the timing for the maintenance works. Consultation was also undertaken with the West Ballina Quays Consultative group prior to finalising and advertising the tender documents.

Financial / Risk Considerations

The current budget allocation for the project is \$215,000. R&B Dredging Pty Ltd T/as Coastal Dredging Services submitted a conforming tender with a value of \$239,692.00 (ex GST) based on a schedule of rates as well an alternative tender with a value of \$224,500.00 (ex. GST) based on day work rates.

Both the options proposed by the tenderer are in excess of the budget.

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.

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:

9.7 Tender - Ballina Quays Dredging

- (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,*
 - (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 approach will enable staff, prior to the issue of a letter of award, to resolve any outstanding points in the contract, review the final scope of works with a preferred contractor, and limit the overall change required to the adopted budget.

RECOMMENDATIONS

1. That Council in accordance with the Local Government (General) Regulation 2005 Section 178(1)(b), declines to accept the tender for the Tender - Ballina Quays Dredging as the tender is in excess of the available budget.
2. That Council, in accordance with Local Government (General) Regulation 2005 Section 178(3)(e) authorises the General Manager to enter into negotiations with R&B Dredging Pty Ltd T/as Coastal Dredging Services (or another contractor), with a view to enter into a contract for the Tender - Ballina Quays Dredging.
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 number of potential service providers is limited with previous tenders for this work yielding a poor market responses as well. Furthermore, delays to the work will result in further build up material requiring to be dredged and continued erosion of the foreshore.

9.7 Tender - Ballina Quays Dredging

4. That in accordance with the Local Government (General) Regulation 2005 Section 178(4)(b), Council has determined to negotiate with R&B Dredging Pty Ltd T/as Coastal Dredging Services with a view to entering into a contract in relation to the subject matter as they have been identified as a suitable contractor following assessment against the mandatory and weighted evaluation criteria established for the tender plus previous experience at Shaws Bay.

Attachment(s)

1. Confidential memorandum - RFT1473 - Tender for Ballina Quays Dredging (Under separate cover)

9.8 Tender - Security Services

9.8 Tender - Security Services

Section Facilities Management

Objective To report the outcomes of the tender evaluation for the Tender - Security Services

Background

The works to be undertaken under this contract are the provision for security services for a three year period. The Contractor will be required to undertake a full range of Security Services within the Ballina Local Government Area (LGA).

The required services include:

- Patrol services – Patrols of Ballina Byron Gateway Airport as per legislative requirements.
- Alarm monitoring – Monitoring of intrusion alarms at Council facilities and venues.
- Alarm response – Patrol responses to intrusion alarms
- Public amenity unlocking/locking – Daily unlocking and locking of identified Council public amenities (public toilets)
- Scheduled and reactive servicing of security equipment and infrastructure including annual servicing of alarms and CCTV's
- After hours Closed Circuit Television (CCTV) monitoring and verification.

Tenders were called in July/August 2021 and at the close of tenders on 24 August 2021, two tender submissions were received. This report outlines the results of the tender process.

Key Issues

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

Discussion

Sixteen companies downloaded the documentation with tenders received from:

- Club Av Pty Limited t/a CAV Security
- CERTIS Security Australia Pty Ltd

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

- The Tenderer has a minimum \$20M Public Liability Insurance Policy, for the tenderer and all nominated sub tenderers
- The Tenderer has in place a Workers Compensation Insurance Policy
- Compliant WHS Management System

9.8 Tender - Security Services

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

- Pricing Structure 60%
- Local and Community 15%
- Demonstrated Performance 25%

Club Av Pty Limited t/a CAV Security has been assessed as the preferred tenderer based on the evaluation. Details of the assessment have been provided to Councillors by a confidential memorandum.

Delivery Program Strategy / Operational Plan Activity

The provision of security services is an ongoing operational service.

Community Consultation Policy

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

Financial / Risk Considerations

The provision of security services will be costed against each of the facilities where the services are undertaken. The total cost per annum of the preferred tender is \$107,488, excluding GST.

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 accept the tender from Club Av Pty Limited t/a CAV Security.

RECOMMENDATIONS

1. That Council in accordance with the *Local Government (General) Regulation 2005 Section 178(1)(a)*, accepts the tender and awards the contract to Club Av Pty Limited t/a CAV Security for the Tender - Security Services for the total amount per annum of \$107,488.12 (excluding GST).
2. That Council authorises the General Manager to sign the contract documents.

Attachment(s)

1. Confidential memorandum - RFT1517 - Tender for Security Services (Under separate cover)

10.1 Rous County Council - Transfer of Council Water Assets

10. Civil Services Division Reports

10.1 Rous County Council - Transfer of Council Water Assets

Section Water and Wastewater

Objective To determine Council's position in respect to a proposal to transfer certain water infrastructure assets to Rous County Council.

Background

Council received a report at the 27 August 2020 Ordinary meeting regarding a request from Rous County Council (RCC) to acquire the water supply and treatment infrastructure assets owned and operated by Council at Marom Creek.

The request was made as RCC had identified opportunities in their draft Future Water Project 2060 (the FWP 2060) for the Marom Creek supply to be augmented and included in the regional water supply.

The resolution from this meeting was as follows:

That Council advise Rous County Council that in response to the draft Future Water Project, Council endorses the concurrent investigation of the following two options for the management and asset ownership of the Marom Creek Water Treatment Plant:

- *A long term deed of agreement where the asset continues to be owned by Ballina Shire Council and the supply is formally included in the management of the regional water supply and its secure yield.*
- *An agreement for the transfer of ownership of the Marom Creek Water Treatment Plant to Rous County Council.*

RCC adopted the FWP 2060 at a meeting on 21 July 2021. The adoption of the FWP 2060 followed an extensive community consultation process including two public exhibition and assessment periods.

The Marom Creek water supply infrastructure remains an important element within the adopted FWP 2060.

With the FWP 2060 now complete, communications between RCC and Council staff have been possible to advance the above resolution.

The purpose of this report is to invite Council to determine its position in response to the request from RCC.

Key Issues

- Regional water supply strategy
- Commercial terms
- Long term strategic benefits and risk

Discussion

Marom Creek Water Supply

Approximately 35% of the bulk water supplied annually by RCC to the region is distributed to customers in the Ballina Shire local government area.

The supply from Marom Creek, operated by Ballina Shire Council, services the communities of Wardell, Cabbage Tree Island and Meerschaum Vale. Up until the early 1990s the Marom Creek water supply was the water source for Wollongbar and Alstonville, in addition to the current service area.

Council completed an asset master plan for the Marom Creek plant in 2018. This plan identified that the plant and the associated weir pool has sufficient capacity and secure yield to meet the needs of the supply population for at least the next 20 years.

On average, the volume of water supplied from Marom Creek is 150 megalitres per annum. The regional supply from RCC to the Ballina Shire is, on average, over 3,675 megalitres per annum.

During dry periods, Council can potentially supplement the Marom Creek supply, or the regional supply, from ground water sourced from two bores. These bores are located at Ellis Road in Alstonville and Lindendale Road in Wollongbar.

However these assets have not undertaken that function for nearly 20 years and it is likely some works would be required to enable the bores to be used in an emergency.

Renewal and other works would be required if they were to be brought into full service.

Service Level Agreements support mutual obligations between RCC and Council in respect of the supplementation or use of the Marom Creek supply, if needed in a drought.

While the Marom Creek supply is small and does not have the same secure yield estimate as the regional supply, during the most recent drought period, the asset was able to maintain an uninterrupted supply, while operating under the same drought management planning, including water restriction levels, as the regional supply.

Marom Creek Water Supply – Current Operating and Financial Performance

The following information regarding operating performance is reproduced from the previous report presented to Council.

10.1 Rous County Council - Transfer of Council Water Assets

The plant does not currently operate at full capacity, as capacity is greater than the demand from the current supply area. This means the plant operates at less than optimum efficiency.

The plant still produces water more cheaply, when compared to the costs of the bulk water supplied by RCC to the rest of the Shire, albeit without the same level of supply security when compared to the regional supply.

Based on 2020/21 demand forecasts, the cost of water for the Marom Creek supply to Wardell is \$1.28 per kilolitre, and the cost to produce 300 megalitres is \$0.79 per kilolitre.

The reduced rate from the increase in volume reflects the amount of fixed costs.

These rates compare favourably to the cost to purchase from the RCC supply, which is \$1.76 per kilolitre.

Council does not differentiate customer water pricing by source of supply and this means the Marom Creek water treatment plant generates a small financial surplus within Council's Water Fund.

There are opportunities for increased operating efficiencies and a larger surplus if the plant is operated at full capacity, by providing more water to the region.

Current Marom Creek Water Supply Upgrade

Capital works to improve the operating and treatment efficiency of the plant have been identified and included in Council's capital works program. These works will allow the plant to meet current and future water quality requirements.

The purpose of the works is to address issues regarding:

- Insufficient chemical systems to assure good quality treated water
- Chemical systems non-compliant with current work health and safety requirements
- Inadequate flocculation process prior to settling process
- Minimal levels of online monitoring and control

The works include filter refurbishment, filter media replacement and UV disinfection. The cost of these works is estimated to be \$4.7 million with a grant of \$1.2 million from the State Government's Safe and Secure Water Program supporting the project.

Tenders were called in April 2021 and the tender assessment was reported to the June 2021 Ordinary Council meeting. Council resolved not to accept any tenders and authorised the General Manager to finalise the negotiation of a contract.

RCC has determined that the proposed augmentation is unlikely to suit their needs and requested Council not proceed with the tender.

In response, the Director Civil Services has advised RCC that Council will not enter a contract until the question of asset transfer is resolved.

10.1 Rous County Council - Transfer of Council Water Assets

However, if this matter is not able to be resolved in the near future, it will be necessary to revisit, in consultation with RCC, the agreed pause on this project.

FWP 2060 Outcomes

In the FWP 2060, RCC propose to acquire the Marom Creek water supply for the purposes of maximising the yield from existing groundwater licenses held by both RCC and Council on the Alstonville Plateau and the surface water contained in the Marom Creek weir pool.

In regard to this plan, RCC in a briefing note advise the following;

This recommendation has not changed from the previous versions of the FWP 2060.

The 2014 Future Water Strategy, which had regional support, recommended that existing groundwater supply infrastructure could be optimised to use allocated licensed volumes to their full potential. RCC is seeking to use existing town water entitlements, where appropriate (Stage 1) and begin to investigate accessing water from the underlying aquifer, known as the Clarence Morton Basin (Stage 2). Stage 2 is required to ascertain if additional groundwater sources are available and to alleviate perceived pressures on competing license holders.

Stage 2 of the FWP 2060 focuses on sourcing groundwater from the Clarence-Moreton Basin (deep below the Alstonville aquifer) as well as the Tyagarah area's underground aquifer. These sources of supply are expected to enable RCC to meet the forecast demand over the next 20 years.

Stages 1 and 2 also prioritise the continued implementation of more innovative water conservation measures to better manage regional demand.

Stage 3 of the FWP 2060 will be determined following extensive investigations into the use of purified recycled water, desalination and more groundwater schemes as additional sources beyond 2040.

Throughout the consultation process for the FWP 2060, there was considerable debate in respect of the option to construct a new dam at Dunoon. The proposed dam is not included in the adopted FWP 2060.

RCC has noted that as a result of the feedback during the exhibition periods it has been decided further investigations are unlikely to result in the proposal obtaining key stakeholder support and RCC should focus on developing the region's groundwater resources as the preferred water supply option.

RCC has, however, resolved the following.

Defer the report outlining options for dealing with land owned by Rous identified as part of the proposed Dunoon dam that was resolved by Council at its meeting of 16 December 2020 (resolution [61/20] Item 2), until after the next scheduled revision of the IWCM.

The resolution adopted by RCC in respect of the Marom Creek asset transfer is reproduced as follows:

10.1 Rous County Council - Transfer of Council Water Assets

1. *As part of its water security risk mitigation approach under the Future Water Project 2060, confirms that its:*
 - (a) *Preferred option is to acquire the Marom Creek Water Treatment Plant, including ancillary infrastructure and assets, and the Ellis and Lindendale groundwater access licenses (the property) owned by Ballina Shire Council.*
 - (b) *Second preferred option is to develop a groundwater treatment plant for Rous' bores located at Alstonville.*
 - (c) *Third preferred option is to develop a groundwater treatment plant for Rous bores located at Woodburn.*
2. *Direct the General Manager to write to the General Manager of Ballina Shire Council requesting that Ballina Shire Council not progress any of the planned upgrade works to the Marom Creek Water Treatment Plant, until Ballina Shire Council has resolved its position in relation to Rous' Preferred option (1(a)).*
3. *In the event the property acquisition does not proceed, confirm that the General Manager is authorised to progress the second preferred option.*
4. *Note that the preferred aquifer to source future groundwater supplies for the preferred and second preferred options is the Clarence Moreton Basin.*
5. *Authorise:*
 - (a) *The General Manager to progress the Preferred and Second options concurrently and negotiate the purchase of The Property as described in the body of the report.*
 - (b) *The Chair and General Manager to sign necessary documentation under seal to affect the purchase and transfer of The Property to Rous County Council.*
6. *With reference to the 16 December 2020 resolution [61/20] "Note the progress of discussions with Ballina Shire Council regarding the potential transfer or lease of Marom Creek WTP and that a further report will be provided", note that this report satisfies the requirement to provide a further update on the progress of discussions with Ballina Shire Council.*

Asset Transfer – Infrastructure Description

Attachment 1 to this report is a map showing the location of the assets considered under this proposal. These assets include:

- Marom Creek Water Treatment Infrastructure
- Marom Creek Water Treatment Buildings and Land
- Ellis Road and Lindendale Bores
- Whites Lane Reservoir
- Wollongbar Reservoir
- Russelton Reservoir
- Wardell Supply Reservoir (Wardell)
- Connecting Mains.

Attachment 1 colour codes the assets as centerpiece assets and associated assets.

Centrepiece assets refer to essential components required for the proposal to work effectively.

The associated assets have been selected as they represent the best locations for the boundary between the bulk supply authority (RCC) and the reticulation authority (Council).

The associated assets could be retained by Ballina Shire and the proposal would still be operable.

RCC is yet to determine the full extent of their request. That is, whether the associated assets are to be included in the proposal.

RCC has proposed that the councils progress an agreement, based on the centerpiece assets, with an overarching agreement, which includes a framework to facilitate and outcome on the associated assets.

This will enable further investigation and assessment of condition and other asset information for the associated assets.

Asset Transfer – Proposed Commercial Terms

To commence a discussion around the possible commercial terms for the proposed asset transfer, Council wrote to RCC on 6 April 2021 advising the current written down value for a combination option of relevant infrastructure is approximately \$5.5m. The replacement cost for this infrastructure is estimated to be \$9.8m. The written down value was determined by a revaluation process completed in 2017.

Written down value was suggested as the most efficient method to calculate a possible commercial sale price for the assets as an effective market comparison is not available for a transfer like this. It is possible to invest in a valuation report to further refine the written down value figure and if negotiations progress, a valuation may be sourced to confirm this approach.

It is also open to Council to adopt a different price, if it sees more or less value in the asset than this book value.

The options analysis as follows further discusses Council's options in respect of price.

Options Analysis

There are a number of key issues to be considered in this decision.

Firstly, Council is a stakeholder in regional water supply issues. RCC has identified that the preferred strategy for the region includes the use of the Marom Creek water supply as a component of the regional supply.

Crucially, the strategy has identified the upgrade and use of the Marom Creek water supply is a key short term (2021 – 2025) action.

10.1 Rous County Council - Transfer of Council Water Assets

The short term actions provide the time needed to complete the Stage 2 work, such as investigating and planning for future ground water sources to be delivered during the period 2026-2029.

If Council does not support the asset transfer, it is recommended that Council make an offer to supply water to RCC, under an interim plan so that the short term action is still achieved.

While RCC is unlikely to accept a proposal like this, it is important as the Marom Creek supply is an under used resource and immediate actions are required in the short term to mitigate the risks of supply issues in a few years' time.

RCC has noted their second and third preferences is to develop ground water treatment plant for the Rous bores at Alstonville and/or Woodburn, however these options are more expensive.

The options analysis also considers the financial implications to Council.

Option 1 Maintain the status quo by declining to enter any agreement to transfer infrastructure to RCC

This is the option if Council considers assets owned by the Ballina Shire should not be sold, or if the Council is not supportive of the FWP 2060s intended action to use bores currently owned (but not operated) by this Council as part of the regional water supply.

Option 2 Transfer infrastructure to RCC using written down value as the key commercial term

The first advantage of this option is that it facilitates RCC's preferred strategy for the regional water supply. As the regional authority, RCC has made a significant investment in developing a strategy and the Marom Creek water supply asset transfer has been identified as very important component of the initial stages of the strategy.

There are financial advantages to Council from the sale as it would provide a large amount of cash to support Council's water business. The asset sale is estimated to realise, at a minimum, \$5.5m.

The sale also avoids the need for Council to upgrade the infrastructure. This is a saving within Council's capital works plan of \$3.5m.

The current forecast balance for Water Reserves at 30 June 2022 is \$8.8m. However this balance is forecast to reduce to under \$3m for the next five years. The sale proceeds, combined with the avoided capital project would improve this position by more than \$9.0m.

There are also annual savings as there will no longer be a depreciation expense for this infrastructure, however this is relatively small when considering the overall depreciation expense for the Water Fund.

The written down value of our water infrastructure is \$79m. Therefore the Marom Creek infrastructure is approximately 6% of the total written down value of the assets in the Water Fund.

The disadvantage from a financial perspective is this supply does generate a small operating surplus, as the water is less expensive for Council to supply than the cost of purchasing of water from RCC.

Option 3 Transfer infrastructure to RCC for a different price to Option 2.

The valuation for written down value was prepared in 2017, and this value can be updated and refined. This would involve the costs of engaging a valuer. A more refined estimate could increase or decrease the price, however once inflation is considered from 2017 to now, it is likely the valuation would increase.

The information reported to RCC by their staff is the identified potential capital savings to the region from using the Marom Creek water supply, is approximately \$6.8m.

Therefore, Council may be of the view that it is reasonable for a portion of those savings to be added to the price, as that would still represent the most economic outcome for RCC and represent this Council achieving best value for money for our residents and ratepayers.

Council should also be mindful that Ballina Shire represents 35% of the water sold by RCC and the FWP 2060, in part, has the objective of addressing the issue of future demand increases that are derived from population growth.

The Ballina local government area is expected to provide the major portion of the region's population growth in the future and assisting RCC where we can is important from a collaboration and planning perspective.

Option 4 Offer to supply surface water to RCC during stage one of the FWP 2060

This option is presented, if the asset sale is not supported (due to concerns about ownership or use of plateau groundwater) yet Council would like to support the short term actions for the region's water supply by using the available spare surface water capacity.

Under this option, Council would upgrade the infrastructure as planned and sell the water to RCC.

The secure yield from this option would obviously be less than what is targeted in the FWP 2060, however the short term actions only cover a four year period, and there is a level of uncertainty in respect of the plateau groundwater options, which are subject to further investigations and regulatory approvals.

Under this option RCC would need to expand the secure yield to be sourced under their Stage 2 plans, to replace the Alstonville plateau sources proposed in Stage 1.

Once Stage 2 or 3 plans are implemented, it may be the case the Marom Creek surface water is no longer needed for the regional supply, as it doesn't offer the same secure yield that will be achieved by the other options.

10.1 Rous County Council - Transfer of Council Water Assets

While this option provides less water for RCC than currently planned for the initial phase of the FWP 2060, it does avoid the cost to RCC of upgrading the Marom Creek supply, and offers a level of contribution to the regional supply for the next few years while other arrangements are investigated and implemented.

RCC plan more significant upgrades to the infrastructure than this Council due to their interests in managing a regional supply and the need to treat water from multiple groundwater sources.

Currently the Marom Creek water treatment plant is only managing surface water and Council's upgrade is proposed for this purpose only.

Option 5 Maintain ownership and provide a long term lease to RCC

This option is provided if there are concerns about transferring the ownership of a community asset.

For this option to work, RCC would need full operational control and the length of the lease would need to be sufficient for RCC to achieve a return on their capital investment.

This is an option that could support RCC until it reaches Stage 3 of the FWP 2060, noting that strategies are updated every five years or so and are subject to change.

Correspondence from RCC advise they would not agree to this option as their interests are only in full ownership and control.

Nevertheless, this is an option that could work, albeit the length of the lease would need to be for a relatively long period.

Delivery Program Strategy / Operational Plan Activity

The Delivery Program Strategy CC1.2, Ensure relevant public health and safety standards are being met, includes an operational plan activity to minimise the number of notifiable drinking water health incidents at Marom Creek water treatment plant.

There are however a number of activities related to water, including Strategy HE2.1, Implement total water cycle management practices.

Community Consultation Policy

No community consultation has been undertaken regarding this matter.

Council's Community Consultation Policy requires the likely 'level and scale of impact' of an issue to be assessed. The policy provides a matrix involving scale and impact to guide this assessment.

Divesting important infrastructure is a significant, long term decision and therefore can be considered a high level impact affecting the whole LGA.

However it is also the case the Marom Creek water supply infrastructure can be considered to be a local interest issue only to the communities of Wardell, Cabbage Tree Island and Meerschaum Vale.

In terms of impact, because the same water supply service will be offered in the future irrespective of this decision, it is reasonable to assess the issue as a low level impact.

On this basis, the recommendations to this report do not include a proposal for a community engagement process to assist in the decision making process, however completing such a process is an option if the Council thought there would be community interest or concern in divesting the service provision to another authority.

Financial / Risk Considerations

There is the strategic risk as to whether in the long term future it might be desirable for Council to still be the owner/operator of this infrastructure. For example, if there are significant price rises in the regional scheme after the sale, these cannot be avoided.

The risks related to providing the service would be reduced if the asset transfer was executed. The reason for this is because RCC will invest more capital than Council to augment the infrastructure and the regional supply has a better technical secure yield assessment.

Furthermore, RCC's main function and purpose is to treat and supply bulk water, which means the resources and operating systems within RCC should improve operational risk management.

This does not mean Council does not have the required capacity to maintain and operate the infrastructure into the future. The point is that the RCC investment, expertise and focus potentially reduces service level risks when compared to the Council operated service.

Options

Information regarding the following options was presented in the report.

Option 1 Maintain the status quo by declining to enter any agreement to transfer infrastructure to RCC

This option is not recommended as it does not assist the regional water supply needs and the Marom Creek water supply is an under used asset.

This option can be selected if Council considers maintaining control and ownership of this asset directly on behalf of the Ballina Shire residents is important.

Option 2 Transfer infrastructure to RCC using written down value as the key commercial term.

This is the recommended option as it is consistent with the FWP 2060, being the strategy developed by the responsible authority and it provides a significant and beneficial financial outcome to Council.

10.1 Rous County Council - Transfer of Council Water Assets

If Council adopts this option, it is recommended that Council review the written down value for inflation as the current value is based on a 2017 report. As part of this negotiation discussions should be held with an external valuer to ensure that there is adequate documentation and supporting information available to support this magnitude of a financial decision.

Option 3 Transfer infrastructure to RCC for a different price to Option 2.

As for Option 2, this option supports the FWP 2060 however this option seeks to increase the return to Council.

Selling this asset to RCC means RCC avoids additional costs of \$6.8 million. Therefore this option adds a market equation to the written down value to determine the possible return to Council.

The reason this option has not been recommended as Council is in a partnership with Byron, Lismore and Richmond Valley Councils in respect of the regional water supply and the written down value represents a reasonable outcome in the circumstances.

Option 4 Offer to supply surface water to RCC during stage one of the FWP 2060.

If Council is opposed to groundwater from the Alstonville Plateau being part of the FWP 2060 strategy and prefers to decline the asset transfer on this basis, this option offers an opportunity to support the regional water supply by using the surface water only into the future, or on a temporary basis, until other sources are secured.

Under this option Council would be the operator of the plant and sell water to RCC under a service level agreement. Alternatively a lease to enable RCC to operate is an option once Council has completed the proposed capital upgrade.

It is unlikely RCC would have an interest in this option.

Option 5 Maintain ownership and provide a long term lease to RCC.

This objective of this option is to deal with the concerns about asset transfer/ownership while still supporting the actions in the FWP 2060.

The disadvantage of this option is it does not yield the immediate financial benefits to Council associated with options 2 and 3 and also RCC has advised they do not have any interest in a lease or other long term instrument.

While not the preferred option from RCC, this is still an option that could support the FWP 2060.

Option 2 is the recommended option.

Under Option 2, Council is actively supporting the FWP 2060, which is the region's water supply strategy and this action provides significant financial benefits to Council.

RECOMMENDATIONS

1. That Council authorises the General Manager to negotiate an agreement for the transfer to Rous County Council of the Marom Creek water supply infrastructure assets, with those assets described as the centrepiece and associated assets in Attachment 1 to this report.
2. That the price for the asset transfer is to be determined as Council's assessed written down value for these assets, updated to current values.
3. That the final terms and conditions of this agreement are to be reported back to Council to seek approval for the attaching of the Council seal.

Attachment(s)

1. Water Asset Locations

10.2 Pat Morton Precinct - Concept Designs - Adoption

10.2 Pat Morton Precinct - Concept Designs - Adoption

Section Engineering Works

Objective To report on the public exhibition of the Pat Morton Precinct Car Park and Shared Path Concept Designs and adopt a preferred design.

Background

At the July 2021 Ordinary meeting, Council endorsed the draft Pat Morton Precinct - Draft Car Park and Shared Path Concept Design (the concept design) for the purposes of public exhibition and community comment.

The draft document provided four different planning options to upgrade the car park, including options to connect the shared paths which currently terminate at the northern and southern boundaries of the car park. The options also give consideration to landscape features, constraints, embellishments and other items.

A copy of the draft concept design planning document is included as Attachment 1.

The concept design plans were exhibited from 4 August until 1 September 2021 and 22 submissions were received.

The purpose of this report is to consider the submissions and determine Council's preferred option.

Key Issues

- Selection of the preferred design option
- Balance between parking, recreation, environment and amenity

Discussion

Pat Morton Lookout is a popular location for tourists and residents and supports recreational activities including whale watching, walking, hang-gliding, paragliding, bike riding, exercising, picnicking and small gatherings such as weddings and birthday parties. The lookout also provides access to the National Surfing Reserve.

The lookout is also the location at which the following pathways converge;

- The Coastal Walk which follows the coastline south from the lookout and connects to beaches, recreation nodes, access points and other lookout areas
- The northern side Coastal Shared Path, which connects the lookout to the Lennox Head village.
- The southern side Coastal Shared Path, which connects the lookout to Skennars Head, East Ballina and through to Ballina.

10.2 Pat Morton Precinct - Concept Designs - Adoption

The concept design planning document, in part, seeks to resolve the placement of a missing link between the two shared paths - north and south.

The primary challenge is ensuring that an appropriate amount of access and connectivity is provided, whilst maintaining and enhancing the existing natural aesthetics and amenity of the site.

The draft plan includes four concept design options that seek to achieve the connection of the shared paths whilst offering improvements to facilities and features.

The four options are summarised as follows:

Option 1

Provides a new path north of the car parking area. The edge of the car park area would be pulled back to the south provide more grassed area and to make provision for the path. The pathway is 2.5m wide and separated from the car parking pavement by a narrow grass verge.

Option 2

This option is very similar to Option 1 and also provides for a 2.5m path with pathway along the northern edge of the car parking area. The difference is there is no grassed area between the path and carpark. The pathway would be defined and separated from vehicles by wheel stops and pavement colour/patterning treatment. (Both Option 1 and Option 2).

Option 3

Provides for a 2.5m wide pathway that passes through the car parking area leaving the northern edge of the car park as a grass surface.

Option 4

Provides for a reconfiguration and reconstruction of the car parking area. It includes a 2.5m wide pathway that passes through the car park area leaving the northern edge of the car park as a grass surface. Option 4 contemplates a more significant upgrade of the car park part of the plan.

The project was exhibited from 4 August to 1 September 2021.

The following table summarises the submissions received. A copy of the submissions is included in Attachment 2.

10.2 Pat Morton Precinct - Concept Designs - Adoption

Submission Summary	Preferred	Staff Comments
<p>1. Agrees with option 1 but thinks there should also be a connection to the coastal walk steps.</p>	Y (Option 1)	<p>The coastal walking track has not been designed as an 'accessible' path and is mostly considered a 'grade' 3 walking track. There is limited benefit to be obtained from providing a formalised path to the base of the steps.</p> <p>Community feedback obtained now and in 2013 indicates a preference not to have a footpath connection as it reduces the natural look and feel of the site.</p>
<p>2. The existing grassed surface is too bumpy to ride on and riding on the pavement behind the parked vehicles is dangerous.</p> <p>Additional signage and line marking should be provided between Pat Morton and 7 Mile Beach reinforcing that it is a shared path "ring the bell and keep left".</p>	Y (non-specified)	<p>The recommendation for additional line marking and signage between Pat Morton and 7 Mile Beach is outside the scope of this document. This feedback has been provided to Council's Road Safety Officer and Council's Open Spaces Section who manage the path for further consideration.</p> <p>Signage and line marking in accordance with the relevant Australian Standard will be considered during detailed design.</p>
<p>3. More references should be given to the Aboriginal heritage of the area.</p>	Y (non-specified)	<p>This is outside the scope of this document. This feedback has been provided to Council's Strategic Planning Section who are managing the 'Cultural Ways' project which will provide an opportunity to include appropriate information and signage within the Precinct.</p>
<p>4. Parking should be front in only with wheel stops to prevent vehicle overhang into the path. Signage should be provided to warn visitors to give way to path traffic</p>	Y (non-specified)	<p>The detailed design shall give consideration to vehicle overhang and appropriate signage (as per the relevant Australian Standards) with the aim of reducing pedestrian and cyclist conflict.</p>
<p>5. Option 3 preferred as the area north of the carpark remains grassy, a path at this location would reduce the amenity.</p> <p>One bus and one long vehicle bay is preferable to 2 bus bays to limit the number of visitors at one time but also to allow travellers in long vehicles to visit the site(e.g. towing a van).</p> <p>Informality of the headland area is key to its popularity.</p>	Y(option 3)	<p>The number/length of available bays will depend on which of the four options is selected.</p> <p>The detailed design will aim to strike an equitable balance between competing users.</p>

10.2 Pat Morton Precinct - Concept Designs - Adoption

Submission Summary	Preferred	Staff Comments
<p>6. Exhibition period should be extended beyond the 19/08 due to Covid-19.</p> <p>In favour of keeping the area as natural as possible.</p> <p>A concrete path should not be provided to connect to the steps.</p> <p>The informal style seating of the logs is in keeping with natural look (concrete base could be added as these have suffered erosion).</p> <p>The proposal needs more than just 3 seats.</p> <p>Toilet light currently faulty.</p> <p>The carpark down the northern slope could be gently terraced with some in-ground railway sleepers used to retain and add further seating (Similar to Wategos)</p>	<p>Y (Option 3)</p>	<p>It is unlikely the lock down has impacted on the exhibition process.</p> <p>Detailed design will consider retaining/relocating logs where possible subject to their condition and being able to suitably locate them and maintain amenity.</p> <p>If options 3 or 4 is preferred then the detailed design will give consideration to providing additional seats where practical.</p> <p>Council electricians have been notified regarding faulty light.</p> <p>Modifying/terracing the northern slope is considered a substantial change to the existing lookout and may warrant further public exhibition. Feedback received both now and previously (2013) indicates a strong preference for leaving the natural amenity as untouched as possible. Given that no other submissions have been provided which make similar recommendations, it is suggested that this does not need be considered further.</p>
<p>7. Running the path through the carpark is extremely dangerous as the carpark is very busy when surf conditions are favourable.</p>	<p>Y (Option 2)</p>	<p>This is a reason to support options 1 or 2, however options 3 and 4 can be delivered in a way that manages the safety risks for pedestrians.</p>
<p>8. Option 1 preferred as it enhances shared path experience, reduces carpark conflict and allows for a flowing carpark layout.</p> <p>Add more than 1 picnic node.</p> <p>Placename signage should be deferred until an alternative Indigenous name is found.</p> <p>Provide bike parking in a more visible area.</p> <p>A bicycle maintenance station should be provided.</p> <p>Concepts 2, 3 and 4 are not supported.</p>	<p>Y (Option 1)</p>	<p>Detailed design will give consideration to adding a second picnic node further to the south.</p> <p>Whilst a picnic node may increase the amenity for some it may also reduce the 'natural feel' of the site which feedback suggests is highly valued. Inclusion of a further node is dependent on being able to locate it appropriately so as not to reduce amenity of other users. It is noted that options 1, 2 and 3 include one picnic node while option 4 currently proposes 2 picnic nodes.</p> <p>Site naming and information signage content is outside the scope of this report. Any potential renaming of Pat Morton lookout is something that Council may wish to pursue as a separate matter. This feedback has been passed on to Council's Open Spaces Section who manage the Reserve.</p>

10.2 Pat Morton Precinct - Concept Designs - Adoption

Submission Summary	Preferred	Staff Comments
		<p>Bike racks as proposed are adjacent to toilet facility. This is considered a convenient location for cyclists who may need to use these facilities.</p> <p>The inclusion of a bicycle maintenance station could be considered subject to available funding (not yet defined).</p>
<p>9. Retain the log seats.</p> <p>Provide signage that all engines must be turned off when cars are parked.</p> <p>Provide another toilet.</p>	Y (Option 2)	<p>Detailed design to consider retaining/relocating logs where possible subject to their condition and being able to find a suitable location that does not result in any amenity reduction elsewhere/to other users.</p> <p>Provision of signage stating that 'all engines must be turned off when cars are parked' is considered difficult to enforce, particularly where people may turn into the car park to briefly view the surf conditions. Such signage would also add unnecessary clutter/reduce the natural amenity of the site.</p> <p>Provision of an additional /upgraded toilet facility would be subject to available funding.</p>
<p>10. Retain existing seats within their current location along with providing the proposed new seats. If existing seats are to be removed more timbers seats with backs should be provided.</p>	Y (Option 2)	Noted
<p>11. If the shared path is routed through the carpark most people on foot/bicycle will still ride along the front causing erosion and the path will be unused.</p>	Y (Option 1)	It is agreed this is a possibility and is one of the reasons why options 1 and 2 were developed.
<p>12. Option 1 and 2 is dangerous as people exiting vehicles will cross the path without looking for cyclists. The path is too busy to have cyclists on it, another path should be provided for cyclists.</p>	Y (Option 3)	A proposed secondary path is considered unnecessary and appropriate signage could be provided in accordance with the relevant Australian Standards to help manage this conflict.
<p>13. Include information regarding who Pat Morton was.</p> <p>Include historical pictures of the area.</p> <p>Include other information as relevant (i.e. a feature on pioneers of the surf)</p>	Y (non-specified)	The content of information signage is outside the scope of this project. Feedback will be retained/noted for when content is developed at a later date.

10.2 Pat Morton Precinct - Concept Designs - Adoption

Submission Summary	Preferred	Staff Comments
<p>14. Any gutters at the edge of the carpark/pathway should be lay-back style to afford easier access for prams/walkers/wheelchairs.</p>	Y (Option 2)	<p>The proposed concepts allow for a flush concrete edge strip which will not hinder access.</p>
<p>15. Option 2 preferred on the basis that signage will be provided indicating a slow speed environment and bicycles to give way to pedestrians.</p> <p>It is not necessary remove existing seats. Retain as they are and provide additional seats as well.</p> <p>The path in options 3 and 4 will remain unused as people will take the most direct route.</p> <p>The strip of grass in option 2 will become eroded due to foot traffic.</p> <p>The toilet should be renovated inside and out.</p> <p>Existing red garbage bins should be replaced with something more sympathetic in colour and design.</p> <p>Drivers should be encouraged to turn engines off while parked.</p> <p>Natural boulders should be used to keep vehicles within the carpark not sandstone blocks or timber bollards.</p>	Y (Option 2)	<p>Consideration will be given to signage in accordance with the relevant Australian Standard, where appropriate, to minimise pedestrian/cyclist conflict.</p> <p>Option 2 as proposed makes use of existing seats (relocated) and also provides for new seats.</p> <p>It is possible that the grass strip proposed between the carpark and path (option 1) may be difficult to maintain in a suitable condition.</p> <p>Detailed design to give consideration where possible to alternative bin arrangement.</p> <p>Noted.</p>
<p>16. As above</p>	Y (Option 2)	<p>Noted.</p>
<p>17. Disappointed at the proposal to remove log seats.</p> <p>The shared path in front of the carpark is a safety issue due to the conflict between shared path, coastal walk and traffic from people meandering from cars or using the path as a lookout.</p> <p>The grass gap in option 1 would not survive the foot traffic.</p> <p>Option 4 is undesirable as it is similar to a shopping carpark layout.</p>	Y (Option 3)	<p>Noted, detailed design to consider retention of seats where possible.</p> <p>The area experiences a high degree of use from various groups of people. The alternative concepts where the path passes through the car park are also subject to potential conflict between user groups. Safety benefits/risks associated with each option need to be considered.</p>

10.2 Pat Morton Precinct - Concept Designs - Adoption

Submission Summary	Preferred	Staff Comments
<p>18. A raised section for the path as it crosses the carpark in option 4 would ensure safety.</p> <p>An alternative more permeable material should be considered for the pathway other than concrete.</p>	Y (Option 4)	To be further considered in detailed design.
<p>19. Option 4 is preferred as the path will not block views.</p>	Y (Option 4)	Noted.
<p>20. Concerned with the increased traffic in front of the carpark and reduced ability to view the surf from your car.</p> <p>Concerned at the number of available car parking spaces and questioned whether the carpark can be extended south to meet future needs.</p> <p>Environmentally friendly and durable materials should be used where possible.</p>	Y (Option 4)	<p>Noted.</p> <p>The objective of these concept designs was to retain existing car park spaces rather than facilitate an increase. Increasing the number of car parking spaces is considered undesirable as it will reduce the 'natural feel' of the precinct which feedback suggests is highly valued. As no other submissions have been made regarding this point it is suggested it requires no further consideration.</p>
<p>21. Option 2 is best as it allows easy access for people with wheels who might otherwise become 'bogged' in the grass strip which won't survive foot traffic.</p> <p>Traffic calming and speed signage should be provided at the entrance of the carpark to slow vehicles.</p>	Y (Option 2)	Traffic calming and signage in accordance with the relevant Australian Standards to be considered further during detailed design.
<p>22. Option 4 Preferred</p>	Y (Option 4)	Noted.

Of the 22 submissions received, 18 supported at least one of the four concept design options, as per the following summary.

Option Number	Number of Submissions which Support the Option as a First Preference
1	3
2	7
3	4
4	4
Non-Specified	4

With such a wide spread of views, and a limited number of submissions, from a technical perspective, the preferred option is Option 1.

Options 1 and 2 avoid pedestrian and vehicle crossing points in the car park, and provide the most functional connection between the paths to the north and south, and to stairs to the top of the headland.

10.2 Pat Morton Precinct - Concept Designs - Adoption

Option 1 is preferred to Option 2, as the grass strip between the car park and the path provides better visual amenity, albeit this will add a small amount of additional maintenance activities.

An alternative option instead of grass is a suitably coloured gravel, or stone mix, with some small native planting elements.

Delivery Program Strategy / Operational Plan Activity

This project is consistent with Strategy PE1.1 - Promote our area as an attractive place to visit and Strategy PE3.3 - Deliver infrastructure that supports residential living.

Community Consultation Policy

The draft car park and shared path concept design planning document has been used to seek further community input through a public exhibition process.

Consultation with Registered Aboriginal Parties has already commenced as part of the car park works program.

Financial / Risk Considerations

At this stage there is only funding available for works directly related to the car park upgrade.

Council considered a Car Parks – Upgrade Program at the August 2020 Ordinary meeting and resolved to proceed with initial funding (\$100,000) under this program for the Pat Morton Lookout car park.

The purpose of confirming the concept design is so the car park works can be designed and implemented with the vision for the whole precinct established.

Funding for the other components of the Pat Morton Precinct upgrade, such as seating, picnic node, toilet building, signage works will need to be funded from other programs or grants.

Options

Option 1 Council endorse one of the four exhibited concept designs.

Council did not receive any opposition to the concept of this upgrade or to the options presented. Option 2 was supported the most in the submissions, however it is noted the submissions represent only a small sample from the community.

From a staff perspective the preferred option is Option 1 and this is the recommended option.

10.2 Pat Morton Precinct - Concept Designs - Adoption

Option 2 Council develops further planning options.

Council could decide not to endorse any of the exhibited concept designs and instead develop further concept designs for the precinct. This option is not recommended as the feedback from the community has not identified any significant issues or gaps in the planning.

Option 3 Maintain the status quo.

Council can upgrade the car park area by improving the surface and the drainage and not provide the missing link. This would enable pedestrians and cyclists to informally make their way around the precinct depending on their interest and activity. This option is not recommended because the plan is considered to provide substantial amenity and functional benefits to this important area.

RECOMMENDATION

That Council adopts Option 1, from the concept designs attached to this report, as the preferred concept to support the detail design and delivery for the upgrade of the Pat Morton Car Park Precinct.

Attachment(s)

1. Pat Morton Precinct - Car Park and Shared Path Concept Design
2. Submissions (Under separate cover)

11.1 Notice of Motion - All Things Water

11. Notices of Motion

11.1 Notice of Motion - All Things Water

Councillor Cr Cadwallader
Cr McCarthy
Cr Johnston

We move

That Council write to the Minister for Water, The Hon Melinda Pavey MP and Deputy Premier The Hon. John Barilaro to highlight the need for an independent scientific research organisation that would examine all aspects relating to water in our Richmond/Wilsons River catchment area, including Water Security, Flood Mitigation, Water Quality and River Health and the potential economic development opportunities and other benefits that would flow from the research.

Staff Comment

This motion was lost at the 26 August 2021 Ordinary meeting.

This means that to consider this matter again within a three month period, a notice of motion must include three signatures.

This notice complies with the requirements of the Local Government Act.

If the motion is again lost it cannot be re-considered for three months.

COUNCILLOR RECOMMENDATION

That Council write to the Minister for Water, The Hon Melinda Pavey MP and Deputy Premier The Hon. John Barilaro to highlight the need for an independent scientific research organisation that would examine all aspects relating to water in our Richmond/Wilsons River catchment area, including Water Security, Flood Mitigation, Water Quality and River Health and the potential economic development opportunities and other benefits that would flow from the research.

Attachment(s)

Nil

11.2 Notice of Motion - Walking Track - Pat Morton to Sharpes Beach

11.2 Notice of Motion - Walking Track - Pat Morton to Sharpes Beach

Councillor

Cr Cadwallader

I move:

That Council undertake an education program, including temporary educational signage, reinforcing the shared nature of the Coastal Walk along with the provision of information through community connect.

Staff Comment

The Coastal Walk from Sharpes Beach to Pat Morton is constructed based on National Parks and Wildlife Service standards for a walking track.

Even though it is primarily a walking track, it is being used for a wide variety of recreational uses, with the path proving popular for riders of all ages and especially children.

Council has received a few written complaints to date regarding bike riders and the observations are that there is minimal environmental disturbance along the path caused by bikes.

Allowing bikes on the formalised pathway reduces the risk of unformed and informal tracks that can cause greater damage to the sensitive grassland, including endangered ecological communities, within the coastal reserve.

The recommended approach is to monitor behaviour and undertake an education program to improve user awareness of the shared nature of the path and responsible use.

An education program could include temporary educational signage reinforcing the shared nature of the path and good use etiquette along with provision of information through community connect.

COUNCILLOR RECOMMENDATION

That Council undertake an education program, including temporary educational signage, reinforcing the shared nature of the Coastal Walk along with the provision of information through community connect.

Attachment(s)

Nil

11.3 Notice of Motion - Sharpes Beach Master Plan

11.3 Notice of Motion - Sharpes Beach Master Plan

Councillor

Cr Cadwallader

I move

1. That Council, as part of the preparation of the 2022/23 Delivery Program and Operational Plan, receive a report on funding the implementation of the Sharpes Beach Master Plan, which has an estimated cost of approximately \$1.2m, from the Community Infrastructure Reserve, through the proceeds from future land sales.
2. That the current review of the Section 7.11 Developer Contributions Plan for Open Spaces and Community Facilities, also examine the merit of including the Sharpes Beach Master Plan as part of the Contribution Plan works program, to help reduce the revenue contribution that Council would have to make to fund the implementation of the Master Plan.

Staff Comment

The Sharpes Beach Master Plan is one of a number of non-recurrent community infrastructure projects identified as a future priorities for implementation, with projects of this nature, forming part of regular report(s) to the March or April Finance Committee meetings, where Council formulates the annual Operational Plan and Delivery Program for public exhibition.

These types of projects are typically funded in full, or in part, by dividends from Council's Community Infrastructure Reserve, which relies on revenue from Council's commercial property portfolio and land sales.

Other funding sources are typically grants, loans and developer contributions.

The two major community infrastructure projects identified in the next four years of the adopted 2021/22 to 2024/25 Delivery Program include the new SES building (fully funded in the Long Term Financial Plan (LTFP)) and the Alstonville Cultural Centre refurbishment (limited funding in the LTFP), with these two projects estimated to cost a total of approximately \$10m.

There is currently no funding allocated in the LTFP for the Sharpes Beach Master Plan, as the preference has been to negotiate a voluntary planning agreement (VPA) with Intrapac Pty. Ltd. (developers of the Aureus Estate at Sharpes Beach) whereby developer contributions payable to Council by Intrapac could be redirected to works in the Master Plan.

This type of agreement has the potential to lessen the financial impact of the works on the general revenue of Council as the value of any developer contributions foregone is offset by works completed.

On-going litigation with Intrapac, and lack of agreement between Council and Intrapac on the terms of the VPA, has not seen a VPA progress to any great extent.

11.3 Notice of Motion - Sharpes Beach Master Plan

Therefore Council will need to examine funding from the Community Infrastructure Reserve for the implementation of this Master Plan, when formulating the next Delivery Program (2022/23 to 2025/26).

The possible inclusion of the works in the current review of the Open Spaces and Community Facilities Plan also has merit, with that review still on-going.

The exact works that could be included will be determined by Council as part of the contributions plan preparation process.

Part of the decision making process will be the scope of works appropriate for inclusion in a contributions plan (noting the Master Plan relates to public and private land), how much funding can be apportioned to a particular project from developer contributions, and consideration of the State Government cap on contributions.

A copy of the adopted Sharpes Beach Master Plan is included as Attachment 1.

The majority of the Master Plan is on private land, leased by Council from the Stewart Family (previous owners of the Aureus Estate site and current owners of the surrounding farmland). Any changes to the Master Plan would need approval from the Stewart Family.

COUNCILLOR RECOMMENDATIONS

1. That Council, as part of the preparation of the 2022/23 Delivery Program and Operational Plan, receive a report on funding the implementation of the Sharpes Beach Master Plan, which has an estimated cost of approximately \$1.2m, from the Community Infrastructure Reserve, through the proceeds from future land sales.
2. That the current review of the Section 7.11 Developer Contributions Plan for Open Spaces and Community Facilities, also examine the merit of including the Sharpes Beach Master Plan as part of the Contribution Plan works program, to help reduce the revenue contribution that Council would have to make to fund the implementation of the Master Plan.

Attachment(s)

1. Sharpes Beach Master Plan

11.4 Notice of Motion - Sport and Recreation Plan - Olympics 2032

11.4 Notice of Motion - Sport and Recreation Plan - Olympics 2032

Councillor

Cr Williams

I move

That Council consider as part of the preparation of the 2022/23 Operational Plan, an action to review the Sport and Recreation Plan to consider opportunities and challenges arising from the Brisbane Olympics 2032 decision.

Councillor Comment

The hosting of the Olympic Games in Brisbane in 2032 is likely to have a significant impact on the levels of sport participation in the Shire over the coming decade.

The Sport and Recreation Plan needs to be reviewed in light of this decision to ensure local athletes have access to appropriate quality facilities and support to enable them to compete at this once in a lifetime opportunity.

The Plan also needs to be reviewed to ensure that the Shire can maximise the economic and social benefits of a local Olympic Games and encourage State and Federal Government investment in sporting infrastructure and facilities.

COUNCILLOR RECOMMENDATION

That Council consider as part of the preparation of the 2022/23 Operational Plan, an action to review of the Sport and Recreation Plan to consider opportunities and challenges arising from the Brisbane Olympics 2032 decision.

Attachment(s)

Nil

11.5 Notice of Motion - Cumbalum Interchange

11.5 Notice of Motion - Cumbalum Interchange

Councillor

Cr Jeff Johnson

I move

1. That Council notes that the Cumbalum interchange was designed to allow north (off) and south (on) ramps to be added in the future and preliminary design works were completed.
2. That Council write to the NSW Minister for Regional Transport and Roads, (Paul Toole), the Deputy Premier (John Barilaro) and local MPs calling for full project design processes to occur and that a funding allocation be made in the State Government's 2022/23 budget for the Cumbalum Interchange north (off) and south (on) ramps to be completed. Included in this work should be the rectification of the Cumbalum interchange roundabout to raise it to contemporary flood levels.

Councillor Comments

When the Ballina Bypass was opened in 2011 there was provision for, and concept designs completed, for the on and off ramps at the Cumbalum interchange to allow vehicles to travel south or access Cumbalum from the south. Refer to attachments to this notice of motion.

Unfortunately the Cumbalum interchange was only half completed at the time, with the State Government saying that once the Pacific Highway upgrade was completed the on/off ramps would be completed.

Since that time thousands of houses have been built in the Cumbalum area and thousands more will be built over the next five to ten years with the rezoning of the land referred to as CURA A and CURA B.

This large urban expansion area was designated for urban development in the State Government's North Coast Regional Growth Strategy document, which basically approved the area to be converted from rural to urban development lands.

The huge growth in the Cumbalum area is already resulting in daily traffic jams during the morning peak hour, with cars often backed up for over five kms. This traffic congestion gets worse every year as more and more houses are built.

As a result Council has approved what is referred to as a mini bypass, which involves upgrading Barlows Road. There is also a proposed Western Arterial Road to again provide a bypass of Ballina Island. This road is already projected to cost \$40 million (in 2018 figures) and potentially \$50m in current dollars.

The logical way to allow traffic to get from Cumbalum to West Ballina and beyond (ie Alstonville, Wollongbar, Lismore) is to complete the Cumbalum interchange.

11.5 Notice of Motion - Cumbalum Interchange

With the Barlows Road 'mini bypass' and the completion of the Cumbalum interchange I don't believe the Western Arterial Road would need to be constructed, which would allow Council to reallocate that \$50 million (or more) to other road and community infrastructure projects.

As the State Government pushed for the rezoning of the land from Cumbalum (Ballina Heights Estate) all the way to Ross Lane, it is morally obliged to complete the interchange, as the increased traffic from the yet to be commenced residential areas will cause traffic gridlock for those entering Ballina from the north.

The traffic heading into and out of Ballina on Tamarind Drive and Kerr Street is already reaching its functional capacity and there is expected to be more than 5,000 additional houses to be constructed over the next 5 to 10 years.

Now is the time for the Cumbalum interchange project design to be completed and the construction to be put in the State Government's 2022/23 Budget.

As part of this design work, urgent consideration is needed to fix the sinking roundabout at the interchange, which is the main access point into the Ballina Heights Estate. We have already seen during heavy rainfall this roundabout being flooded.

Staff Comment

Council has passed a number of resolutions in recent years asking the State Government to complete this interchange, with no success to date.

The last resolution was in March 2021 where Council resolved to ask the Minister to attend an on-site meeting, or alternatively Council was to make a deputation to the Minister.

Unfortunately Council has not had a response to this request, albeit that the COVID lockdowns for Sydney have impacted the ability to co-ordinate such a meeting.

Further background information is as follows:

Attachment 1 - Transport for NSW update dated 29 July 2020

Attachment 2 – Design Options A to D that were developed early in the project by Hyder Consulting Pty. Ltd.

Attachment 3 – Further design option developed by the Ballina Bypass Alliance.

COUNCILLOR RECOMMENDATIONS

1. That Council notes that the Cumbalum interchange was designed to allow north (off) and south (on) ramps to be added in the future and preliminary design works were completed.
2. That Council write to the NSW Minister for Regional Transport and Roads, (Paul Toole), the Deputy Premier (John Barilaro) and local MPs calling for full project design processes to occur and that a funding allocation be made in the State Government's 2022/23 budget for the Cumbalum Interchange north (off) and south (on) ramps to be completed. Included in this work should be the rectification of the Cumbalum interchange roundabout to raise it to contemporary flood levels.

Attachment(s)

1. Cumbalum Interchange - Transport for NSW response dated 29 July 2020
2. Cumbalum Interchange - Design options A to D developed by Hyder Consulting Pty. Ltd.
3. Cumbalum Interchange - Design option developed by the Ballina Bypass Alliance

11.6 Notice of Motion - Alstonville Rural Fire Shed Site

11.6 Notice of Motion - Alstonville Rural Fire Shed Site

Councillor

Cr Smith

I move

That the September 2021 Quarterly Financial Review report identify funding options for the construction of the vehicle turnaround for the Alstonville Rural Fire Service site, to ensure that the access is safe, with the need for these works forming part of the negotiations that resulted in the sale of the Council land adjoining the site.

Staff Comment

As part of the sale negotiations for the adjoining land, where the Alstonville Tennis Courts were previously located, which Council sold on the open market to help finance the Wollongbar Sports Fields construction, it was agreed by staff that Council would reconstruct a turnaround area to ensure that there was the same level of access to the Alstonville Rural Fire Service site as prior to the sale.

From a staff perspective, the current standard of access in and out of the Rural Fire Service shed is considered safe and it is reasonable for vehicles to runaround on the grassed area, due to the low number of vehicle movements.

However, the Alstonville Fire Service is of the opinion that it is unsatisfactory.

Very preliminary estimates place the cost of the work at approximately \$100,000 and if the motion is successful, funding options can be included in the September Quarterly Financial Review report, which is scheduled for the October or November 2021 Ordinary meeting.

COUNCILLOR RECOMMENDATION

That the September 2021 Quarterly Financial Review report identify funding options for the construction of the vehicle turnaround for the Alstonville Rural Fire Service site, to ensure that the access is safe, with the need for these works forming part of the negotiations that resulted in the sale of the Council land adjoining the site.

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 August 2021 Ordinary meeting are as follows:

<u>Date</u>	<u>Function</u>
19/8/21	Cross Border Meeting
22/8/21	Commemoration Park Markets
25/8/21	Meeting – NSW Telco Authority
26/8/21	Webinar – Local Government – Health and Minister Adam Marshall
29/8/21	Commemoration Park Markets
31/8/21	Webinar – Minister for Local Government – Health and Police
2/9/21	Cross Border Meeting
3/9/21	Citizenship Ceremonies Online
5/9/21	Commemoration Park Markets
8/9/21	Briefing – E Zones – Deferred Matters
9/9/21	'C' Ward Committee
10/9/21	Cross Border Meeting
12/9/21	Commemoration Park Markets
13/9/21	Meeting – Ben Franklin
14/9/21	OLG Webinar – Update with NSW Health and Police
14/9/21	'A' Ward Committee
16/9/21	Cross Border Meeting
16/9/21	OLG webinar – Covid 19 and Mental Health
17/9/21	Citizenship Ceremonies Online
19/9/21	Commemoration Park Markets
20/9/21	'B' Ward Committee
23/9/21	Council Meeting
24/9/21	LGNSW Webinar/Meeting with Deputy Premier
24/9/21	NRJO Workshop
26/9/21	Commemoration Park Markets
28/9/21	Briefing – Clarence Properties

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 Financial Support Package - COVID-19 Lockdown - Recovery

Refer to Item 9.4 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 Financial Support Package - COVID-19 Lockdown - Recovery

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to ongoing commercial negotiations and the release of any information could prejudice those negotiations.