

Agenda

Ordinary Meeting **25 November 2021**

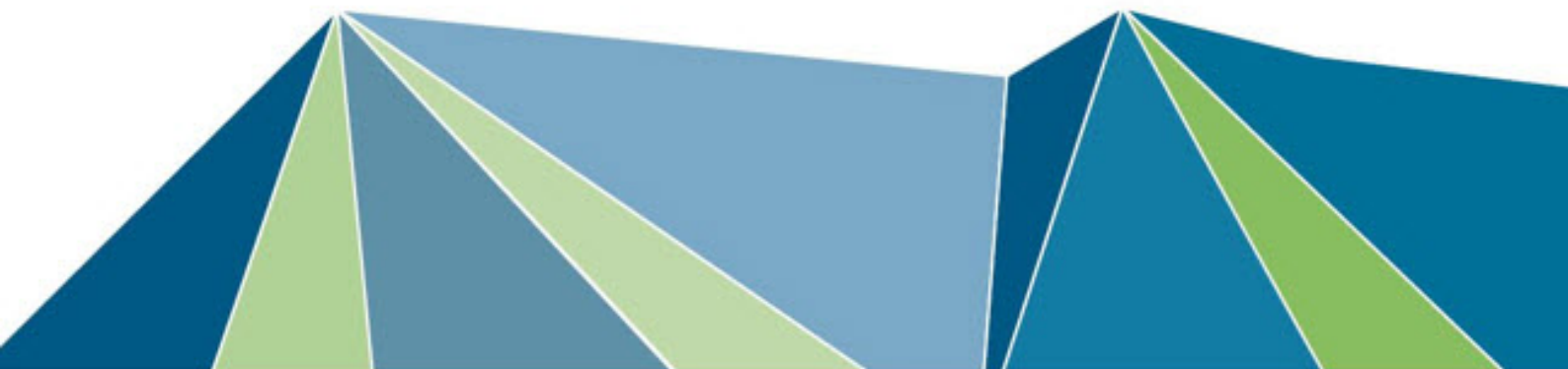
An Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **25 November 2021 commencing at 9.00am.**

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 any 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.
- All speakers should refrain from making any defamatory comments or releasing any personal information about another individual without their consent.
- Council accepts no liability for any damage that may result from defamatory comments made by persons attending meetings. All liability will rest with the individual who made the comments.
- This meeting must not be recorded by others without the prior written consent of the Council in accordance with Council's Code of Meeting Practice.

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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 28 October 2021 were distributed with the business paper.

RECOMMENDATION

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

5. Declarations of Interest and Reportable Political Donations

6. Deputations

7. Mayoral Minutes

Nil Items

8.1 Planning Proposal - Fitzroy Street, Wardell

8. Planning and Environmental Health Division Reports

8.1 Planning Proposal - Fitzroy Street, Wardell

Section	Strategic Planning
Objective	To inform Council of the outcomes of the public exhibition of planning proposal BSCPP 20/002 and to seek direction on the finalisation of the LEP amendment.

Background

Council at the Ordinary meeting held on 24 September 2020 considered an LEP amendment request to rezone No. 6-20 Fitzroy Street, Wardell from RU2 Rural Landscape to R3 Medium Density Residential, apply a minimum lot size requirement of 800m² and to remove the Strategic Urban Growth Area designation that applies to the land.

In considering this matter in September 2020, Council resolved as follows:

1. *That Council endorses the proposed amendments to the Ballina Local Environmental Plan 2012 as outlined in the planning proposal (BSCPP 20/002 – No. 6-20 Fitzroy Street, Wardell) contained within Attachment 1 for submission to the Department of Planning, Industry and Environment for Gateway determination.*
2. *That the Department of Planning, Industry and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.*
3. *That upon an affirmative Gateway determination being received from the Department of Planning, Industry and Environment, the procedural steps associated with progression of the planning proposal be undertaken including public exhibition.*
4. *That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.*

Following the issue of a Gateway determination, the planning proposal was publicly exhibited from 9 June 2021 until 25 June 2021. One submission was received in response to the exhibition.

The purpose of this report is to outline the outcomes of the public exhibition and planning proposal assessment and seek direction on the finalisation of the proposed LEP amendment.

Attachment 1 contains a copy of the exhibited planning proposal. Attachment 2 contains a copy of submissions including government agency consultation.

8.1 Planning Proposal - Fitzroy Street, Wardell

Key Issues

- Outcomes of the public exhibition and agency consultation process
- Suitability of the proposed LEP amendment (residential zoning) and finalisation of the amendment

Information

Land to which the planning proposal relates

The proposed LEP amendment relates to four vacant land parcels comprising Lots 2, 3, 4 and 5, Section 10, DP 759050 located at No. 6-20 Fitzroy Street, Wardell and shown by red outline in Figure 1.



Figure 1: Locality Map

Gateway Determination

The NSW Department of Planning, Industry and Environment (DPIE) issued a Gateway determination on 9 March 2021 which enabled the planning proposal to proceed to public exhibition.

The Gateway determination specified a minimum 14 days public exhibition period and required consultation occur with the NSW Rural Fire Service (NSW RFS).

The timeframe for completion of the LEP amendment was specified as six months following the date of the Gateway determination.

An altered Gateway determination was issued on 18 October 2021 which extended the completion period for a further five months (Attachment 3).

The DPIE also advised Council that the Department Secretary had agreed that no further approvals were required in respect to the planning proposal's inconsistencies with section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands, 2.2 Coastal Management, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land and 5.3 Farmland of State and Regional Significance on the NSW Far North Coast.

8.1 Planning Proposal - Fitzroy Street, Wardell

In respect to Direction 4.4 Planning for Bushfire Protection, following consultation with the NSW RFS, advice was provided on 1 November 2021 that the Department Secretary agreed that the inconsistency was justified in accordance with the terms of the Direction.

Consultation – NSW Rural Fire Service

In accordance with the terms of the Gateway determination, consultation was undertaken with the NSW Rural Fire Service (RFS).

In response to a request for further information dated 16 July 2021, the NSW RFS was provided with a copy of a *Draft Strategic Bush Fire Study*, prepared by Bushfire Certifiers and dated 16 March 2020 (Attachment 4). Upon consideration of this information the NSW RFS provided the following comments:

The land is constrained by a small strip of remnant vegetation situated on a drainage line to the immediate north and west of the lots.

In line with the conclusion of the Strategic Bush Fire Study prepared by Bushfire Certifiers, dated 16 March 2020, the NSW RFS conditionally supports the rezoning proposal. The future subdivision plan will need to reflect identified setback distances from un-managed vegetation and provide indicative building envelopes to assure that no future dwellings exceed 29k/W radiant heat exposure.

Correspondence received from the NSW RFS is contained in Attachment 2.

Compliance with the requirements of *Planning for Bush Fire Protection 2019* is a mandatory part of the development assessment process (s.4.14 EP&A Act) for development that is proposed on bush fire prone land. Further consultation with the NSW RFS will be undertaken as part of the development assessment process for the future development of the land.

Delivery Program Strategy / Operational Plan Activity

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

Community Consultation Policy

The planning proposal was publically exhibited, in accordance with Council's Community Participation Plan and the Gateway determination, from 9 June 2021 until 25 June 2021.

In response to the public exhibition one submission was received.

A copy of the submission is provided in Attachment 2.

A summary of the matters raised in the submission is provided as follows.

8.1 Planning Proposal - Fitzroy Street, Wardell

Summary of Issues	Comments
Where can I locate Appendix 5 (provided under separate cover).	Advised that the document was uploaded to Council's website.
Fitzroy Street is not adequate to service existing residents and is therefore inadequate to be available to service the site and future residential development.	The village of Wardell is serviced by all required public infrastructure services (electricity, water, sewer, telephone, sealed roadway). Any future development application for the subdivision will be required to address these items in further detail, including the upgrading of Fitzroy Street to comply with Australian Standards.
Fitzroy Street is a one-way dead-end street without a turning point, not wide enough to allow street parking, and trucks entering the street need to exit in reverse which compromises the safety of residents.	
The roadway is compromised by the open drain which causes water inundation to homes during times of significant rain events. Will Council close-in the drain so the roadway is available to service the site and future residential development?	As noted above, the future development application for the subdivision will be required to address site specific issues such as flooding, drainage and access.
Supports the approval of development applications which increase the supply of housing in the Ballina LGA, especially given the existing housing crisis in Northern NSW, provided due consideration is given to address safety, environmental impacts and infrastructure requirements.	Noted.

Financial / Risk Considerations

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

Options

The following options are presented for the Council's consideration.

Option 1 – Finalise the LEP Amendment

This is the recommended option.

The finalisation of the proposed LEP amendment will facilitate the subdivision of the land for residential purposes and provide for increased housing opportunities within the village of Wardell.

8.1 Planning Proposal - Fitzroy Street, Wardell

The planning proposal is consistent with Strategic Action 24 of the Wardell Strategic Plan (WSP) which seeks to rezone strategic urban growth areas within Wardell to provide additional land for subdivision.

Adoption of this option will result in the LEP amendment being finalised as exhibited utilising Council's delegated plan making functions.

Option 2 – Discontinue the planning proposal

This option is not recommended as the report has demonstrated that the planning proposal has sufficient merit to warrant its finalisation.

The implementation of this option would require Council to seek a determination from the Minister that the matter not proceed. The Minister would be unlikely to provide such a determination in this circumstance.

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

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

RECOMMENDATION

That Council authorises the General Manager to finalise and implement Planning Proposal BSCPP 20/002 to apply an R3 Medium Density Residential Zone to No. 6-20 Fitzroy Street Wardell, as detailed in Attachment 1 to this report, under delegated authority.

Attachment(s)

1. BSCPP 20/002 - Planning Proposal (V2 Exhibition)
2. BSCPP 20/002 - Submissions and NSW RFS Consultation
3. BSCPP 20/002 - Altered Gateway Determination
4. BSCPP 20/002 - Draft Strategic Bush Fire Study (Bushfire Certifiers, March 2020)

8.2 Land Classification - Lot 163 DP 1261459, Carroll Avenue

8.2 Land Classification - Lot 163 DP 1261459, Carroll Avenue

Delivery Program

Strategic Planning

Objective

To determine the classification of recently acquired land under the provisions of the Local Government Act 1993.

Background

Lot 163 DP 1261459 (Lot 163) entered into Council's ownership on 17 September 2021 upon the issue of the Certificate of Title. The land is located within the Aureus Estate at Skennars Head and has been designated for use as a sewer pump station via DA 2017/244 to service the allotments within this new subdivision.

Lot 163 is shown outlined by red edge in the locality plan below.

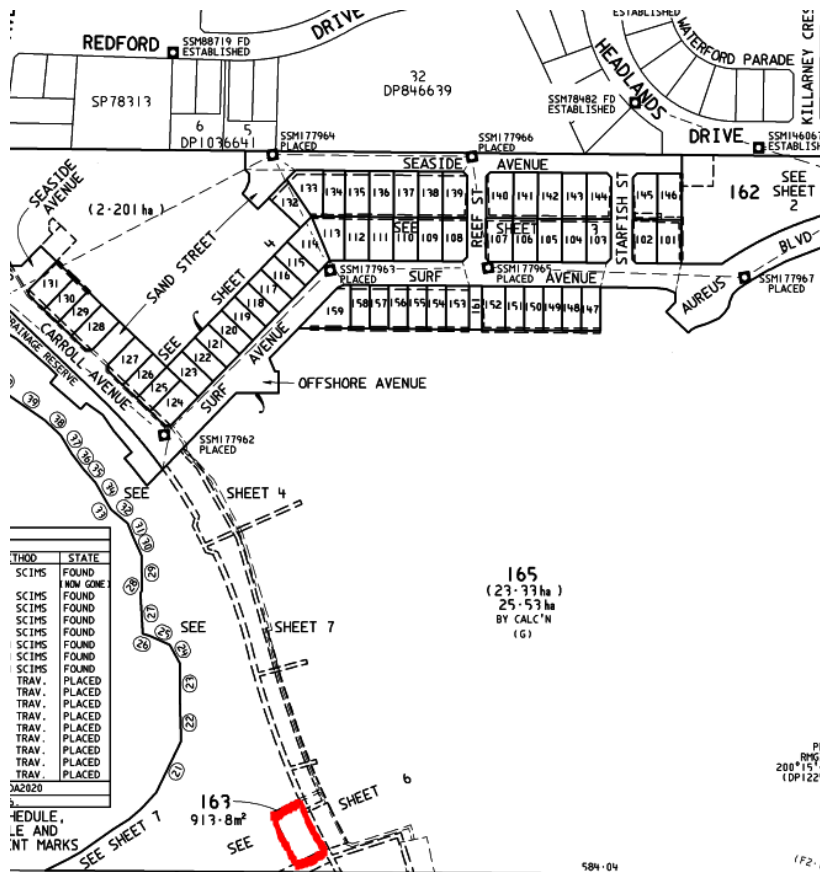


Figure 1: Locality Plan

The purpose of this report is to determine the classification of Lot 163 under the terms of the *Local Government Act 1993* (LG Act). Part 2 of Chapter 6 of the LG Act regulates the management of public land.

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

Key Issues

- Classification of the land under the terms of the Local Government Act
- Nature and use of the land

Information

A condition of consent in DA 2017/244 required that the developer transfer the designated pump station lot (Lot 163) to Council at a nominal fee of one dollar. This is to ensure the sewer pump station is located on a single lot of land owned by Council and will enable Council to maintain this critical asset in perpetuity.

Lot 163 has an area of 913.8m² and is zoned R2 Low Density Residential under the provisions of the Ballina Local Environmental Plan (LEP) 2012.

As Lot 163 has been designated for the purpose of a sewer pump station and does not function as open space for public recreation, it is recommended that it be classified as operational land in accordance with the provisions of the LG Act.

Section 31 of the LG Act provides that before a council acquires land, or within three months after it acquires land, it may resolve that the land be classified as either community land or operational land.

If the land has not been classified within the three month period then it is taken to have been classified as community land.

The subject land came into Council's ownership on 17 September 2021 upon the issue of the Certificate of Title and the three month classification "window" expires on 17 December 2021.

Section 34 of the LG Act requires that public notice of a proposed resolution to classify land must be given and that a period of not less than 28 days to receive submissions must be provided.

A public notice of the proposal to classify the subject land as operational land was displayed on Council's website on 6 October 2021 in accordance with section 34 of the Act.

Submissions were invited until 5 November 2021.

No submissions were received in response to the notification.

Given that the land is now in Council's ownership and the required public notification has been completed, it is necessary for Council to confirm whether the land is to be classified as operational land under the terms of the LG Act.

Delivery Program Strategy / Operational Plan Activity

The classification of Lot 163 as operational land relates to action HE3.1n – "Maintain a contemporary management framework for public land" in Council's adopted Delivery Program and Operational Plan.

Community Consultation Policy

Public notification of the proposal to classify the land as operational land has occurred in accordance with the requirements of section 34 of the *Local Government Act 1993*.

Public submissions were invited, with the closing date being 5 November 2021. No submissions in response to the notification were received.

Financial / Risk Considerations

The classification of Lot 163 in DP 1261459 as operational land is a legal mechanism under the LG Act that provides Council with flexibility in the management and maintenance of the land as a sewer pump station.

The proposed classification will not result in direct adverse resource or financial implications but will enable the efficient management and maintenance of the land for its intended public utility purpose in the long term.

Options

Option 1 - Council may resolve to classify the lot as operational land.

Under this option, the proposed classification of the lot as operational land would take effect immediately upon the resolution of the Council. This is the recommended approach.

Option 2 - Council may resolve to classify the lot as community land.

Where land is classified as community land, Council would be obliged to manage the land for community purposes and make provision for its categorisation and incorporation into a plan of management. Given the intended use of the land is exclusively for the purpose of a sewer pump station, classifying the land as community land is not recommended.

The classification of the land as operational land, as per option one, is the recommended approach as the land has been specifically acquired for a use compatible with an operational classification.

Classification as operational land allows for Council's relatively unfettered ongoing management and maintenance of the land as a sewer pump station.

RECOMMENDATION

That Council classifies the land identified as Lot 163 DP 1261459, being land located on the western side of Carroll Avenue, Skennars Head, as operational land under the provisions of the Local Government Act 1993 and that this classification takes effect immediately.

Attachment(s)

Nil

8.3 Alcohol Free Zones - Lennox Head, Alstonville, Ballina and Wardell

8.3 Alcohol Free Zones - Lennox Head, Alstonville, Ballina and Wardell

Section Open Spaces

Objective To seek endorsement for the re-establishment of the Alcohol Free Zones that apply for Lennox Head, Ballina, Alstonville and Wardell.

Background

Council has a number of Alcohol Free Zones (AFZs) that have been established to assist in the management and mitigation of anti-social behaviour. These zones have been continuously supported by the NSW Police.

AFZs can only be implemented for a set period of time and a further resolution is required to re-establish the zone after its expiry.

The required processes are set out in the "Ministerial Guidelines for Alcohol Free Zones 2009" (Ministerial Guidelines). The AFZs within Ballina Shire are due for renewal.

The history of the AFZs that are subject to this report is set out below.

Ballina

Established August 2007
Renewed October 2010
Renewed August 2015
Renewed November 2017

Lennox Head

Established December 2008
Renewed January 2012
Renewed March 2016
Renewed November 2017

Alstonville

Established December 2008
Renewed January 2012
Renewed March 2016
Renewed November 2017

Wardell

Established October 2010
Renewed August 2015
Renewed November 2017

Maps showing the locations of these AFZs are attached (Attachments 1, 2, 3 and 4). All of the above AFZs are due to expire on 31 January 2022.

Council has received a submission from the NSW Police (Attachment 5) to re-instate the AFZs to support their strategies to manage crime and anti-social behaviour.

Key Issues

- Re-establishment of AFZs in various locations
- Management of public recreation areas and other public land

Discussion

An AFZ prohibits the drinking of alcohol in public places that are public roads, footpaths or public car parks.

The declaration of an AFZ provides the NSW Police with the power to seize and dispose of alcohol without the need to issue a warning.

In circumstances where a person does not cooperate with a Police Officer they can be charged with obstruction under Section 660 of the Local Government Act 1993 which carries a maximum penalty of \$2,200.

The declaration of AFZs in Lennox Head, Alstonville, Ballina and Wardell has previously been made in response to situations where alcohol consumption in these public places was resulting in anti-social behavior by some persons.

The Ministerial Guidelines identify that AFZs may be established for a maximum period of three years.

The AFZ is described in the Ministerial Guidelines as:

"....a short term control measure and in many instances a zone will achieve the desired objectives within its operational period."

The AFZs cannot be re-established without advertising and consultation on the proposal as per the Ministerial Guidelines which apply under section 646 Local Government Act 1993.

The NSW Police continue to note the importance of the AFZ in managing anti-social behaviour and crime.

It is now proposed to re-establish the AFZs at Lennox Head, Alstonville, Ballina and Wardell for a declaration period from 1 February 2022 to 31 January 2025.

Delivery Program Strategy / Operational Plan Activity

The Local Government Act sets out the statutory framework for the creation of an AFZ. The statute is facilitated by the Ministerial Guidelines.

The costs to Council relate to signage implementation and maintenance. These costs can be accommodated within existing budget allocations.

Community Consultation Policy

The Ministerial Guidelines specify consultation arrangements. Consultation is required with the Police, licensed premises around which the zones will be prepared, Aboriginal and ethnic groups, surrounding businesses and the general community.

Financial / Risk Considerations

Management of anti-social behaviour draws on community resources however anti-social behaviour can also be an impediment to business and a direct cost to the community.

Options

Council may decline the submission from the NSW Police to re-establish the AFZs in Lennox Head, Alstonville, Ballina and Wardell past their expiry date 31 January 2022 or Council can resolve to support the NSW Police to re-establish the zones.

Given the advice of NSW Police, it is recommended that Council initiate the consultation process to progress the reinstatement.

Following the consultation process, a further report will be presented to the Council to seek a decision on the renewal of the AFZs.

RECOMMENDATIONS

1. That in accordance with the Ministerial Guidelines for Alcohol Free Zones, Council initiates a consultation program to consider a proposal to re-establish an Alcohol Free Zone at Lennox Head as per the location map attached to this report.
2. That in accordance with the Ministerial Guidelines for Alcohol Free Zones, Council initiates a consultation program to consider a proposal to re-establish an Alcohol Free Zone at Alstonville as per the location map attached to this report.
3. That in accordance with the Ministerial Guidelines for Alcohol Free Zones, Council initiates a consultation program to consider a proposal to re-establish an Alcohol Free Zone at Ballina as per the location map attached to this report.
4. That in accordance with the Ministerial Guidelines for Alcohol Free Zones, Council initiates a consultation program to consider a proposal to re-establish an Alcohol Free Zone at Wardell as per the location map attached to this report.

Attachment(s)

1. Map of Alcohol Free Zone Lennox Head
2. Map of Alcohol Free Zone Alstonville
3. Map of Alcohol Free Zone - Ballina
4. Map of Alcohol Free Zone - Wardell
5. Richmond Local Area Command Crime Prevention Unit Alcohol Free Zone Consultation

8.4 Healthy Waterways Program - Update

8.4 Healthy Waterways Program - Update

Section Public and Environmental Health

Objective Provide an update on the Healthy Waterways Program and outline future planned projects.

Background

Council has been engaged in various projects relating to the Richmond River and other associated waterways in recent years that seek to improve water quality and deliver positive outcomes to the environment.

The document contained in Attachment 1 provides an overview of the Healthy Waterways Program and has been developed to provide information to the community, as well as to guide projects and support grant opportunities by State Government agencies.

This report and the program sets out the strategy and operational objectives. It focuses on work funded by the special rate variation as well as other monies able to be leverage to meet these objectives.

The program document also demonstrates how Council's approach fits in with that of other organisations such as State Government, upstream councils, industry best practice, landcare groups and other community groups.

Key Issues

- Delivery of program and projects that provide for improved water quality
- Environmental outcomes
- Accountability for the expenditure of public monies

Discussion

Council has a long history of undertaking projects aimed at improving different aspects of river health. Partnership and collaboration with other organisations including State Government agencies has been a key feature. Work in relation to projects has increased since the introduction of dedicated funding from the special rate variation and the development of the Healthy Waterways Program.

A key use of the funding has been to leverage grant funding through agencies such as the Department of Planning, Industry and Environment (DPIE) under their Coastal and Estuary Programs.

Under older Coastal Zone Management Plans matching funding was at a 1:1 dollar ratio.

However under the new Coastal Management Program funding is now at a ratio of 2:1 dollar ratio, meaning that the State government has increased their contribution.

8.4 Healthy Waterways Program - Update

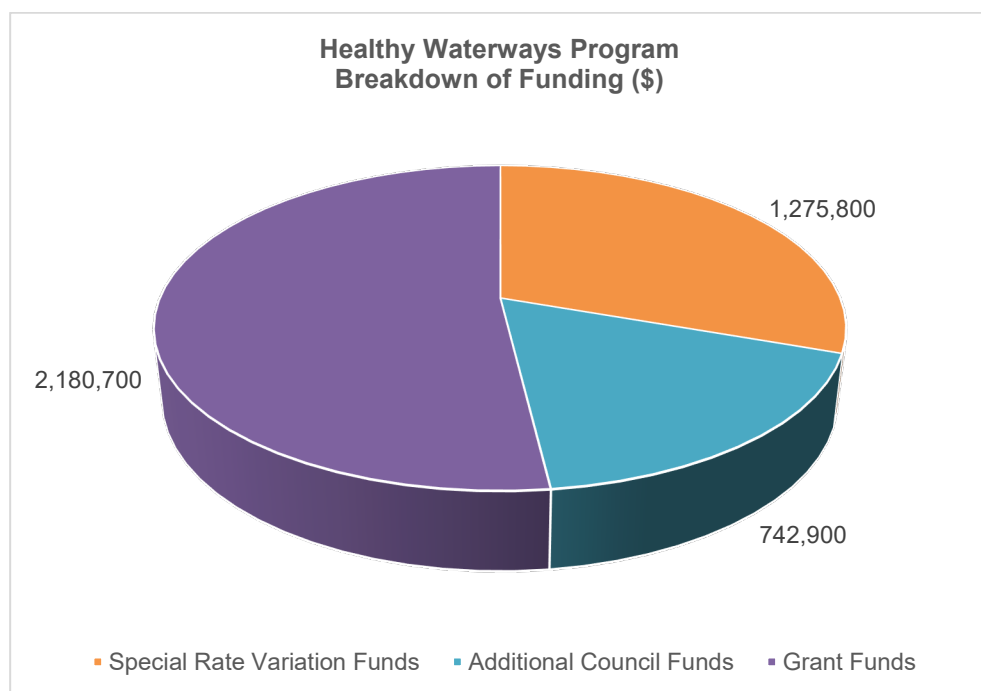
To develop an overall program that looks holistically across the catchment has taken considerable time and the allocation of funds over several years to enable projects to get underway such as the North Creek Coastal Management Program. This is an ongoing program requiring significant investment.

Examples of recent major projects underway and planned include:

- Development and Gazettal of a new Lake Ainsworth Coastal Management Program and the commencement of the implementation of the identified Actions
- Implementation of Actions identified in the Shaws Bay Coastal Zone Management Plan
- Planning for a new Shaws Bay Coastal Management Program
- Development of the Scoping Study and Detailed Studies to inform the development of the North Creek Coastal Management Program
- Keith Hall and Mobbs Bay Drainage Study
- Partnership with Rous County Council and other catchment local councils on the development of the new Richmond River Coastal Management Program
- Planning, design and development of the Teven Parkland and Maguire's and Houghlahan's Creek riparian revegetation
- Implementation of Emigrant Creek riparian revegetation
- Steering Committee member on the Tuckean Project managed by OZfish

The following charts and graphs provide a summary of projects and funding allocations since 2018 to June 2021.

Figure 1 – Healthy Waterways Program and approximate funding distribution



8.4 Healthy Waterways Program - Update

Figure 2 - Projects and approximate costs by Council and grants

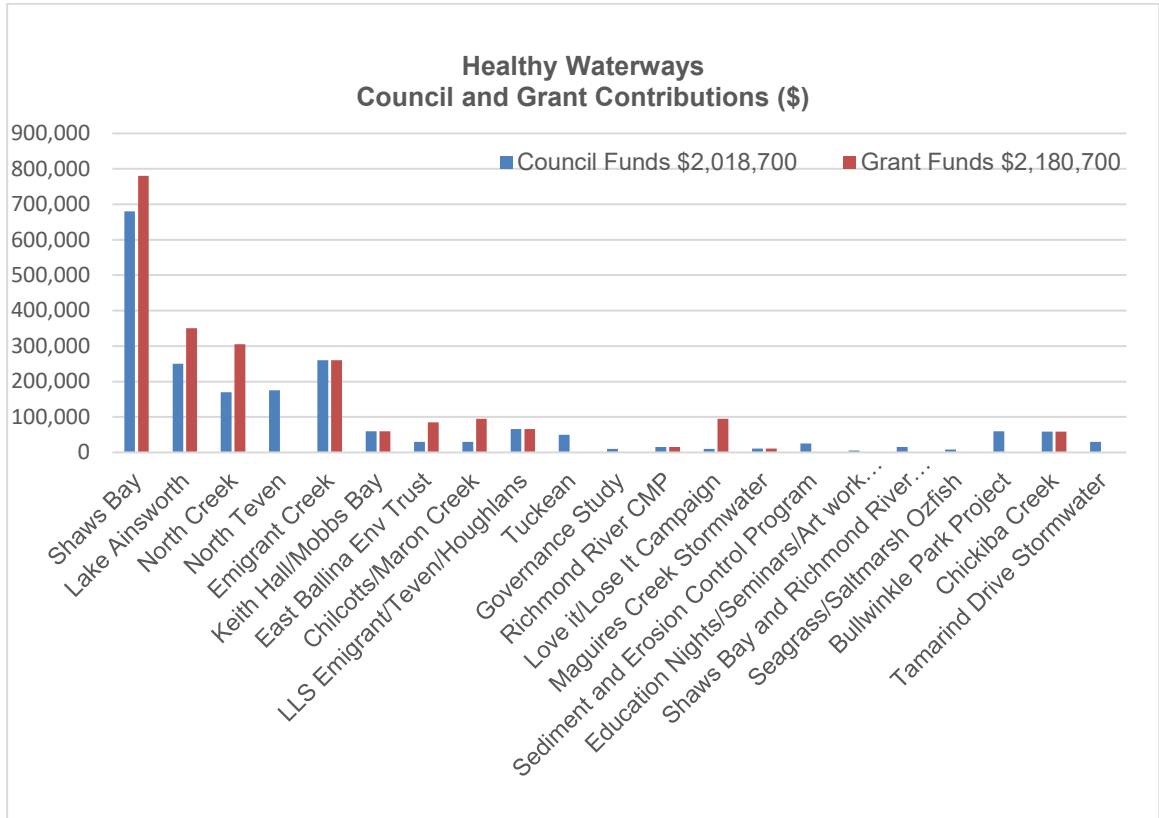
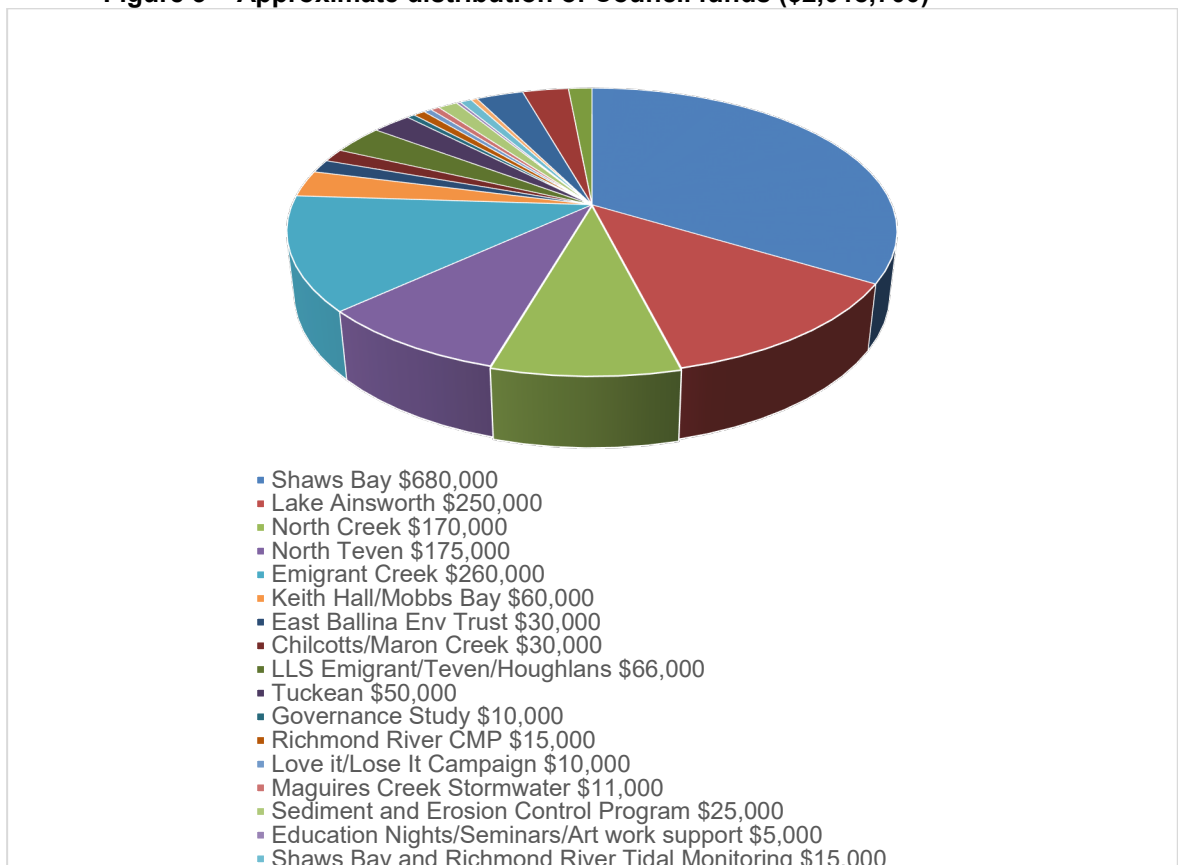


Figure 3 – Approximate distribution of Council funds (\$2,018,700)



8.4 Healthy Waterways Program - Update

Delivery Program Strategy / Operational Plan Activity

The Healthy Waterways Program relates to a number of Delivery Program and operational Plan strategies including:

- Undertake and promote initiatives that improve our waterways (HE1.2) and
- Minimise negative impacts on the natural environment (HE3.2)

Community Consultation Policy

The Healthy Waterways Program is underpinned by a philosophy of community and stakeholder engagement.

Opportunities for the community and stakeholder engagement are considered in relation to each project within the program.

Financial / Risk Considerations

The special rate variations provides funds that contribute towards waterways projects. However often projects required further monies and such funding is identified through grant opportunities such as those relating to Coastal Management Programs and the long term financial plan.

Options

This report and attached program is provided for the information of the Council and the community.

RECOMMENDATION

That Council notes the contents of this report and the Healthy Waterways Program as per Attachment 1.

Attachment(s)

1. Healthy Waterways Program

8.5 Development Applications - Works in Progress - November 2021

8.5 Development Applications - Works in Progress - November 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 October 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	Sept	Oct
More than 365 days	39	37	34	33	31	27	26	23	19	17
180 to 365 days	62	64	72	78	82	73	68	63	57	51
90 to 180 days	61	71	100	127	151	176	173	157	126	93
Less than 90 days	97	93	84	89	87	77	50	77	121	170
TOTAL	259	265	290	327	351	353	317	341	323	331

From June through to August there was a reduction in the numbers of applications under assessment for more than 90 days.

However, the significant increase in the number of applications under assessment for less than 90 days from September reflects the progression of applications through the NSW Planning Portal from submission to lodgement and the continued high number of applications being made.

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

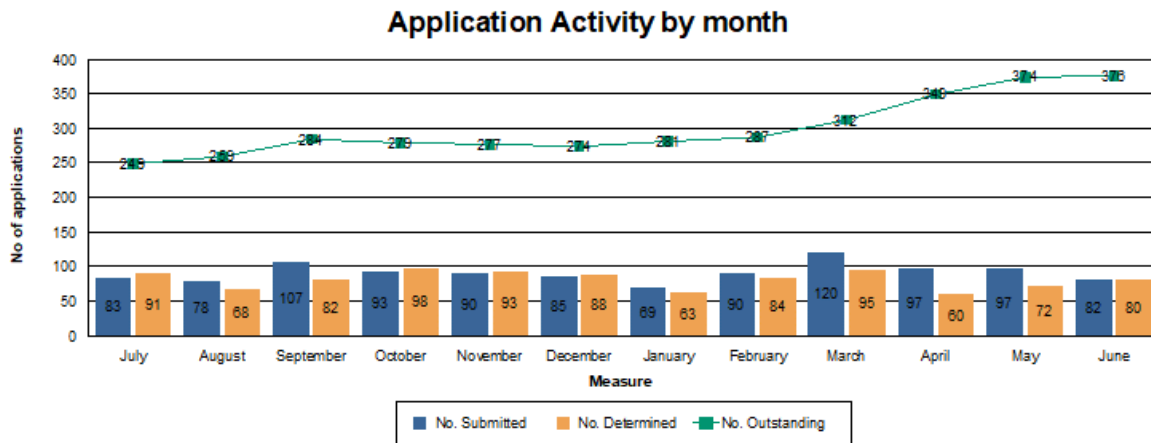
A number of applications submitted in July or August have progressed through the initial stages of an adequacy review and have now been accepted as lodged, reflecting the higher numbers in September and October.

8.5 Development Applications - Works in Progress - November 2021

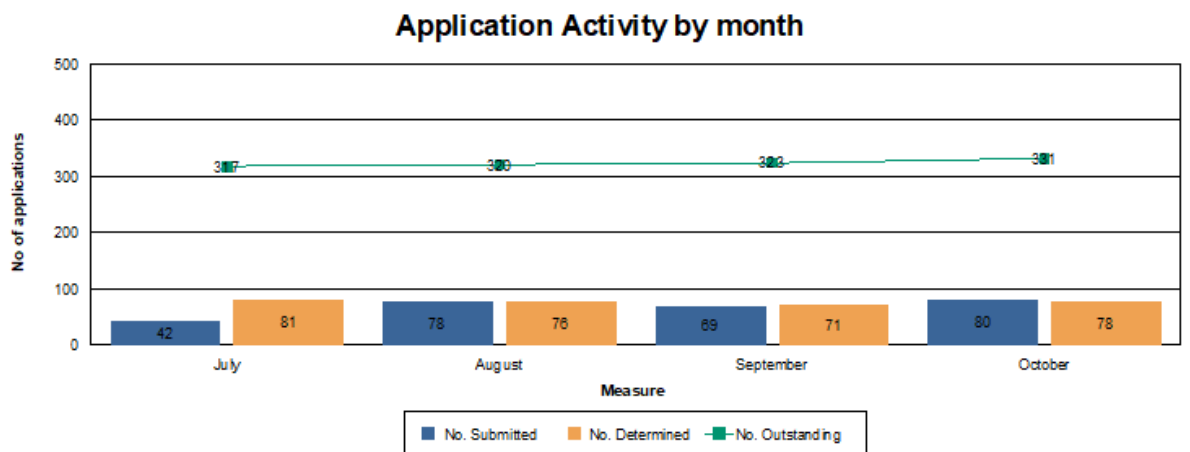
DA Determination Trend (Financial Year Comparison)

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

2020/2021 Year



July-October 2021



The number of DAs remaining undetermined in Council's assessment system 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 Council.

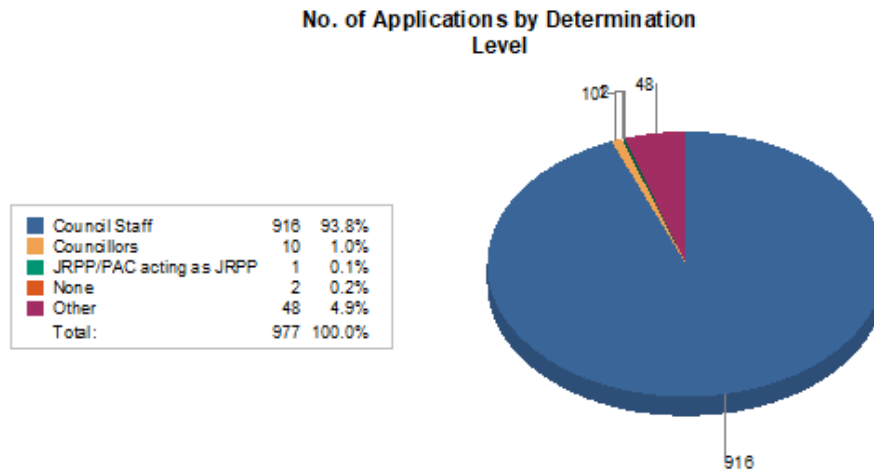
The July 2021 figure reflects changes to the lodgement process via the planning portal and completion of a number of long standing applications.

8.5 Development Applications - Works in Progress - November 2021

Determination Method

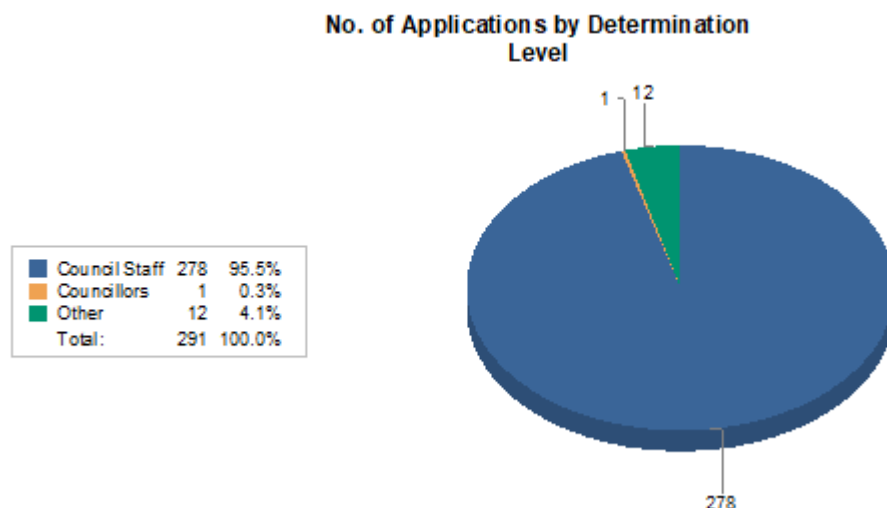
The following pie charts provide an overview as to how applications are being determined. 'Other' denotes applications withdrawn. 'None' denotes applications rejected. In both cases, the applications do not progress to determination.

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 to October 2021



In the current financial year to date, 99.7% of applications determined have been determined under delegated authority.

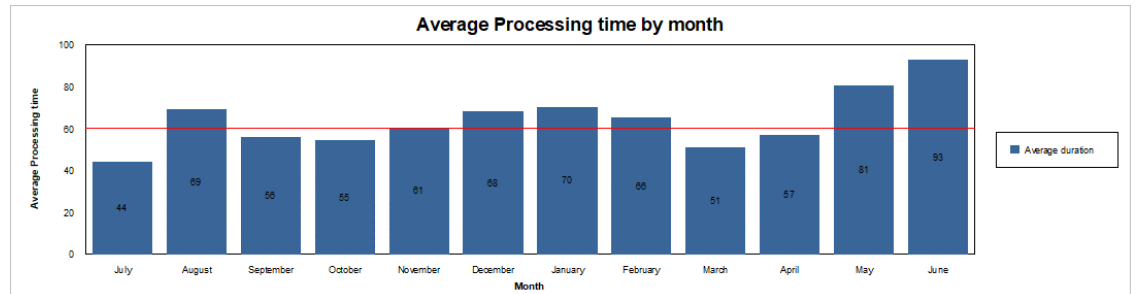
The target for the percentage of applications determined under delegated authority in the 2021/22 Delivery Program and Operational Plan is > 95%.

8.5 Development Applications - Works in Progress - November 2021

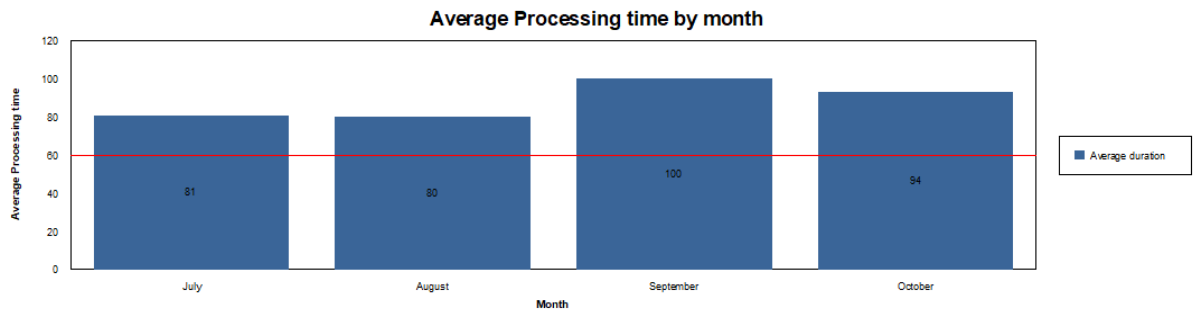
Processing Time

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.

2020/2021 Year



July to October 2021



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

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	269
% Change	N/A	+3.37%	+9.66%	+12%	N/A

Residential Subdivisions

There is substantial work ongoing in relation to residential subdivisions. In particular, planning and engineering resources are being applied to the subdivisions known as Aureus, Epiq, The Crest, Lennox Rise, Banyan Hill, Ballina Heights and private and Council land at Wollongbar.

These matters are at various stages of roll out with key areas of activity for Council relating to oversight of civil construction works, assessment of assets to be handed over the Council, monitoring of environmental and landscape works, monitoring of compliance with conditions of consent, processing of required applications (e.g. subdivision works certificates and subdivision certificates), responding to community enquiries and documentation of decisions.

Recent Land and Environment Court Judgements

Council has been notified of three recent Land and Environment Court Judgements. These are:

1. White v BSC – 404 Old Byron Bay Road – DA 2018/381 – Appeal Dismissed.
2. Griffani v BSC – 43 Tuckombil Lane, Tuckombil – DA 2019/30 – Appeal Upheld. Consent granted to amended proposal for eight holiday cabins only (wedding ceremony removed from proposal).
3. Planners North v BSC – Burns Point Ferry Road, West Ballina – DA 2020/192 – Appeal Dismissed.

Further details of these outcomes are outlined in the Legal Report elsewhere in the business agenda.

RECOMMENDATION

That Council notes the contents of the report on the status of outstanding development applications for November 2021.

Attachment(s)

1. Undetermined DAs (Under Assessment >90 days)

9.1 Use of Council Seal

9. Corporate and Community Division Reports

9.1 Use of Council Seal

RECOMMENDATION

That Council affix the Common Seal to the following documents.

US/17	<p>Ballina Shire Council lease to Alstonville Plateau Historical Society Inc over Lot 6 DP235088 (10 Wardell Road, Alstonville, Crawford House) for a four year term, at a rent equal to the statutory minimum rent charged by Crown Lands, currently \$520 per annum (plus GST).</p> <p>Explanation: This is a new lease to the existing tenant. The existing tenant is an incorporated association and has been in occupation of the property for an extended period operating Crawford House Museum. The property is Council owned operational land, so public advertising of the proposed lease is not required under the Local Government Act.</p>						
US/18	<p>Ballina Shire Council lease to Alstonville Tennis Club Inc over part of Lot 2 DP1168781 (part of 80 Elvery Lane, Alstonville, Wollongbar Tennis Court complex) for a term of four years, at a rent equal to the statutory minimum rent charged by Crown Lands, currently \$520 per annum (plus GST).</p> <p>Explanation: This is a new lease to the existing tenant. The existing tenant is an incorporated association. The property is Council owned operational land, so public advertising of the proposed lease is not required under the Local Government Act.</p>						
US/19	<p>1. That Council, in accordance with the relevant provisions of the Local Government Act 1993, enters into the following lease of <i>community land</i>:</p> <table border="1" data-bbox="678 1525 1385 1933"><thead><tr><th data-bbox="678 1525 935 1563">Property</th><th data-bbox="935 1525 1192 1563">Tenant</th><th data-bbox="1192 1525 1385 1563">Tenure</th></tr></thead><tbody><tr><td data-bbox="678 1563 935 1933">Part of 30-32 Swift Street, Ballina (known as "B Space"), located on part of Lot 12 DP1714, and the whole of Lots 13 and 14 DP1714</td><td data-bbox="935 1563 1192 1933">Social Futures Ltd ACN 612 367 192</td><td data-bbox="1192 1563 1385 1933">Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$520 per annum plus GST)</td></tr></tbody></table>	Property	Tenant	Tenure	Part of 30-32 Swift Street, Ballina (known as "B Space"), located on part of Lot 12 DP1714, and the whole of Lots 13 and 14 DP1714	Social Futures Ltd ACN 612 367 192	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$520 per annum plus GST)
Property	Tenant	Tenure					
Part of 30-32 Swift Street, Ballina (known as "B Space"), located on part of Lot 12 DP1714, and the whole of Lots 13 and 14 DP1714	Social Futures Ltd ACN 612 367 192	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$520 per annum plus GST)					

9.1 Use of Council Seal

	<p>2. Council authorises the General Manager to affix the seal to the lease document in point one and any other documents required to allow tenure to be granted in accordance with point one.</p> <p>3. That prior to points one and two being actioned, statutory public notification relating to the proposed lease of community land be undertaken, with a report to be presented to Council in the event that an objection is received to the grant of the proposed lease.</p> <p>Explanation: This is a new lease to the existing tenant of the property. The tenant, Social Futures Ltd, is a public company limited by guarantee, and is a registered charity on the Australian Charities and Not for Profits Commission register. Social Futures Ltd runs a variety of youth development programs from the property.</p>
US/20	<p>Short-term licence between Council as Crown Land Manager of Reserve 71612 and the Country Women’s Association of New South Wales Incorporated for Lot 8 Section 5A in DP 758047 (River Street, Ballina), at a statutory minimum rental, for the period 1 January 2022 to 31 December 2022, currently \$520 per annum (plus GST).</p> <p>Explanation The NSW State Government has provided a 12 month transition periods for councils managing Crown reserves under the Crown Land Management Act 2016, which commenced 1 July 2018. Under the new framework, Council as Crown Land Manager can issue a short-term licence under s 2.20 of the Act for a maximum period of 12 months.</p>
US/21	<p>Short-term licence agreement between Council as Crown Land Manager of Reserve 82164 and Ms Cornelia Burless (trading as Ballina Farmers Market) to operate a weekly (Sunday) farmers’ market at Commemoration Park, Ballina for the period 30 October 2021 to 30 April 2022, at the agreed site rental fee (calculated on a pro-rata basis).</p> <p>Explanation Council endorsed the current market management arrangements for the Ballina Farmers Market at the June 2021 Ordinary meeting for an additional three month period ending October 2021.</p> <p>A Development Application has been lodged to enable the expansion of the market. The EOI process for the management of the market will occur concurrent with the public notification of the Development Application. In order to enable time for these processes to occur, the extension of the current market management license arrangements for a period of a further six months is requested and considered reasonable under the circumstances.</p>

9.1 Use of Council Seal

US/22	<p>Short-term licence agreement between Council as Crown Land Manager of Reserve D540004 and Ballina Bowling and Recreation Club for occupation of land for Croquet Lawns and Clubhouse (Part Lot 561 DP119965), at a statutory minimum rental, for the period 1 August 2021 to 31 July 2022, currently \$520 per annum (plus GST).</p> <p>Explanation As reported to the May 2021 Ordinary meeting the Department of Planning, Industry & Environment – Crown (DPIE-Crown) is in the process of consolidating the land for the croquet lawns and clubhouse, into the adjoining land (which Council does not manage) in the proposed new lease direct with DPIE-Crown and the Ballina Bowling Recreation Club. As Council has been advised by DPIE-Crown that this consolidation and new direct lease is still in process, whilst Council remains Crown Land Manager a short-term licence is to be granted to authorise the occupation of the site. As resolved, Council will be formally removed as Crown Land Manager over Lot 561 DP119965 once this has been finalised.</p>
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Attachment(s)

Nil

9.2 Investment Summary - October 2021

9.2 Investment Summary - October 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 October 2021.

Key Issues

- Compliance with Investment Policy

Discussion

As at 31 October 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 October 2021 was \$97.5m being equal to the balance as at 30 September 2021. Council's investments at 31 October were invested at a weighted average interest rate of 0.437%, which was 0.401% higher than the October average 90 Day Bank Bill Index (BBSW) of 0.036%.

The balance of the Commonwealth Bank business account as at 31 October 2021 was \$8,244,370. This was an increase of \$390,962 from the balance as at 30 September 2021.

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

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

Investment Options

Council staff continued investigating investment options during the month. TCorp offer a range of investment products including TCorp managed funds for longer term investments, and term deposits and promissory notes for short to medium terms.

Currently, TCorp's short to medium investments issue do not offer the same level of return as banks. For example: Promissory notes for a one-year term had a return rate of 0.13% as at the date of enquiry.

9.2 Investment Summary - October 2021

The initial term of TCorp bonds is commonly 10 years. Subsequent to the issue date it is possible to buy into the issued bonds, if equity is still available; however, a premium will be paid. For example: The issued rate of return on the 15/11/18 NSW TCorp green bond was 3%. To invest \$1m in the bonds today, Council would pay approximately 109c in the dollar (therefore paying a premium of approximately \$100,000). Whilst the coupons paid over the seven years would still be at the rate of 3%, the real rate of return would be only 1.5%.

In the immediate to short term, Council's current appetite is for investments of up to terms of 12 months. This is due to the level of capital works projects in progress. The closest aligned green bond offered by TCorp is a TCorp sustainability bond maturing in April 2022, at a rate of 0.21%. TCorp has advised that investing in bonds for shorter periods is generally prohibitive with respect to investment returns.

Whilst Council staff concluded that at present, investing in TCorp would not be optimal for the investment portfolio, Council will now receive information on new bond issues for consideration.

Restricted Reserves

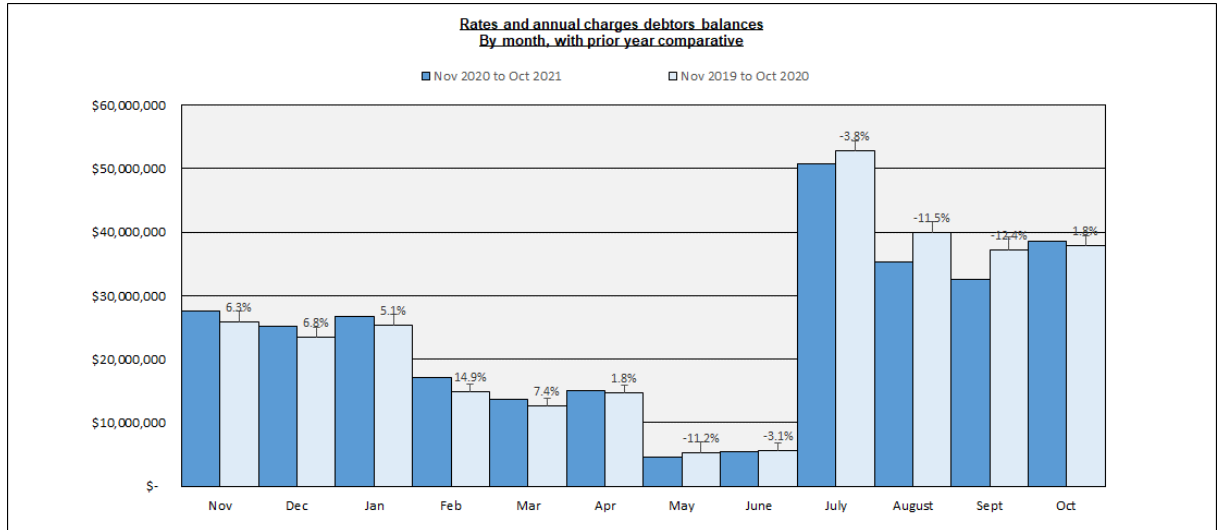
The majority of Council's investment portfolio is restricted by legislation (external) and Council (internal) uses for specific purposes. The following table has been updated to reflect the portfolio percentages based on reserve balances as at 30 June 2021.

Reserve Name	Restriction	% Portfolio*
Wastewater (incl developer contributions)	External	17.8%
Water (incl developer contributions)	External	19.8%
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	3.4%
Open Spaces and Reserves	Internal	2.1%
Community Facilities	Internal	0.8%
Miscellaneous Internal Reserves	Internal	4.3%
Financial Assistance Grant in Advance	Internal	2.3%
Unrestricted		5.4%
Total		100.00%

9.2 Investment Summary - October 2021

Debtors

The following chart shows the monthly balance of rates and annual charges debtors for the 12-month period ended 31 October 2021 and the percentage variance, in comparison to the prior 12-month period ended 31 October 2020. Rates debtors as at 31 October 2021 were relatively consistent to the balance as at 30 September 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
Auswide Bank	Yes	BBB	2,000	2,000	10%	2.0%
Bank of Communications	No	A-	1,000	1,000	20%	1.0%
Bank of Queensland	No	BBB+	7,000	7,000	10%	7.2%
Bendigo & Adelaide Bank	Yes	BBB+	8,000	7,000	10%	7.2%
Commonwealth Bank	No	AA-	1,000	1,000	20%	1.0%
Commonwealth Bank (Green)	Yes	AA-	11,000	11,000	20%	11.3%
Defence Bank Ltd	Yes	BBB	6,000	6,000	10%	6.2%
IMB Ltd	Yes	BBB	6,000	4,000	10%	4.1%
ME Bank	Yes	BBB+	6,500	6,500	10%	6.7%
Macquarie Bank Limited	No	A+	1,000	1,000	20%	1.0%
My State Bank Ltd	Yes	BBB+	1,000	4,000	10%	4.1%
National Australia Bank	No	AA-	12,000	12,000	20%	12.3%
Newcastle Perm Build Society	Yes	BBB	2,700	2,700	10%	2.8%
Suncorp Limited	Yes	A+	16,300	16,300	20%	16.7%
Westpac Bank Corp	No	AA-	7,000	7,000	20%	7.2%
Westpac Bank Corp (Green)	Yes	AA-	9,000	9,000	20%	9.2%
Total			97,500	97,500		100%

Credit Rating Summary as per the Investment Policy	Maximum Allowed		Value Previous	Value Current	% Previous	% Current
	%	Value				
A- or Higher	100%	97,500	58,300	58,300	59.8%	59.8%
BBB	60%	58,500	39,200	39,200	40.2%	40.2%
Total			97,500	97,500	100%	100%

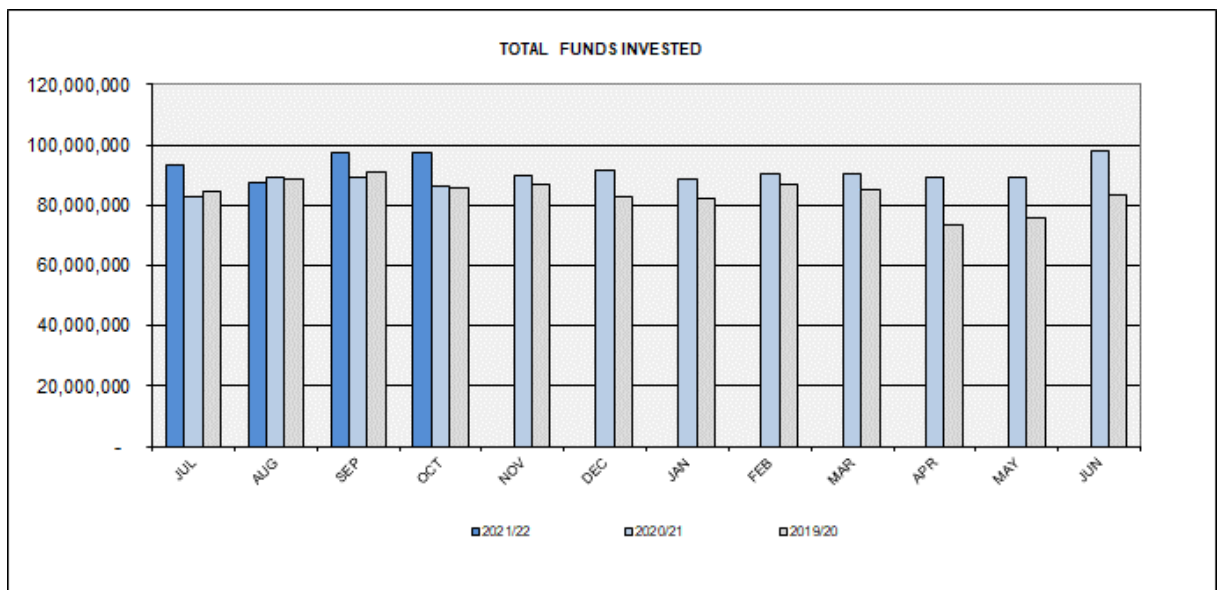
9.2 Investment Summary - October 2021

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

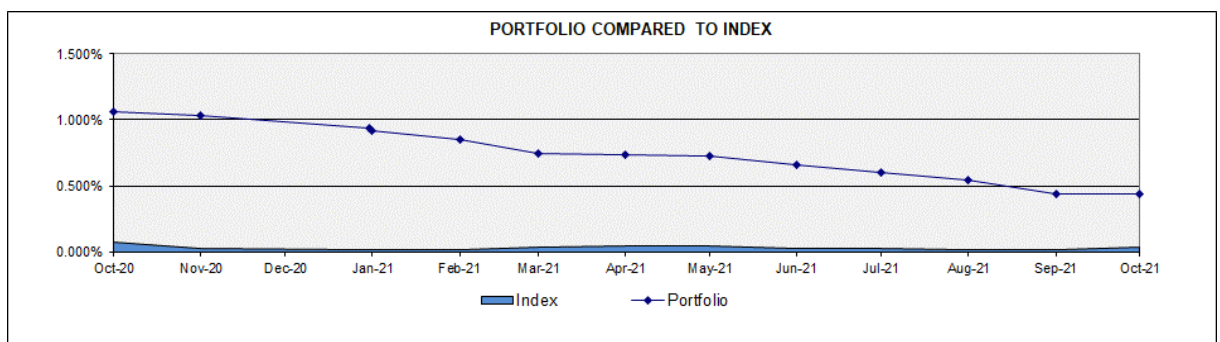
Environmental Classification	Previous Month		Current Month	
	(\$'000)	(%)	(\$'000)	(%)
Fossil Fuel Aligned and Non-Green Investments	29,000	29	29,000	29
Fossil Fuel Free Investments	48,500	50	48,500	50
Green Investments	20,000	21	20,000	21
Total	97,500	100	97,500	100

In October 2021, two fossil fuel free investments totaling \$5m matured. These were able to be partially reinvested in two new investments totaling \$2m. In addition, two new fossil fuel free investments totaling \$3m were placed.

C. Monthly Comparison of Total Funds Invested

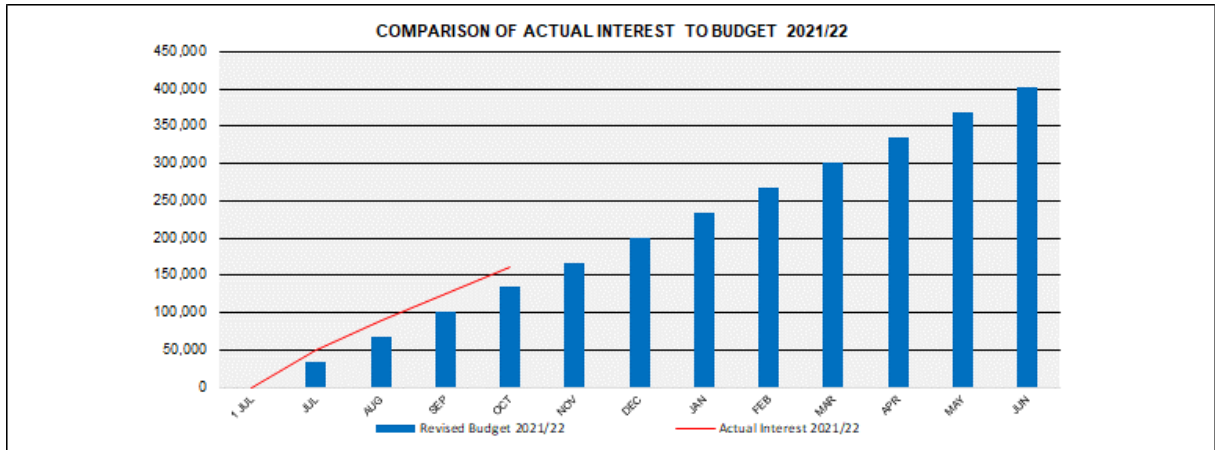


D. Comparison of Portfolio Investment Rate to 90 Day BBSW



9.2 Investment Summary - October 2021

E. Progressive Total of Interest Earned to Budget



F. Investments held as at 31 October 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	1.0002%	31/07/23	1,000
31/07/18	Westpac Banking Corporation	FRN	1.0002%	02/08/23	1,000
06/09/18	Newcastle Permanent Bld Society	FRN	1.4150%	06/02/23	1,000
11/01/19	Commonwealth Bank of Australia	FRN	1.1549%	11/01/24	1,000
08/02/19	Westpac Banking Corporation	FRN	1.0650%	06/02/24	2,000
28/10/19	Bank of Communications	FRN	0.9512%	28/10/22	1,000
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
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	0.6420%	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
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	Defence Bank Ltd	TD	0.3000%	30/11/21	1,000
18/06/21	Bendigo & Adelaide Bank	FRN	0.6750%	18/06/26	1,000
25/06/21	Suncorp-Metway Limited	TD	0.3300%	22/06/22	2,000

9.2 Investment Summary - October 2021

Purch Date	Issuer	Type	Rate	Final Maturity Date	Purchase Value \$'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
28/07/21	IMB Bank	TD	0.2400%	25/01/22	2,000
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
23/08/21	IMB Bank	TD	0.2800%	22/08/22	1,000
25/08/21	Defence Bank Ltd	TD	0.3500%	24/08/22	1,000
01/09/21	Bendigo & Adelaide Bank	TD	0.3000%	29/08/22	2,000
03/09/21	Westpac Banking Corporation-Green	TD	0.2800%	01/09/22	2,000
06/09/21	National Australia Bank	TD	0.2500%	07/12/21	6,000
06/09/21	Bank of Queensland	TD	0.4300%	01/09/22	3,000
07/09/21	National Australia Bank	TD	0.2000%	10/11/21	4,000
07/09/21	Bank of Queensland	TD	0.3000%	11/01/22	1,000
07/09/21	National Australia Bank	TD	0.2600%	11/01/22	2,000
14/09/21	ME Bank	TD	0.4000%	05/04/22	1,000
21/09/21	ME Bank	TD	0.4000%	12/04/22	1,000
01/10/21	My State Bank Ltd	TD	0.4000%	27/09/22	1,000
05/10/21	IMB Bank	TD	0.3000%	04/10/22	1,000
13/10/21	Bendigo & Adelaide Bank	TD	0.3000%	11/10/22	1,000
26/10/21	Suncorp-Metway Limited	TD	0.4500%	25/10/22	2,000
28/10/21	My State Bank Ltd	TD	0.5500%	19/10/22	2,000
	Totals				97,500
	TD = Term Deposit	FRN = Floating Rate Note			

RECOMMENDATION

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

Attachment(s)

Nil

9.3 Long Serving Employees - Recognition

9.3 Long Serving Employees - Recognition

Delivery Program

People and Culture

Objective

To formally recognise long serving Council employees.

Background

Council has a practice of annually recognising employees who have completed either 10, 20, 30 and 35 years plus, of service by providing an annual presentation at the last Council meeting of the year, along with joining the Councillors for morning tea.

Key Issues

- Acknowledgment of the service of employees

Discussion

At 10.30 am Council will recognise the service of the following employees:

40 years

Rick Nipperess

35 years

Brad Myers
Garry Meredith
Stewart Littleford

20 years

Neil Smith
John Truman
Joanne Cordery
Naomi McCarthy
Kerri Watts

10 years

Clint Stevenson
Daniel Cooper
Tony Partridge
Peter Brunt
Stuart Roach
David Leslie
Chris Trainor
Emily Finch
Kylie Hardy
John Newton
Marie Hollingsworth

9.3 Long Serving Employees - Recognition

A number of the employees will be present at the meeting.

Financial / Risk Considerations

Council has a recurrent budget for this program.

Delivery Program Strategy / Operational Plan Activity

EL3.2 – Encourage a motivated and adaptive workforce.

Community Consultation Policy

This report is provided to publicly recognise long serving employees.

Options

This report recognises long servicing employees and the valuable contribution they have made to the Ballina Shire.

RECOMMENDATION

That Council acknowledges, congratulates and thanks the staff members outlined in this report on their service for Council and the community.

Attachment(s)

Nil

9.4 Financial Statements - 2020/21

9.4 Financial Statements - 2020/21

Delivery Program

Financial Services

Objective

To present the audited financial statements.

Background

Council considered the annual financial statements for the financial year ended 30 June 2021 at the October 2021 Ordinary meeting. Council's auditor, Mr Geoff Dwyer, Contract Auditor for the Audit Office of New South Wales also addressed Council at that meeting.

The audit opinion was that Council's accounting records had been kept in accordance with the requirements of the Local Government Act and Australian accounting standards. The records fairly presented the Council's financial position and the results of operations. The audit was unqualified. Council subsequently endorsed the reports.

In accordance with Section 419 of the Local Government Act the Council must then formally present the financial reports to the public. This public presentation must be advertised as per Section 418. The advertising process has been completed and this report complies with the Local Government Act.

Key Issues

- Compliance with the Local Government Act
- Content of the financial reports
- Submissions to the advertised reports

Discussion

In accordance with the Local Government Act and Council's resolution the reports were advertised for public comment. No submissions were received.

Councillors may wish to bring their copy of the annual financial reports, as distributed at the October meeting, in case there is any further discussion on the matter. A copy is also available on the Councillor hub.

Financial / Risk Considerations

The Financial Statements summarise the financial position of Council.

Delivery Program Strategy / Operational Plan Activity

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

Community Consultation Policy

Council provided public notice of the Financial Statements.

Options

Council may adopt the annual financial reports presented to the public or choose not to adopt the reports. The recommendation is to adopt the reports.

RECOMMENDATION

That Council adopts the annual financial reports and auditor's reports for the financial year ended 30 June 2021, as publicly exhibited.

Attachment(s)

Nil

9.5 Legal Matters - Update

9.5 Legal Matters - Update

Section Governance

Objective To provide an update on Council legal matters.

Background

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

Key Issues

- Type, outcomes and cost of litigation

Discussion

Current and recent legal case details are as follows:

Council Legal Rep	Applicant	Description	Estimate (\$)	Actual (\$)
Parker and Kissane	Palmlake Works Pty Ltd v Ballina Shire Council	Land and Environment Court – Class 1 Appeal Proceedings – Challenge deemed refusal of development application 2018/321.	750,000	763,000

Comment

DA 2018/321 was for an extension to an existing Seniors Housing Development (Palm Lake Resort) for 156 self-care dwellings, recreation facilities, car parking, infrastructure works, site filling and associated works.

The applicant lodged Class 1 proceedings in the Land and Environment Court for a deemed refusal.

A decision was handed down on 4 October 2019 with the amended development application approved with conditions.

Council appealed the decision and the appeal was upheld on 29 April 2020.

As part of the decision, it was ordered that the proceedings be remitted back to the original Commissioner for judgment.

On 26 June 2020 the Commissioner ruled that the case would not be reopened.

On 30 June 2020, Council received advice from the applicant discontinuing the proceedings.

This concludes the matter except for costs, which Council's legal representative is pursuing.

Links to the appeal and the ruling that the case would not be re-opened are as follows:

<https://www.caselaw.nsw.gov.au/decision/5ea78e4b0f66047ed8da3>

<https://www.caselaw.nsw.gov.au/decision/1727c7b2f327f15eaed37d83>

9.5 Legal Matters - Update

Council Legal Rep	Applicant	Description	Estimate (\$)	Actual (\$)
Lindsay Taylor Lawyers	Jason and Joanne White v Ballina Shire Council	Land and Environment Court - Class 1 Appeal Proceedings – Challenge Council's Refusal of development application 2018/381.	100,000	92,000
<p>Comment</p> <p>DA 2018/381 involves the decommissioning of an existing dwelling and construction of a new two-storey dwelling and swimming pool as well as upgrading of an existing internal access way at 404 Old Byron Bay Road, Newrybar. Council refused the application at the December 2019 Ordinary meeting and the applicant lodged an appeal.</p> <p>A third party joined the proceedings, with this party raising issues additional to those set out in Council's statement of facts and contentions.</p> <p>The hearing was finalised on 4 December 2020 and on 29 October 2021 the Court ruled that the refusal was upheld and the appeal was dismissed.</p> <p>A link to the judgement is as follows:</p> <p>https://www.caselaw.nsw.gov.au/decision/17b098435bc9edc17ae32aaa</p> <p>This matter involved some detailed and complex elements relating to the application of LEP provisions and biodiversity provisions.</p> <p>The application of the relatively new Biodiversity Conservation Act and its intersection with land use planning formed a central part of the hearing and judgement.</p> <p>Case law is now progressively providing clarity as to how the Court sees the new biodiversity laws and how they should be applied in a planning context.</p>				
Parker & Kissane	Monica and Allan Anderson v Ballina Shire Council	Land and Environment Court – Class 1 Appeal Proceedings – Challenge to Council's refusal of DA 2020/49.	50,000	47,000
<p>Comment</p> <p>DA 2020/49 is for the proposed subdivision of two existing rural zoned lots to create three lots, including one split lot. Council staff determined the application by way of refusal under delegated authority on 22 July 2020. This determination was appealed by the applicant.</p> <p>On 22 October 2020 the applicant was granted leave by the Court to amend the proposed plans.</p> <p>A Section 34 Conciliation Conference was held on 24 March 2021 with the matter not resolved through the conference.</p> <p>The hearing was held 27 – 28 July 2021.</p> <p>Council was advised in early August that the refusal has been upheld by the Court.</p> <p>A link to the judgement is available as follows:</p> <p>https://www.caselaw.nsw.gov.au/decision/17b0fb7f86bd21a0e164dadf</p>				

9.5 Legal Matters - Update

Lindsay Taylor Lawyers	Griffani and Griffani v Ballina Shire Council	Land and Environment Court - Class 1 Appeal Proceedings – Challenge to Council's refusal of development application 2019/30.	100,000	53,000
<p>Comment</p> <p>DA 2019/30 involves the erection of eight holiday cabins and the temporary use of the land for wedding ceremonies. Council refused the application at the December 2019 Ordinary meeting. A third party (closest neighbour) joined the appeal and attended the Section 34 Conciliation Conference on 11 November 2020.</p> <p>The applicant provided further material in the shape of turning circles and a traffic management plan, which was satisfactory to Council. This was subject to agreement on the conditions.</p> <p>The third party was not in agreement with the material, with additional issues raised as to permissibility of the acoustic impact of the temporary use, and the use of the communal facility.</p> <p>Further suggestions were made as to the possible relocation of the communal facility, closer to the tourist and visitor accommodation, in order to resolve the third party concerns.</p> <p>The third party did not accept this insisted upon the removal of the facility and the reduction in tourist cabins from eight to three. The applicant rejected this.</p> <p>Subsequently, the Commissioner terminated the conciliation conference. The proceedings were adjourned to allow the applicant to put on a notice of motion to amend the Griffani's application so that it incorporates the traffic management plan and changes to the access way, which are the basis for the resolution of the traffic issues from Council's perspective.</p> <p>On 17 December 2020, the applicant was successful in obtaining leave of the Court to amend the development proposal.</p> <p>The applicant deleted the temporary use of the land for wedding ceremonies from the proposal.</p> <p>The third party objector remained unsatisfied with the amended proposal and the matter was heard from 22 – 24 June 2021.</p> <p>On 29 October 2021 the Court ruled that the appeal was upheld and DA 2019/30 is determined by the grant of consent for <i>"the staged development of eight holiday cabins (maximum 24 guests) and extension to existing shed for use as a communal area. Staging of the development is proposed as follows - (a) Stage 1 – Tourist and Visitor Accommodation – Three cabins and associated civil works (driveway and car park) and Communal Area; and (b) Stage 2 – Tourist and Visitor Accommodation – Five cabins"</i>.</p> <p>A link to the judgement is as follows:</p> <p>https://www.caselaw.nsw.gov.au/decision/17cbf7745606e8fe0dd65a39</p>				

9.5 Legal Matters - Update

Lindsay Taylor Lawyers	Intrapac Skennars Head Pty. Ltd. v Ballina Shire Council	Land and Environment Court - Class 1 Appeal Proceedings – Challenge to deemed refusal of modification application relating to developer contributions payable under conditions of consent for development application 2017/244.	250,000	243,000
<p>Comment</p> <p>The applicant lodged an appeal in the NSW Land and Environment Court on the basis of deemed refusal of a modification to the development consent that would have the effect of reducing the developer contributions payable by Intrapac in relation to the Aureus development. The matter was heard by the Court in November 2020.</p> <p>The appeal was dismissed by the Court on 8 January 2021 with an order that the subject modification application to reduce the developer contributions be refused.</p> <p>Intrapac subsequently lodged an appeal against the Court's decision. The appeal hearing was held 21 July 2021. The appeal was dismissed by the Court on 10 August 2021 with the costs of the appeal awarded to Council.</p> <p>A link to the appeal judgement is as follows:</p> <p>https://www.caselaw.nsw.gov.au/decision/17b290a7c3d2beb6fc9b4805</p>				
Lindsay Taylor Lawyers	Planners North vs Ballina Shire Council	Land and Environment Court – Class 1 Appeal Proceedings – Challenge deemed refusal of development application DA 2020/192 for a 300 home Manufactured Home Estate, River Street, West Ballina	250,000	528,000
<p>Comment</p> <p>Development application 2020/192 (as originally lodged) is for the establishment of a 300 home manufactured home estate at 550-578 River Street, West Ballina, including extensive earthworks and drainage works.</p> <p>Shortly after re-exhibition of an amended application, the applicant lodged Class 1 proceedings in the Land and Environment Court for a deemed refusal of the development application. A Section 34 Conciliation Conference was held on 12 November 2020.</p> <p>The matter was set down for hearing on 3 - 7 May 2021.</p> <p>These dates were subsequently vacated as the applicant sought to make a number of late amendments to the proposal.</p> <p>The appeal was held on 2-6 August 2021 and the applicant made further amendments prior to the hearing.</p> <p>Council successfully obtained orders for costs thrown away.</p> <p>In early November Council was advised that the Court had dismissed the appeal and DA 2020/19 is determined by refusal of the consent.</p> <p>A link to the judgement is available as follows:</p> <p>https://www.caselaw.nsw.gov.au/decision/17cde1089492c806d6d2b34d</p>				

9.5 Legal Matters - Update

Delivery Program Strategy / Operational Plan Activity

Legal cases are linked to Delivery Program strategies such as:

- HE3.2 - Match infrastructure with development to mitigate any impacts on the environment
- HE3.3 - Minimise negative impacts on the natural environment

Community Consultation Policy

This report is provided in open Council to ensure the community is informed on legal matters.

If Council wishes to discuss any details it may be necessary to resolve into confidential session to ensure any legal advice is not discussed in open session.

Financial / Risk Considerations

The following table provides a summary of planning related legal costs for recent years, with costs for 2021/22 for the period to 31 October 2021.

Table 1 – Legal Expenditure 2017/18 to 31 October 2021

Description	2017/18	2018/19	2019/20	2020/21	2021/22
DA 2016/184, 2018/616 - CURA A – Intrapac (Planners North / Northern Rivers Land Solutions)	832,100	78,400	337,000	3,600	0
Seabreeze Caravan Park	104,500	0	0	0	0
DA 2017/244 - Skennars Head – Aureus – Intrapac	1,100	31,100	28,000	150,500	32,000
DA 2017/557 - Byron Highlander (Function Centre)	2,800	9,500	0	0	0
DA 2017/321 – 34 Willowbank Drive (Michael Young)	0	22,600	0	0	0
DA 2017/600 – 19-21 Northcott Crescent (Gibbs)	0	0	7,000	98,400	0
DA 2017/707 - 5 Rayner Lane (Ardill Payne)	0	9,300	37,000	0	0
Ballina Sands – Newrybar Swamp Road	4,000	22,100	15,000	0	0
The Beach House	0	31,600	16,000	6,000	3,000
DA 2018/189 – 4 Page Court (Millar)	0	0	6,000	0	0
DA 2018/321 - Palm Lake	0	256,600	497,000	9,600	0
DA 2018/381 - 404 Old Byron Bay Road (White)	0	900	22,000	69,300	400
404 Old Byron Bay Road (Kenny NCAT)	0	0	0	7,500	0
DA 2018/597 – Water Extraction	0	6,400	0	0	0
DA 2019/30 – 43 Tuckombil Lane (Griffani)	0	0	17,000	32,100	3,000
DA 2019/170 – 937/987 Wardell Road (Veronesi)	0	0	0	11,200	0
DA 2020/49 – 38 Newrybar Swamp Road (Anderson)	0	0	0	33,600	13,700
DA 2020/192 – GemLife (Planners North)	0	0	0	277,800	250,800
DA 2020/568 – Midgen Flat Road	0	0	0	3,300	0
Compliance – 19 Old Pacific Highway, Newrybar	0	0	0	0	21,000
Misc including insurance and planning agreements	22,700	34,600	60,000	33,100	7,100
Total Actual Expenditure	967,200	503,100	1,042,000	736,000	331,000
Legal Expenditure Budgets	1,005,000	290,000	1,036,000	725,000	315,000
Expenditure Budget Result – Surplus / (Shortfall)	37,800	(213,100)	(6,000)	(11,000)	(16,000)
Legal Actual Income from Costs Recovered / Fines	108,000	61,000	157,000	539,000	52,900
Legal Income Budget	85,000	70,000	140,000	550,000	60,000
Income Budget Result – Surplus / (Shortfall)	23,000	(9,000)	17,000	(11,000)	(7,100)
Net Income and Expenditure Budget Result	60,800	(222,100)	11,000	(22,000)	(23,100)

As per this summary, expenditure for 2021/22 is now over budget by \$16,000, with costs recovered currently \$7,100 short of budget, resulting in an overall budget shortfall of \$23,100.

9.5 Legal Matters - Update

The major cost recovery to date is from Intrapac for the Aureus Contributions case, with \$30,704 received.

Council still has matters where costs are outstanding including:

- 2018/321 – Palmlake Works
- 2020/192 – Planners North (Gemlife)

With the expenditure budget having been over expended the recommendation is to increase the planning legal budget by \$100,000 for 2021/22 as there are no current court cases running, although there are some accrued legal costs still to be paid.

The increase in expenses can be fully offset by an increase in income for costs recovered, with a recommended increase of \$100,000 based on the agreed costs orders.

Legal expenditure can vary significantly from year to year as shown in the following table, which provides an eight year summary of actual results, with the last four years having been exceptionally high in respect to expenses.

Table 2 – Legal Expenditure – Period 2013/14 to 2020/21 (\$'000)

Year	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Expense	266	103	88	353	967	503	1,042	736
Income	34	5	20	90	108	61	157	539
Net	232	98	68	263	859	442	885	197

Also touched in the Legal Matters – Update report to the August 2021 Ordinary meeting, the most expensive cases are typically where, from a Council perspective, the original development application is deficient in a number of areas, and the applicant then appeals on the basis of a deemed refusal.

Again, from a Council perspective, this occurs as it becomes clear that the processing time for the application will be lengthy due to the difficulties facing Council in processing the application.

The application is then amended a number of times during the court process before a determination, which is often a consent, that is significantly different to the original application, is approved by the Court.

Recent examples of this include:

- CURA A, DA 2016/184 (applicant – Mr Stephen Connelly, Planners North – owners – Vixsun Pty. Ltd, Intrapac Co-ops Pty. Ltd, Smith, Barlow and Barlow for a 633 residential lot subdivision, with the court consent issued for 457 residential lots, three residual rural lots, six open space lots, four reserve lots and nine key site (future development) lots.

Council expended \$1.2m on this case with approximately \$500,000 recovered largely due to the number of amendments made to the original application through the court case

9.5 Legal Matters - Update

- DA 2018/321 (applicant and owners - Mrs Suzanne Jensen on behalf of Palmlake Works Pty. Ltd.) for 156 self-care dwellings associated facilities. The applicant was initially successful in the Land and Environment Court with a consent for 75 self-care dwellings, however this was ultimately refused by the Court following an appeal by Council and costs are still being pursued.

Total Council expenditure is approximately \$763,000 with some costs still to be recovered.

- DA 2020/192 (applicant – Mr Stephen Connelly, Planners North - owners – Ballina Waterways Pty. Ltd. (Gem Life)) for a 300 site manufactured home estate. The costs for this matter to Council are in excess of \$500,000 with the court proceedings now finalised resulting in the appeal being dismissed and refusal of the application. The application was amended to 234 sites during the proceedings.

Unfortunately the current court process allows applications to be amended during the legal process and this can result in significant costs being incurred. As mentioned earlier, pleasingly there are currently no planning applications before the court.

Council also has a number of compliance and enforcement related matters underway. The major compliance matter to date has been for 19 Old Pacific Highway, Newrybar, with \$21,000 expended to date. There are also swimming pool and unauthorised development matters ongoing.

Options

This report is provided for public information as there is public interest in legal matters involving Council.

RECOMMENDATIONS

1. That Council notes the contents of this Legal Matters – Update report.
2. That Council increase the planning legal expense budget by \$100,000 and the planning costs recovered by \$100,000 to reflect the latest forecasts for 2021/22.

Attachment(s)

Nil

9.6 Councillor Induction Program (Draft)

9.6 Councillor Induction Program (Draft)

Section Communications

Objective To seek Councillor feedback on the draft induction program proposed for the new Council elected following the 2021 Local Government Election.

Background

The induction program for any newly elected Council is an important factor in ensuring that the Council will operate cohesively and effectively during its term. The more informed Councillors are of their roles and responsibilities the more likely that good governance will follow.

The Office of Local Government (OLG) has developed *Councillor Induction and Professional Development Guidelines* to assist councils to develop and deliver induction training and ongoing professional development activities for the mayor and councillors.

A copy the Guidelines is available at the following link on the OLG website:

<https://www.olg.nsw.gov.au/councils/councillors/councillor-induction-and-professional-development-guidelines/>

The Guidelines highlight the two key components of Councillor Development, being the initial induction process and the on-going professional development program.

This report focuses on options for the induction program for the new Council and allows existing Councillors to provide feedback based on their experiences during the past five years.

Key Issues

- Key items for inclusion in the induction program
- Feedback from incumbent Councillors

Discussion

It is essential that all Councillors are adequately trained in their roles and responsibilities.

This is especially important for newly elected officials, who may not be fully informed on the multitude of responsibilities and services carried out by a local authority.

Following the last three elections the OLG has conducted Councillor information seminars and it is assumed that similar seminars will be provided after the election.

9.6 Councillor Induction Program (Draft)

Typically those seminars focus on key areas such as:

- Civic leadership
- Roles, responsibilities and relationships
- Code of conduct and ethical decision making
- Long term strategic and financial planning and
- Making the most of meetings.

Internal Induction

In addition to the OLG seminars it is planned to hold a number of internal induction sessions / workshops / briefings. Attachment 1 is a copy of the draft Induction Schedule which includes:

1. Welcome and Meet and Greet with the General Manager and Executive Team, including a short organisation structure overview.
2. Information Technology equipment roll out, including allocation of email address, onboarding log-in and information and training in use of the equipment.
3. Overview of Code of Conduct, Code of Meeting Practice, Disclosure of Interest Returns, Livestream/recording of meetings.
4. Organisation Briefings. This will consist of a number of sessions of two hours in late January and early February. At these sessions, the relevant Director and Section Managers will present an overview of their section's operations. These sessions are designed to provide an overview of each of the sections operating within Council, including key major projects.
5. Business paper review/question sessions. This session is designed to provide new Councillors with an understanding of the structure of the business paper prior to the January Ordinary Council meeting.
6. Sessions delivered by Lindsay Taylor Lawyers on Roles and Responsibilities of Mayors, Councillors, General Manager, Public Officer, Councillor Involvement in Planning and Development Decisions and the role of other planning bodies, Councillor Access to Information, Councillor Use of Social Media and Confidentiality, Obligations of Councillors, Model Code of Conduct and Complaints Handling and Pecuniary and Non-Pecuniary Conflicts of Interests and Bias.
7. Sessions on Council's Corporate Documents – Community Strategic Plan, Delivery Program and Operational Plan, Workforce Plan, Long Term Financial Plan and Capital Expenditure Program.
8. Tour of the Shire over three days. This will include visits to Council properties, assets, and other major infrastructure areas.

In addition to the induction program, Council has in place a Councillor Training and Development Policy. The policy classifies training offered to Councillors in the following categories:

- Imperative
- Desirable
- Developmental

The policy identifies that Councillors should attend training that is identified as imperative and desirable at least once every term.

To ensure that each Councillor is provided with the right level of support to perform their roles, senior management will consult with the new councillors to develop a training plan that will be delivered over the term of the next council to build the skills, knowledge and personal attributes necessary to be an effective mayor or councillor.

Delivery Program Strategy / Operational Plan Activity

The development of a Councillor Induction program is a requirement under the Local Government Act.

Community Consultation Policy

The purpose of this report is to obtain feedback on options available from incumbent Councillors.

Financial / Risk Considerations

Under section 232 of the Local Government Act 1993 Councillors are required to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor. In support of this, Council is required to provide induction training and ongoing professional development for mayor and councillors.

There is an established budget allocation for Councillors allowances and expenses which includes training and development costs to support the Councillor Training and Development Policy.

Options

This report has been prepared largely for Councillors to provide feedback on options they would like to see considered as part of the induction program for the new Council.

Feedback from Councillors was sought as part of the 2016 induction program. This feedback was then used to assist with on-going training during the Council term.

At this point in time it is recommended that Council only notes the contents of this report as it will be a matter for the newly elected Council to determine the induction program they wish to see implemented. However any suggestions to improve or enhance the program, as outlined in this report, which builds on the program implemented in 2016, would be appreciated.

RECOMMENDATION

That Council notes the contents of this report regarding the draft Council Induction Program for 2022.

Attachment(s)

1. Councillor Induction Schedule 2022 (draft)

9.7 End of Term Report (2016 - 2021)

9.7 End of Term Report (2016 - 2021)

Section	Communications
Objective	To note the End of Term Report.

Background

The NSW Local Government Act refers to integrated planning and reporting guidelines that impose requirements for councils to prepare and review the contents of the suite of integrated planning and reporting documents.

The guidelines also require councils to table their End of Term Report to the last council meeting before the election. This report ensures that we meet this obligation.

Key Issues

- Compliance
- Outcomes compared to original benchmarks / targets

Discussion

The End of Term Report details the progress of the term of council, from 2016 to 2021.

The End of Term Report relates to the themes contained in the Community Strategic Plan (CSP). The four directions in the CSP have a range of community indicators adopted by Council in 2016 to measure our progress.

The results from 2016 to 2021 are detailed as follows under the four themes.

Connected Community

Indicator	2016	Target	2021
Population aged 35-49	19.4%	>21%	Not available
Residents who live in Ballina Shire but travel outside the area for work	26.7%	<25%	Not available
Walk score Ballina	49	>50	49
Walk score Alstonville	75	>70	76
Walk score Wardell	19	>20	19
Walk score Lennox Head	71	>70	71
Malicious damage to property	826	<826	654
Theft incidents	2,711	<2,711	705
Visitation to Council community facilities (# annum)	233,580	>252,580	289,548
People who volunteer	23%	>25%	Not available

Information in the above table includes data from Census, Walk Score (refer to walkscore.com.au), NSW Bureau of Crime Statistics and Research (BOSCAR) and Council's records.

9.7 End of Term Report (2016 - 2021)

Indicators relating to demographics such as population, and where people live, and whether they volunteer, are not available at this time as the new census data has not been released. It is expected in the middle of 2022.

The number of malicious damage incidents figure for 2016 has been revised down to 788.50 (rate per 100,000 population). The 60-month trend for this indicator is considered 'stable' according to the NSW Recorded Crime Statistics 2016-2020.

Theft incidents include robbery, break and enter, motor vehicle theft, and stealing from motor vehicle, dwelling and person. The figure for 2016 has been revised down to 1,454 (rate per 100,000 population). The dramatic drop in incidents for the period January to December 2020 can be attributed to COVID-19 stay at home orders.

There has been a 71.8% reduction in Break and Enter (dwelling) for the 24-month period, and 21.2% reduction for the 60-month period.

Prosperous Economy

Indicator	2016	Target	2021
Contribution to Northern Rivers Gross Regional Product	16.32%	>16.32%	15.54%
Workforce Participation Rates	62%	>62%	Not available
Full time employed	51.2%	>52%	Not available
Part time employed	40.5%	>41%	Not available
Unemployed	4.72%	<5%	3.6%
Youth undertaking tertiary studies (aged 18 to 24)	28%	>28%	Not available
Total visitors per annum (overnight/day/international)	615,000	>650,000	737,000
Tourism total spent (\$ million)	\$222	>\$250	\$265

The Northern Rivers Gross Regional Product (GRP) figure for 2016 has been revised to 15.26%. Based on this figure the GRP has improved from 2016 to 2021, although only marginally. From a monetary perspective, the GRP for the Ballina Shire was \$2.19 billion for the year ending June 2020.

Employment figures including workforce participation and youth undertaking tertiary studies are based on the ABS Census data and these results are not available until mid-2022.

The unemployment rate has improved from 2016 to 2021, as has our visitor numbers and tourism spend.

Engaged Leadership

Indicator	2016	Target	2021
Community Satisfaction	94%	>94%	90%
Satisfaction with level of communication	91%	>94%	79%
Percentage of customer requests to Council dealt within allocated timeframe	89%	>90%	92%
Increase revenue generated from commercial property	\$2M	>\$2M	\$2.06M
Continue to meet "Fit for the Future" Benchmarks	5 out of 7	7 out of 7	7 out of 7 (consolidated)

9.7 End of Term Report (2016 - 2021)

The last resident's survey was conducted in 2020 and undertaken by Mircomex Research.

The 2020 community satisfaction results show a slight decline in community satisfaction from 2016 although it did improve from the 2018 survey results of 87% satisfaction levels.

Communication satisfaction levels have trended down for the last four surveys; i.e. 2014 91%, 2016 84%, 2018 83% and 2020 79%. This is an area where Council may need to allocate additional resources if the results are to be improved.

The 2020 Micromex survey included a quality of life indicator where 97% of residents rated their quality of life as good to excellent. This is a useful indicator for inclusion in future Community Strategic Plans.

Pleasingly, over the period 2016 to 2021 Council meets seven of the seven Fit for the Future benchmarks, albeit that is on a consolidated basis. The General Fund is still struggling to meet the positive operating result indicator on a consistent basis.

Healthy Environment

Indicator	2016	Target	2021
Greenhouse Gas Emissions per capita (tonnes)	7.4	< 6	14
Water utilisation per capita (kilolitres)	173	<170	154
Wastewater reuse	39%	>40%	13.5%
Total waste to landfill per capita (kilograms)	250	<250	253
Native vegetation cover	20%	>25%	20.5%
Effective habitat rating	Poor	Improve	Low
River Health (ecohealth rating for Ballina sub-catchment)	D+	Improve	D+

In respect to greenhouse gas emissions, since 2016, the snapshotclimate.com.au website has been created which provides details on carbon emissions for Australian local government areas, electorates and states. The back-end tools that create the profiles on the website were developed over a five year period, as outlined in the following information from the site:

through work with around 100 councils across Australia to develop community-wide emissions profiles. This included the development of the City of Melbourne and C40 Cities-led Greater Melbourne Emissions Profile, Sustainability Victoria's Local Government Energy Savers (LGES) program for regional and rural councils, and 36 NSW councils through the Department of Planning, Industry and Environment (DPIE) climate programs.

The first figure for Ballina Shire on the website is for 2017, with total municipal emissions estimated at 729,000 CO₂, based on a population of 43,480. This equates to a per capita figure of 16.77.

The last figure for Ballina Shire is for 2019, with total municipal emissions estimated at 625,000 CO₂, based on a population of 44,628. This equates to a per capita figure of 14.00.

9.7 End of Term Report (2016 - 2021)

The wastewater reuse result for 2016 does not correlate with the annual data reported to the Department of Planning Industry and Environment (DPIE). The figure for 2016 should read 12.8% of Average Dry Weather Flow (ADWF) recycled. This figure has slightly improved to 13.3% for 2020/21 with a five-year average of 13.5%.

The total waste to landfill includes both the domestic waste kerbside collection and landfill waste delivered to the waste facility via the weighbridge. Waste delivered via the weighbridge also includes waste from residents and sources outside of Ballina Shire. The kerbside domestic collection service generates 182kg/person of waste to landfill from Ballina Shire properties only.

The State of the Environment (SOE) Report for the region (Northern NSW) was released in November 2021. The indicator for 'Native Vegetation Cover' is no longer measured, and has changed to 'Habitat Restored' therefore the result is not comparable to 2016.

The 'Effective Habitat Rating' indicator from 2016 has been amended in the 2020 Regional SOE to 'Ecological Carrying Capacity', with the 2020 result for being 0.41 = Low.

River Health continues to show poor results despite Council's efforts in undertaking Healthy Waterways programs since 2018. The one small positive is that the sub-catchment for Ballina is D+, whereas the overall grade for the Richmond River catchment is D-. There has been no update in ecohealth since the original report in 2014/15.

In addition to the CSP indicators, Attachment 1 to this report provides a document outlining a number of the achievements for the period 2016 to 2021.

Delivery Program Strategy / Operational Plan Activity

The End of Term Report is a report on the progress of the Delivery Program, and more broadly, the Community Strategic Plan.

Community Consultation Policy

This report is provided for the information of the community.

Financial / Risk Considerations

There are no financial or risk considerations in noting the report.

Options

This report is for noting only. In respect to the broad CSP targets, some of the information is difficult to source on a shire-wide or timely basis (i.e. census), nevertheless the report provides a good snapshot for the period 2016 to 2021.

RECOMMENDATION

That Council notes the contents of this End of Term Report.

Attachment(s)

1. End of Term Report 2016-2021

10.1 Ballina Flood and Protection Feasibility Plan - Public Exhibition

10. Civil Services Division Reports

10.1 Ballina Flood and Protection Feasibility Plan - Public Exhibition

Section	Engineering Works
Objective	To report the preparation of the Ballina Island and West Ballina Overland Flood Study and Flood Protection Feasibility Study and Plan and seek endorsement for public exhibition.

Background

In 2008, the Ballina Flood Study Update (BMTWBM, 2008) was completed to develop an improved understanding of existing and future flood risk in Ballina and surrounding floodplain.

This included the development of updated flood models and flood inundation mapping for riverine, creek and ocean driven design flood events.

In 2012, the Ballina Floodplain Risk Management Study (BMTWBM, 2012) was completed to identify and evaluate options available to manage riverine, creek and oceanic flood risk in the township of Ballina and its surrounding communities.

This was followed by development of the Ballina Floodplain Risk Management Plan (BMTWBM, 2015) in accordance with the NSW Floodplain Development Manual (NSW Government, 2005).

During this period Council's Development Control Plan for Floodplain Management has been amended to reflect updated information with respect to flood modelling and climate change impacts.

This included the continuance of an incremental fill policy for flood protection of property.

The objective of the Ballina Island and West Ballina Overland Flood Study and Flood Protection Feasibility Study and Plan is to develop a strategic plan to mitigate localised existing and future flood risk in Ballina Island and West Ballina (the Study Area).

This is to be achieved by providing more detailed and practical information in regard to recommended floodplain management measures such as timing, priority, expense and responsibility, and recommendation for further investigation and development of floodplain development and controls.

This study is not proposed to operate as a Council plan or policy.

However the information contained within the study is important to the development of our plans and policies and it is recommended for the study to be placed on exhibition so that there is an opportunity for community feedback to be considered.

Key Issues

- Climate Change (CC) implications of sea level rise and increased rainfall intensity comprising drainage capacity, efficiency and effectiveness
- Modifications to Land-use Planning instruments and supporting policy and guidance, namely and including Floodplain Management Development Control Plan Chapter 2b
- Constructability and affordability of structural/physical mitigation options, including ring levee systems, road raising (evacuation routes and other roads), infill of lots, and augmentation of trunk stormwater infrastructure.

Discussion

A Councillor briefing session was held on 12 October 2021 to provide an overview of the draft project reporting completed to date.

The study has included data collection and significant detailed flood modelling and has included the following stages of work:

- Data Collection, Survey and Review
- Overland Flood Study of Ballina Island and West Ballina
- Identification and preliminary assessment of flood management options
- Detailed assessment of management options
- Strategic plan of localised flood protection.

The study also comprised the following objectives:

- Gain an understanding of how trunk stormwater drainage performs now and into the future considering climate change
- Assess viability to a concept design standard for a regional flood protection levee system across the Island and West Ballina
- Develop a detailed strategic plan with a more detailed focus on land-use planning, Development Control Plan (DCP), Local Environmental Plan (LEP), and “soft” engineering approach's that are effective and affordable
- Ensure solutions are well considered, have a higher level of confidence in cost and procurement feasibility, require less approvals, environmentally sympathetic and gain community and stakeholder support.

Accordingly a number of preliminary measures and options were assessed under the following categories:

- P1 - Land Use Planning
- P2 - Voluntary House Raising
- P3 - Flood Proofing of Buildings
- P4 - Voluntary Purchase of High Hazard Properties
- P5 – Insurance
- P6 – Improve Flood Warning System and Evacuation Management
- P7 – Evacuation Route Raising
- P8 – Preliminary Assessment of Ballina Flood Levees
- P9 – Filling Private Properties and Raising Roads in Ballina
- P10 – Overland flood mitigation measures

A copy of the final report is included as Attachment 1 to this report.

10.1 Ballina Flood and Protection Feasibility Plan - Public Exhibition

A number of recommendations are included in the study, particularly regarding land use planning.

The recommendations are as follows.

Land-Use Planning Recommendations

- **R1:** Update Ballina Shire Council (BSC) Local Environmental Plan (LEP) 2012 to reflect relevant DPIE Floodprone Land Package 2021 requirements.
- **R2:** Simplify the readability of the Ballina Shire DCP 2012 Chapter 2b Floodplain Management. Revise and update the document.
- **R3:** BSC to consider adoption of Year 2100 planning horizon in Ballina Island and West Ballina.
- **R4:** Update Richmond River and Creek Flood Study and review existing FPL's accordingly.
- **R5:** Review Minimum Fill Levels in consideration of updated flood study results.
- **R6:** Establish maximum allowable fill level to limit height of fill and encourage alternatives to slab on ground type construction (refer R2).
- **R7:** For each Flood Planning Level (FPL), adopt a singular FPL value across Ballina Island and West Ballina.
- **R8:** Review of the flood risk precincts currently defined in Figure 1 of the Ballina Shire DCP 2012 Chapter 2b.
- **R9:** When required, ensure adequate provision of design flood information to building designers/engineers to support flood resilient building design.
- **R10:** Consider incentives for consolidating and amalgamating lots to facilitate higher density development where more holistic solutions to flooding/ stormwater can be achieved.
- **R11:** Updating Planning Certificates to reflect relevant DPIE Floodprone Land Package 2021 requirements.
- **R12:** Updated flood planning levels based on the envelope of maxima of riverine, creek and storm tide design events are likely to provide sufficient freeboard to overland flow path flooding.
- **R13:** Consider development of an overland flood hazard overlay map or map showing low lying land vulnerable to overland flow/ponding/local drainage issues.
- **R14:** Develop policy position to address loss of overland flood storage (due to minimum fill requirement) associated with infill development on single dwelling residential lots.
- **R15:** Update BSC Stormwater Management Standards for Development (2016) to reference Australian Rainfall and Runoff (2019) and the Queensland Urban Drainage Manual (2018).
- **R16:** Update BSC Stormwater Management Standards for Development (2016) to include consideration of future climate rainfall intensities and sea level conditions.
- **R17:** Undertake overland flood studies, prepare overland flood hazard maps and develop an Overland Flood Policy in areas located outside of Ballina Island and West Ballina.
- **R18:** Consider amendment to Ballina LEP to restrict the siting of more flood sensitive land uses (such as nursing homes, retirement villages and residential aged care facilities) to identified evacuation routes subject to the updated flood modelling identified in R4.

10.1 Ballina Flood and Protection Feasibility Plan - Public Exhibition

The study is a complex and substantial document.

This report has not attempted to summarise the information further as the briefing provided more detailed information and further information can be provided by contacting the Director Civil Services.

This report only seeks approval for exhibition and another briefing can be held with the newly elected Council prior to reporting on the outcomes from the exhibition.

Delivery Program Strategy / Operational Plan Activity

This project is identified in Council's adopted Delivery Program and Operational Plan 2021- 2025, specifically direction:

A Healthy Environment; Strategy HE1.1b Implement Floodplain Management Plans.

Community Consultation Policy

It is proposed to publicly exhibit the Draft Ballina Island and West Ballina Overland Flood Study and Flood Protection Feasibility Study and Plan Report with explanatory notes summarising the project and advice on how to make submissions.

The public exhibition will take the form of:

- Draft Report and explanatory notes will be provided for inspection/download on Council's website and static displays will be provided at libraries and the Council Chambers.
- An information session / open day will be conducted at the Council offices to inform stakeholders and impacted persons and to answer questions on the overall project. This session will occur mid December 2021.

At the end of the exhibition period the submissions will be compiled and a further report made to Council. This further report will:

- Analyse and respond to submissions.
- Recommend changes to the project output arising from submissions.
- Advise on split, sequencing and timing of the project into separate stages/phases for implementation and provide updated cost estimates for each Strategic Action.
- Recommend commencement of the next project phase of preconstruction investigations, planning amendments, additional modelling and design progression where applicable.

The management of the exhibition period will take into account the need to accommodate the end of the calendar year and commencement of the holiday season.

A further briefing will also be dependent on feedback from the newly elected Council.

Financial / Risk Considerations

This current phase of the floodplain risk management process to address localised flooding and assess the viability of a regional protection measure (levees) is funded 2:1 by NSW DPIE.

Further funding will be considered with the production of a detailed implementation plan which is being drafted at present and will be presented to Council following public exhibition.

Options

Exhibition of the Ballina Island and West Ballina Overland Flood Study and Flood Protection Feasibility Study and Plan is an important early step in the implementation of this significant project. This step needs to be completed and Council endorse the project reporting, before further activities, planning applications and subsequent designs can proceed.

The following options are available:

1. Council approve public exhibition of the Draft Ballina Island and West Ballina Overland Flood Study and Flood Protection Feasibility Study and Plan Report.
2. Council not approve public exhibition of the Draft Ballina Island and West Ballina Overland Flood Study and Flood Protection Feasibility Study and Plan Report. This action would suspend further implementation activities and suspend the overall project.

Option one is recommended as it enables the project to further progress.

This option also enables the public to view the project and make submissions which Council can consider at a later meeting to determine any required amendments.

RECOMMENDATIONS

1. That Council approves the public exhibition of Draft Ballina Island and West Ballina Overland Flood Study and Flood Protection Feasibility Study and Plan report as described in this report.
2. That any submissions from the public be reported to Council to enable the consideration of the adoption of the Ballina Island and West Ballina Overland Flood Study and Flood Protection Feasibility Study and Plan and proceeding to the next phases of the floodplain management program.

Attachment(s)

1. Ballina Island and West Ballina Overland Flood Study and Flood Protection Feasibility Study and Plan Report (Draft) (Under separate cover)

10.2 Road Closing Proposal - 8 River Drive, East Wardell

10.2 Road Closing Proposal - 8 River Drive, East Wardell

Section Infrastructure Planning

Objective To determine Council's response to the proposed closing of a section of Council public road adjacent to 8 River Drive, East Wardell.

Background

This report considers closing a section of Council public road reserve adjacent to 8 River Drive, East Wardell.

The existing road reserve is variable width and irregular at this location adjacent to 8 River Drive, East Wardell (Lot 8 DP 1251184).

The owners of 8 River Drive, East Wardell have requested this section of unused road reserve (the "land") in front of their property be closed and purchased.

A location diagram is included as Attachment 1.

Key Issues

- If closed, the land will vest in Council and then be disposed of to the adjoining land owner(s) and be consolidated with the adjoining land
- Community benefit

Discussion

Council has received a request from the owners of 8 River Drive, East Wardell to close a section of Council public road adjacent to their property.

The area of road proposed to be closed is approximately 521m².

The adjoining land (8 River Drive) is currently vacant and was part of a recent subdivision, which fronts this irregular section of River Drive. The triangular section of road proposed to be closed appears to be part of the adjoining land and is currently maintained as frontage to 8 River Drive.

There are no apparent Council or other service utilities located on the land. The constructed road (River Drive), the roadside table drain and power poles are all clear of the land. Should any services be located on the land, easements are to be created or service relocations will be required at the applicant's expense.

The road proposed to be closed will not affect the public use or functioning of River Drive, is not required by Council for road improvements or necessary for future strategic road use.

Council is the Roads Authority for this public road. Any request to close a section of Council public road must first be endorsed by Council before any public advertising and road closing can occur.

10.2 Road Closing Proposal - 8 River Drive, East Wardell

River Drive is a constructed Council public road and upon closure the land would vest in Council. This is consistent with the provisions of the Roads Act 1993.

The land valuation and negotiated sale terms are matters for the owner/applicant and Council to resolve should the application be approved.

If the road is endorsed for closing, it will be required that the land be consolidated with the adjoining property lot 8 DP 1251184.

The road closing application requires the proponent to provide all the necessary information and to meet all costs throughout this process.

Delivery Program Strategy / Operational Plan Activity

The Delivery Program Strategy PE3.2 is to facilitate residential land and includes an operational plan activity PE3.2c to monitor infrastructure to support growth.

The closing and sale of unnecessary sections of public road supports additional residential land and the efficient land management principles with the road to be closed and consolidated with the adjoining residential land.

Community Consultation Policy

Community consultation is yet to be undertaken regarding this matter. The best use of this land can be considered a local interest issue for nearby residents. The land is not a strategic or significant asset and has negligible impacts for the whole LGA.

If Council supports the road closing, the necessary advertising and notifications are part of the road closing process and are undertaken prior to a road closing application being determined.

Financial / Risk Considerations

All costs associated with the road closing, including application, survey, legal and other fees are to be met by the applicant. The application processing is undertaken by Council. Upon closing the road, the land would vest in Council until it is transferred to the adjoining land owner. The proceeds from the sale of the land remain with Council.

Options

1. That Council supports the request for a road closing application to proceed for a section of public road adjacent to 8 River Drive, East Wardell.

The advantage of this option is it ensures the Council does not have any future liability or maintenance attached to this unnecessary section of road. It also allows for the road closing application to proceed and, if approved, consolidate the land with the adjoining property to support full utilisation of the land.

10.2 Road Closing Proposal - 8 River Drive, East Wardell

2. That Council opposes the request for a road closing application to proceed for a section of public road adjacent to 8 River Drive, East Wardell.

There are minimal, if any, benefits associated with retaining this part of the public road for current or future needs.

RECOMMENDATIONS

1. That Council supports the request for a road closing application to proceed for a section of public road adjacent to 8 River Drive, East Wardell.
2. That Council authorises the Council seal and signatures to be attached to the documents necessary for the road closing and disposal of the land.
3. That the Council authorises the General Manager to enter into negotiations with the adjoining land owner to determine the land sale value.
4. That the closed road be consolidated with the adjoining land being Lot 8 DP 1251184.

Attachment(s)

1. 8 River Drive - location diagram of proposed road closing

11.1 Notice of Motion - Council Owned Land and Attainable Housing

11. Notices of Motion

11.1 Notice of Motion - Council Owned Land and Attainable Housing

Councillor

Cr Cadwallader

I move

That Council receive a report on options to provide a diverse range of housing on the Council owned land at Wollongbar (Stage Three of the Wollongbar Urban Expansion Area) and Lennox Head (Henderson Farm residual) based on potential sell part and developer and rent part model, to assist in providing more attainable and affordable housing in Wollongbar, Lennox Head and the Ballina Shire.

Councillor Comment

Housing affordability is now reaching a level where, young people, essential workers and the vulnerable are not in a position to buy or rent a property in our Shire.

Council has two remaining residentially zoned land parcels (Wollongbar and Lennox Head) and it would be interesting to analyse whether Council is in a position to provide more diversity and affordability in the housing market by delivering housing options on our own land.

Staff Comment

At the July 2021 Ordinary meeting, Council resolved as follows, with point five consistent with this notice of motion.

Also, as per the Councillor briefing held Monday 8 November 2021, work on options is underway and the outcomes will be reported to Council in February / March 2022.

- 1. That Council provides in principle support for a submission by the NRJO to the NSW Housing Taskforce seeking the Government's urgent action on the delivery of affordable and social housing in the region.*
- 2. That Council make a submission to the NSW Parliamentary Inquiry into Crisis Accommodation encouraging the Government to increase the supply of emergency housing in Ballina Shire based on the sentiments of this report.*
- 3. That Council write to the Minister for Housing to encourage the redevelopment of areas of existing Department of Housing dwelling stock in Ballina Shire to increase the supply of affordable housing.*
- 4. That Council undertakes an open tender process for one Council owned residential block on land at Wollongbar to be used for a pilot social housing project, to house single, older homeless women. Advice on tender selection and the assessment of submissions will be sought from the Manager of Partnerships and Strategy, Northern NSW Local Health District.*

11.1 Notice of Motion - Council Owned Land and Attainable Housing

5. *That Council receive a further report to identify a preferred model and examining options for the delivery of affordable housing on Council owned land.*

COUNCILLOR RECOMMENDATION

That Council receive a report on options to provide a diverse range of housing on the Council owned land at Wollongbar (Stage Three of the Wollongbar Urban Expansion Area) and Lennox Head (Henderson Farm residual) based on potential sell part and developer and rent part model, to assist in providing more attainable and affordable housing in Wollongbar, Lennox Head and the Ballina Shire.

Attachment(s)

Nil

11.2 Notice of Motion - Canal Road Markets

11.2 Notice of Motion - Canal Road Markets

Councillor

Cr Cadwallader

I move

That in considering options for the relocation of the Ballina Canal Markets, Council investigate the Crown Reserve adjacent to Lighthouse Parade.

Councillor Comment

The relocation of the Canal Road Markets has been in the pipeline for some time now because of the unsuitability of the current site. A meeting with the East Ballina Lions Club executive and Council staff identified a possible location on the Crown Reserve adjacent to Lighthouse Parade East Ballina.

While a desktop analysis of the site seems to tick a lot of boxes further investigation is required.

Staff Comment

At the July 2019 Ordinary meeting Council resolved as follows in relation to Community Events and Markets on Public Land

1. *That Council seek a single integrated development consent for markets and community events for three key event sites on a one per year basis for three years.*
2. *That the first development application be for market and community event activity at Pop Denison Park, with applications to be prepared in years two and three to be determined based on need and circumstances.*
3. *That Council's Market Guidelines be updated in accordance with the information contained in this report during the 2019/20 financial year.*

The progress of a development application for a market/event space at Pop Denison Park has been delayed due to the scheduling of works associated with the dredging of Shaws Bay (now completed) and upgrade works to the Pop Denison park and playground facilities (now underway).

The existing site of the Canal Markets is Department of Education land (TAFE) over which Council has a lease. The lease has expired, however the existing arrangements are continuing under the hold-over provisions of the lease.

In consultation with the East Ballina Lions, staff are undertaking a detailed site analysis and assessment of the suitability of the Pop Denison Park site. Given the staging and timing of the planned open space upgrade works and parking and assess limitations of the Pop Denison Park site, however, staff are investigating other options in the vicinity. These options and site analysis will be reported to Council in due course.

COUNCILLOR RECOMMENDATION

That in considering options for the relocation of the Ballina Canal Markets, Council investigate the Crown Reserve adjacent to Lighthouse Parade.

Attachment(s)

Nil

11.3 Notice of Motion - Council Owned Henderson Land

11.3 Notice of Motion - Council Owned Henderson Land

Councillor

Cr Cadwallader

I move

That Council receive an updated report on the option of closing the public road at Henderson Lane, Lennox Head. This is based on the possibility of the subsequent sale of the land to the immediate neighbours.

Councillor Comment

Henderson Lane is a road to nowhere that is currently being used by the immediate neighbours with chicken pens, trampolines etc. and is not accessible to any other residents but the Kell Mather Drive residents. A protected line of trees and thick vegetation separates the 10 metre wide land from newer properties on Seaswell Crescent Epiq, preventing these owners from ever accessing the land and relieving them of any maintenance responsibilities.

There are five affected properties on Kell Mather Drive who have been mowing and maintaining the land for the last eight years. One of the issues that has arisen recently is the nuisance of neighbourhood dogs gathering and fighting at the back of the five properties and there is no way to keep them out because the majority of the properties do not have back fences.

This was previously brought to Council but was decided at the time that the developers of the Epiq estate required access through the road which is now not the case.

Staff Comment

A copy of the last report on this matter, from the November 2018 Ordinary meeting is included as Attachment 1.

Council resolved as follows as a result of that report.

Resolution 221118/3

That Council refuse the application to close the section of public road at Henderson Lane, Lennox Head and note the reason for this decision is to maintain public access in the future.

COUNCILLOR RECOMMENDATION

That Council receive an updated report on the option of closing the public road at Henderson Lane, Lennox Head. This is based on the possibility of the subsequent sale of the land to the immediate neighbours.

Attachment(s)

1. November 2018 Ordinary meeting - Henderson Lane - Road Closing

11.4 Notice of Motion - Defibrillator Locations in the Shire

11.4 Notice of Motion - Defibrillator Locations in the Shire

Councillor

Cr Cadwallader

I move

That Council receive a report on options to provide information more readily to residents and visitors of the availability and location of defibrillators in our Shire. This report is to include options such as software applications similar to the mybeach info app.

Councillor Comment

This was raised at the B Ward Meeting on 15 November 2021 as a matter that needs addressing to ensure that our local community and visitors to the shire are well informed in the event of an emergency as to where to locate a defibrillator.

A recent drowning of a local man in Byron Bay saw the community mobilise and fund raise \$20,000 for the purchase of 10 defibrillators with training on how to use the device.

For these to be as effective as possible the next step is to ensure the community and visitors to the shire are well informed as to their locations.

A report to Council will consider the options on how to achieve the best outcome and I seek the support of Council to achieve this.

COUNCILLOR RECOMMENDATION

That Council receive a report on options to provide information more readily to residents and visitors of the availability and location of defibrillators in our Shire. This report is to include options such as software applications similar to the mybeach info app.

Attachment(s)

Nil

11.5 Notice of Motion - Parking in Lennox Head

11.5 Notice of Motion - Parking in Lennox Head

Councillor

Cr Cadwallader

I move

That Council receive a report on options to apply the latest technology, such as number plate recognition software, or sensors in the road pavement, to allow Council to more efficiently monitor car parking, particularly in the town centres.

Councillor Comment

It has been brought to my attention that the Lennox Head CBD businesses are experiencing a downturn in business and receiving feedback from their customers that they are being forced to shop elsewhere because of the lack of available parking in the village.

It was identified in the Lennox Head Village Vision consultant's report that there was adequate parking in the CBD if parking was left available for shoppers and time limits enforced.

With the upgrade of the village now in progress it is timely for the new Council to look at options in addressing the situation.

Staff Comment

The adopted Delivery Program and Operational Plan for 2021/22 includes the following action, which is being undertaken by the Planning and Environmental Health Division.

CC1.1h - Investigate smart parking technology to improve parking efficiency

COUNCILLOR RECOMMENDATION

That Council receive a report on options to apply the latest technology, such as number plate recognition software, or sensors in the road pavement, to allow Council to more efficiently monitor car parking, particularly in the town centres.

Attachment(s)

Nil

11.6 Notice of Motion - Naming of Significant Tree in Wardell

11.6 Notice of Motion - Naming of Significant Tree in Wardell

Councillor

Cr Parry

I move

That Council support the naming of Banyan Tree in East Wardell 'Ballina's Poetry Tree' and that support be provided for a bronze plaque to be placed at this tree in recognition of the significant contributions made by Mr Edwin Wilson.

Councillor Comment

Mr Edwin Wilson is a significant Australia poet, painter and philosopher, who lived in Wardell in his earlier years of life. He planted a Lord Howe Island Banyan tree in 1968 in front of 'Wilson' farm', as a commemorative planting to his great grandparents.

Mr Wilson currently lives in Sydney however continues to own the property adjacent to this original farm.

Due to the age of this tree, and it being the only known specimen of this type in the far northern coast of New South Wales, Mr Wilson has submitted a request to Council to have this tree listed on Council's Significant Tree Register. This request is currently with Council staff.

As part of this submission, Mr Wilson is also requesting to be able to install a plaque at the lower stem of the Banyan Tree to replace the old wooden one that had long since rotted away.

A copy of the information provided to Council by Mr Wilson to support the inclusion of this tree on the Significant Tree Register, together with images of the tree and proposed plaque is attached.

Mr Wilson has been invited to attend the opening of the Ballina Historical Society Museum in December 2021 in recognition of his significant contribution to poetry and recording of historical information of Wardell. The ability to install this plaque prior to this official opening would enable Council to recognize the significant contribution of Mr Edwin Wilson to our community.

COUNCILLOR RECOMMENDATION

That Council support the naming of Banyan Tree in East Wardell 'Ballina's Poetry Tree' and that support be provided for a bronze plaque to be placed at this tree in recognition of the significant contributions made by Mr Edwin Wilson.

Attachment(s)

1. Information provided by Mr Edwin Wilson

11.7 Notice of Motion - Affordable and Attainable Housing

11.7 Notice of Motion - Affordable and Attainable Housing

Councillor

Cr Jeff Johnson

I move

1. That Council acknowledge the critical shortage of rental accommodation in the Ballina Shire and the impact that short term holiday accommodation sites such as AirBnB are having.
2. That Council investigate what restrictions it can place on short term accommodation for homes in residential areas in order to increase the supply of long term rental properties.

Councillor Comment

In November 2018 Council resolved to adopt the State Government's 180 day maximum limit for short term holiday lets and as such we have been included in the recently released State Environmental Planning Policy (Affordable Rental Housing) Amendment (Short-term Rental Accommodation) 2021.

The number of properties listed on the short term rental websites such as AirBnB have risen significantly over the last few years. In 2016 it was only 193, but by 2019 it was 634. That's an increase of well over 200%. That figure is likely to be greater now and it also doesn't include properties listed with local real estate agencies or other online platforms.

While a number of these properties would only be renting out their homes during the holiday season, which is actually good for the local economy, it's the ones that are listed permanently that is contributing to the housing affordability crisis and the critically low number of properties that are available for long-term rent.

I think the 180 day limit is too high and needs to be reconsidered in light of the critical housing shortage that the Ballina Shire is facing. The 180 day limit isn't enough to encourage many of these properties to be returned to the permanent rental market.

This motion seeks to find out what other council areas are doing, to get additional information as to the impact the increasing number of short term rentals is having on the local long term rental market, and to see what changes could be implemented to reduce this impact.

Link to the recent State Government Policy.

https://legislation.nsw.gov.au/view/pdf/asmade/epi-2021-175?_hsmi=120423499&_hsenc=p2ANqtz-8CuGaqULM6UGw0O_UnCLDeFUXwrujhpYFJcq4txaGYvCa_Ukqyrn7kD4Ad_HoqMPXAx6sjKJpHzNCHK3lzZBUUubi6T4g

11.7 Notice of Motion - Affordable and Attainable Housing

Staff Comment

The latest figures available for Short Term Rental Accommodation (STRA) for coastal local government areas in this region are as follows:

STRA in NSW Far North Coast Coastal LGAs, 2016-19

LGA	Est. Total Dwellings 2019	Dec 16	Dec 17	Dec 18	Dec 19	Growth 2016-19	STRA as % of total 2019 total dwellings
Ballina	20,029	193	439	563	616	219%	3%
Byron	17,115	1,172	2,740	3,037	3,452	195%	20%
Tweed	44,131	289	878	1,202	1,337	363%	3%

COUNCILLOR RECOMMENDATIONS

1. That Council acknowledge the critical shortage of rental accommodation in the Ballina Shire and the impact that short term holiday accommodation sites such as AirBnB are having.
2. That Council investigate what restrictions it can place on short term accommodation for homes in residential areas in order to increase the supply of long term rental properties.

Attachment(s)

Nil

11.8 Notice of Motion - Ballina Marina Masterplan

11.8 Notice of Motion - Ballina Marina Masterplan

Councillor

Cr Williams

I move

1. That Council write to the Premier, Deputy Premier, Minister for Roads and Transport, Minister for Regional Roads and Transport, the Minister for Housing and local Parliamentary representatives urging the State Government to activate the Ballina Marina Masterplan as a key economic development project for Ballina.
2. That given the housing crisis currently being experienced by the Shire, Council request that at least 25% of the development be made available as a mix of affordable and social housing.

Councillor Comment

The Ballina Marina Masterplan project provides an excellent opportunity to address a number of urgent priorities

- Modernising and upgrading existing marine infrastructure,
- Supporting and growing tourism,
- Enhancing waterfront public spaces,
- Increasing medium density housing in the heart of the town, and
- Potentially providing much needed affordable and social housing options.

The housing crisis is a real and urgent problem in Ballina. An increase in the average rent paid from \$450 to \$620 per week in the last year alone likely represents the single largest impoverishment and/or displacement of families in the Shire since the days of the Great Depression in the 1930's.

Ballina risks becoming one of those places where the people that work here, can't afford to live here.

Council must do more to ensure the market supplies a mix of housing types as part of all large developments. Integrating social and affordable housing within larger developments promotes inclusion, reduces social stigma and is better for the residents and neighbourhoods.

The Ballina Marina Masterplan provides an excellent opportunity to promote the inclusion of social and affordable housing as part of a larger development that will also deliver multiple economic benefits to the Shire.

As the site is entirely State Government owned, currently zoned for urban purposes (including medium density residential development) and the key site master planning work has already been undertaken by Council, the Marina Masterplan should be promoted as a priority project to the State Government.

11.8 Notice of Motion - Ballina Marina Masterplan

Council adopted the Masterplan on 28 September 2017 (resolution below) and promoting the Masterplan continues to be an action in the Operational Plan. Council last wrote to the relevant Ministers in 2020.

280917/14 RESOLVED
(Cr Nathan Willis/Cr Ben Smith)

1. *That Council endorses the Ballina Marina Master Plan (as contained in Attachment 2) as the basis for planning for the future redevelopment of the Ballina Trawler Harbour site in West Ballina.*
2. *That Council advise Government agencies, stakeholders and community members who have participated in the master planning process of the Council's decision to endorse the Ballina Marina Master Plan.*
3. *That Council advise relevant Ministers and local members of parliament of the outcomes of the Ballina Marina Master Plan project.*
4. *That Council indicates its strong preference that any development comply with the existing building heights policy, as part of the Master Plan.*

FOR VOTE - All Councillors voted unanimously.

A copy of the Masterplan is attached.

Staff Comment

In addition to the letters to the Ministers mentioned in the Councillor comments, more recent correspondence has been forwarded to the Department of Regional NSW, as there has been some interest from that Department in promoting this project, and there has also been some limited interest from private parties.

COUNCILLOR RECOMMENDATIONS

1. That Council write to the Premier, Deputy Premier, Minister for Roads and Transport, Minister for Regional Roads and Transport, the Minister for Housing and local Parliamentary representatives urging the State Government to activate the Ballina Marina Masterplan as a key economic development project for Ballina.
2. That given the housing crisis currently being experienced by the Shire, Council request that at least 25% of the development be made available as a mix of affordable and social housing.

Attachment(s)

1. Adopted Ballina Marina Masterplan (Under separate cover)

12.1 Commercial Services Committee Minutes - 16 November 2021

12. Advisory Committee Minutes

12.1 Commercial Services Committee Minutes - 16 November 2021

Attendance

Crs David Wright (Mayor - in the chair), Phillip Meehan (via Zoom), Jeff Johnson (arrived at 4.15pm), Eoin Johnston (via Zoom), Stephen McCarthy, Keith Williams (via Zoom), Sharon Cadwallader and Cr Ben Smith (arrived at 4.46pm).

Paul Hickey (General Manager), John Truman (Director - Civil Services Division), Caroline Klose (Acting Director, Corporate and Community Division), Paul Tsikleas (Manager Commercial Services), Leanne Harding (Coordinator Property) and Sandra Bailey (Secretary) were in attendance.

There were two people in the gallery at this time.

Cr Jeff Johnson arrived at the meeting 4.15pm

1. Apologies

Cr Ben Smith indicated he would be late to the meeting

2. Declarations of Interest

Nil

.3. Deputations

- **David McKinnon, Club Lennox and Tere Sheehan, Cherry Street Bowling Club** – spoke in favour of Item 4.1 – Club Lennox – Proposed Amalgamation.

4. Committee Reports

4.1 Club Lennox - Proposed Amalgamation

A **Motion** was moved by Cr Sharon Cadwallader and seconded by Cr Stephen McCarthy

1. That Council approves the public notification of the proposal to provide a new lease for Council owned community land at 10 Stewart Street, Lennox Head for a term of 21 years, at 50% rent reduction for the first five years, to the Ballina Bowling and Recreation Club (BBRC) Limited, with that lease not requiring a General Security Agreement on gaming entitlements due to the financial viability of the BBRC. This public notice is also to include notification of the new lease for the King Street Road Reserve for the maximum period permitted of five years.
2. That Council provides landowner approval for an application for Club Lennox to temporarily re-purpose their outdoor spaces such as car parks, bowling greens to serve food and drinks consistent with the NSW State Government's Alfresco Restart Package to help with ensuring the current financial viability of Club Lennox.
3. That the publicly exhibited lease has Clause 22.2 removed.

An **Amendment** was moved by Cr Phillip Meehan and seconded by Cr Jeff Johnson

1. That Council approves the public notification of the proposal to provide a new lease for Council owned community land at 10 Stewart Street, Lennox Head for a term of 21 years, at 50% rent reduction for the first five years, to the Ballina Bowling and Recreation Club (BBRC) Limited, with that lease not requiring a General Security Agreement on gaming entitlements due to the financial viability of the BBRC. This public notice is also to include notification of the new lease for the King Street Road Reserve for the maximum period permitted of five years.
2. That Council provides landowner approval for an application for Club Lennox to temporarily re-purpose their outdoor spaces such as car parks, bowling greens to serve food and drinks consistent with the NSW State Government's Alfresco Restart Package to help with ensuring the current financial viability of Club Lennox.

The **Amendment** was **CARRIED**.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Nathan Willis and Cr Ben Smith

The **Amendment** then became the **Motion** and was **CARRIED**.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Nathan Willis and Cr Ben Smith

RECOMMENDATION

(Cr Phillip Meehan/Cr Jeff Johnson)

1. That Council approves the public notification of the proposal to provide a new lease for Council owned community land at 10 Stewart Street, Lennox Head for a term of 21 years, at 50% rent reduction for the first five years, to the Ballina Bowling and Recreation Club (BBRC) Limited, with that lease not requiring a General Security Agreement on gaming entitlements due to the financial viability of the BBRC. This public notice is also to include notification of the new lease for the King Street Road Reserve for the maximum period permitted of five years.
2. That Council provides landowner approval for an application for Club Lennox to temporarily re-purpose their outdoor spaces such as car parks, bowling greens to serve food and drinks consistent with the NSW State Government's Alfresco Restart Package to help with ensuring the current financial viability of Club Lennox.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Nathan Willis and Cr Ben Smith

4.2 Compton Drive - Land Sale

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Stephen McCarthy)

That Council notes the contents of this report in respect to the potential sale of Part 1 DP 781542, Compton Drive, East Ballina, following an expression of interest process, with the sale terms and conditions outlined in a confidential report later in this agenda.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Nathan Willis and Cr Ben Smith

Cr Jeff Johnson left the meeting at 04:44pm.

4.3 Financial Support Package (Covid-19) - Update

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Stephen McCarthy)

That Council notes the contents of this report in respect to the financial support package (Covid-19) – update, with the confidential report later in this agenda outlining the commercial details of the requests for further support.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson, Cr Nathan Willis and Cr Ben Smith

4.4 Flat Rock - Tent Park Fees and Charges 2022/23

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Eoin Johnston)

That Council authorises the exhibition of the draft Flat Rock Tent Park fees and charges for 1 February 2022 to 31 January 2023, as per Attachment 1 to this report, for public comment.

Cr Ben Smith arrived at the meeting at 04:46 pm.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Nathan Willis

4.5 Airport Car Park - Draft Fees and Charges

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council adopts the amended Ballina Byron Gateway Airport Car Park fees, as outlined in Attachment 1 to this report, based on the introduction of the new access control system car park management system, including boom gates.
2. That Council authorises the public exhibition of the fees, as outlined in Attachment 1 to this report, for a minimum period of 28 days, as required by Section 610F(3) of the Local Government Act, prior to the introduction of the new fees.

FOR VOTE - Cr David Wright, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Keith Williams, Cr Sharon Cadwallader and Cr Ben Smith

AGAINST VOTE - Cr Phillip Meehan

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Nathan Willis

4.6 **Airline Agreement - Negotiation Update**

RECOMMENDATION

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council notes the contents of this preliminary report on one airline agreement negotiation, with the confidential report later in this agenda detailing the commercial aspects of that agreement.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Nathan Willis

5. **Confidential Session**

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

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.

5.1 **Compton Drive - Land Sale**

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 the ongoing commercial negotiations and the release of the information could prejudice those negotiations.

5.2 **Financial Support Package (Covid-19) - Update Details**

Reason for Confidentiality

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

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

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

5.3 Airline Agreement - Negotiation Update

Reason for Confidentiality

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

- d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

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

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Nathan Willis

(The Council moved into Confidential Session at 5.08pm).

Open Council

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Stephen McCarthy)

That Council move into Open Council and out of Committee of the Whole.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Nathan Willis

(The Council moved into Open Council at 5.20pm).

The General Manager reported to the Open Meeting the recommendations made while in Confidential Session:

5.1 Compton Drive - Land Sale

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council adopts option one for the sale of Part Lot 1 DP 781542, Compton Drive, East Ballina comprising an area of approximately 142.2m².
2. That Council authorises the General Manager to finalise the negotiations and attach the Council seal to the relevant documentation including all documents relating to the sale of the land including subdivision to create the proposed site.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Nathan Willis

5.2 Financial Support Package (Covid-19) - Update Details

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council authorises the General Manager to implement the financial support package (Covid-19), as detailed in Table 1 of this report, which has an estimated relief value of approximately \$16,000.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Nathan Willis

5.3 Airline Agreement - Negotiation Update

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council confirms that it supports option one, as detailed within this report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Nathan Willis

Adoption of Recommendations from Confidential Session

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Keith Williams)

That the recommendations made whilst in Confidential Session, be adopted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Nathan Willis

MEETING CLOSURE

5.22pm

RECOMMENDATION

That Council confirms the minutes of the Commercial Services Committee meeting held 16 November 2021 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

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 October 2021 Ordinary meeting are as follows:

<u>Date</u>	<u>Function</u>
21/10/21	Cross Border Meeting
25/10/21	Meeting - Ben Franklin re Highway Intersection
26/10/21	RSL Club Grants
27/10/21	Ballina CWA International Luncheon
3/11/21	Teams Meeting with Premier NSW
3/11/21	Pacific Highway and Tamarind Drive Flood Issues
3/11/21	Public Art Advisory Panel
3/11/21	Briefing – Croquet Facilities
4/11/21	Meeting Graham Steel – Recycled Water on Rugby Fields
5/11/21	CSPC Meeting – Teams
5/11/21	Media Conference – Fiji DRUA - Lake Ainsworth
7/11/21	Commemoration Park Markets
8/11/21	Church Group
8/11/21	Briefing Affordable Housing – Wollongbar
9/11/21	Citizenships Ceremonies on-line – Zoom
9/11/21	'A' Ward Committee
11/11/21	Cross Border Meeting
11/11/21	Remembrance Day – Ballina
11/11/21	'C' Ward Committee
12/11/21	NRJO Meeting
12/11/21	Meet and Greet – New Qantas Flight from Melbourne
12/11/21	Meeting – Lyn Walker
14/11/21	Commemoration Park Markets
15/11/21	'B' Ward Committee
16/11/21	Commercial Services Meeting
18/11/21	Briefing – Draft Marine Park Network Management Plan
21/11/21	Commemoration Park Markets
23/11/21	Lennox Head - Meet the Candidates
25/11/21	Council Meeting
26/11/21	Ballina Art Society – Tintenbar Hall
28/11/21	Commemoration Park Markets
29/11/21	Australia Day Committee

RECOMMENDATION

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

Attachment(s)

Nil

14. Confidential Session

14. Confidential Session

Nil Items