

# Agenda

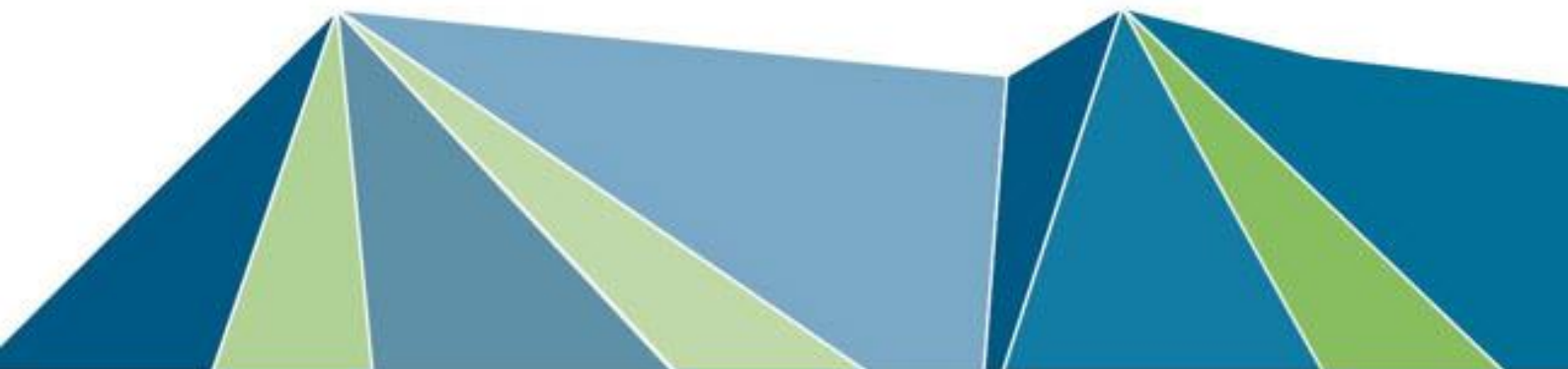
## ***Ordinary Meeting*** **28 July 2022**

An Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **28 July 2022 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.**



## **Ethical Decision Making and Conflicts of Interest**

### **A guide for Councillors, Council employees and community representatives**

Ethical decision making

- Is the decision or conduct legal?
- Is it consistent with Government policy, Council's objectives and Code of Conduct?
- What will the outcome be for you, your colleagues, the Council, anyone else?
- Does it raise a conflict of interest?
- Do you stand to gain personally at public expense?
- Can the decision be justified in terms of public interest?
- Would it withstand public scrutiny?

### **Conflict of Interest**

A conflict of interest is a clash between private interest and public duty. There are two types of conflict:

- **Pecuniary** – an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to yourself or another person or entity defined in part 4 of the Council's Code of Conduct, with whom you are associated.
- **Non-pecuniary** – a private or personal interest that you have that does not amount to a pecuniary interest as defined in the Council's Code of Conduct.

These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.

### **The test for a conflict of interest**

- Is it likely I could be influenced by personal interest in carrying out my public duty?
- Would a fair and reasonable person believe I could be so influenced?
- Conflict of interest is closely tied to the layperson's definition of "corruption" – using public office for private gain.
- It is important to consider public perceptions of whether you have a conflict of interest.

### **Identifying problems**

- Do I have private interests affected by a matter I am officially involved in?
- Is my official role one of influence or perceived influence over the matter?
- Do my private interests' conflict with my official role?

### **Disclosure and participation in meetings**

#### **Pecuniary Interests**

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned, and who is present at a meeting of the Council or Committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
  - a) at any time during which the matter is being considered or discussed by the Council or Committee,
  - or
  - b) at any time during which the Council or Committee is voting on any question in relation to the matter.

**No Knowledge** - A person does not breach this clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

#### **Non-pecuniary Interests**

Must be disclosed in meetings. There are a broad range of options available for managing non-pecuniary interests and the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with. Non-pecuniary interests must be dealt with in one of the following ways:

- It may be appropriate that no action be taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist.

- Limit involvement if practical (eg. Participate in discussion but not in decision making or vice versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. Relinquishing or divesting the personal interest that creates the conflict)
- Have no involvement by absencing yourself from and not taking part in any debate or voting on the issue as per the provisions in the Code of Conduct (particularly if you have a significant non pecuniary interest)

### **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:
  - a) Tenderers during a public tender or request for quotation
  - b) Persons or representatives from organisations seeking financial support from Council that involves an expression of interest
  - c) Consultants who are engaged by Council on the matter the subject of the deputation.

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

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

### **Recording and Livestreaming of Council Meetings**

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

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1. Australian National Anthem
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  6. Deputations
  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 23 June 2022 were distributed with the business paper.

**RECOMMENDATION**

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 June 2022.

**5. Declarations of Interest and Reportable Political Donations**

**6. Deputations**

**7. Mayoral Minutes**

Nil Items

## 8.1 DA 2022/12 - Walker Lane, Cumbulam

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### 8. Planning and Environmental Health Division Reports

#### 8.1 DA 2022/12 - Walker Lane, Cumbulam

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<b>Applicant</b>	Northern Rivers Surveying Pty Ltd
<b>Property</b>	Walker Lane, Cumbulam
<b>Proposal</b>	Subdivision of an existing road to create one x Torrens Title allotment.
<b>Effect of Planning Instrument</b>	The land is zoned R3 Medium Density Residential under the provisions of the Ballina LEP.
<b>Locality Plan</b>	The subject land is depicted in Attachment 1 and Figure 1.

#### **Introduction**

Council is in receipt of development application DA 2022/12 (PAN-186848) which proposes to excise a small section of Walker Lane (Council public road) in order for the land to be developed as part of Stage 10 of the residential subdivision known as the Banyan Hill Estate. This portion of Walker Lane currently appears as a road stub connection between the Ballina Heights Estate and the Banyan Hill Estate.

The location of the land is shown in Attachment 1 and Figure 1. The land adjoins Lot 362 DP 1273203 that is currently owned by Intrapac Property and forms part of the Banyan Hill development.

The proposal seeks a variation to a development standard (BLEP 2012 - Clause 4.1 Minimum Lot Size) that is numerical and the proposed variation is greater than ten percent. The application is therefore required to be determined by the elected Council.

The land the subject of this application to be excised from Walker Lane will be referred to as 'the Lot' for the remainder of this report.

#### **Background**

Walker Lane forms the physical separation between the Ballina Heights Estate and the Banyan Hill Estate. Walker Lane and its associated road stubs are public road (and owned by Council).

Council has previously endorsed the closure of part of the public road (the Lot) and authorised the use of the Council seal (Council meeting 26 July 2018).

As part of the residential subdivision approved via DA 2016/184 (which comprises land formerly known as Cumbalum Precinct A and now known as the Banyan Hill Estate), the Lot is shown to form part of the larger residential subdivision pattern within Stage 10.

## 8.1 DA 2022/12 - Walker Lane, Cumbulam

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The Lot is contained within approved Lot 1-80 and does not form part of the public road network (refer to Figures 2 and 3).

Council is also in receipt of a new development application (DA 2022/173) for an amended layout and subdivision of the land forming Stages 10 and 11 as previously approved via DA 2016/184.

The area of land subject to this application (DA 2022/12) is contained within proposed Stage 10C. Refer to Figure 4 below for proposed lot layout for DA 2022/173.

### **Proposal**

The applicant seeks the consent of Council for the subdivision of a section of public road to align with the intended and future use of the land for residential purposes as part of Stage 10 of the Banyan Hill Estate.

The Lot is proposed to have an area of 216.9m<sup>2</sup>, which will be wholly contained within the R3 Medium Density Residential zone under the Ballina Local Environmental Plan 2012 (refer to Figure 1 and Attachment 1).

The subject land is subject to a minimum lot size standard of 450m<sup>2</sup> under the provisions of the BLEP 2012. As a consequence, the proposed Lot, with an area of 216.9m<sup>2</sup>, does not comply with the development standard.

### Future Dwelling/Contributions

For clarity, comment is provided as to whether the Lot is able to contain, in its own right, a future dwelling or will be afforded a lot 'credit entitlement' able to be utilised as part of any future developer contribution calculation.

In its current form, Walker Lane, including the road stub, is not land that is capable of supporting a dwelling house. This land was created for the purposes of a road and to service the existing Ballina Heights Estate via DA 2007/146 (and any residential subdivision to the north of the Lane and stub - now comprising the Banyan Hill Estate).

Whilst the Lot is wholly contained within the R3 zone and dwelling houses are permissible forms of development, the proposed size and configuration of the lot are not such that a dwelling can be reasonably developed or supported.

The intention of this proposal is not to create a residential allotment for a future dwelling house, it is to enable consolidation of the Lot (part of a former road) into a larger residential allotment in Stage 10 (as illustrated in Figures 3 and 4) of the Banyan Hill Estate.

The applicant has acknowledged this in the submitted Statement of Environmental Effects and offers the imposition of a restriction on the title of the Lot to ensure a dwelling cannot be erected.

This restriction can be required via a condition of consent and later extinguished when the Lot is consolidated and developed as part of Stage 10 of the Banyan Hill Estate.



## 8.1 DA 2022/12 - Walker Lane, Cumbulam

In view of the proposed size and configuration of the Lot and the original purpose of its creation (i.e. a road), it is considered that a favourable determination of DA 2022/12 will not result in the Lot being developed on its own for a dwelling house and there is no ability for this Lot to be afforded a 'residential lot' credit, that can be relied upon by the developers of the land, when calculating developer contributions.

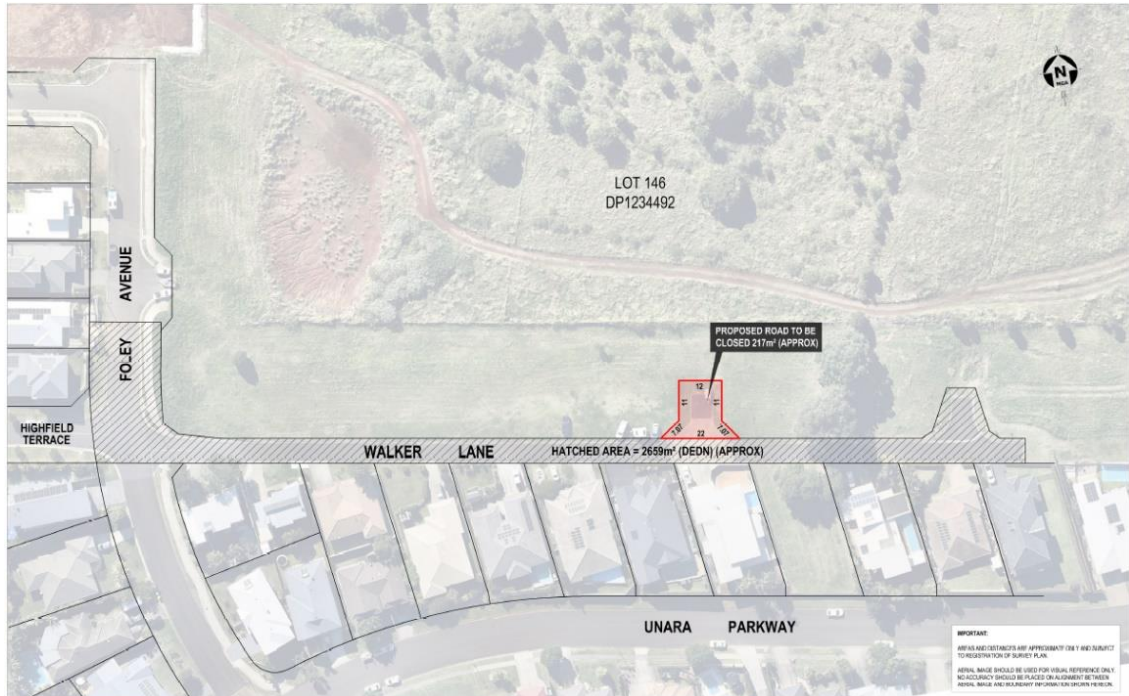


Figure 1: Proposed subdivision

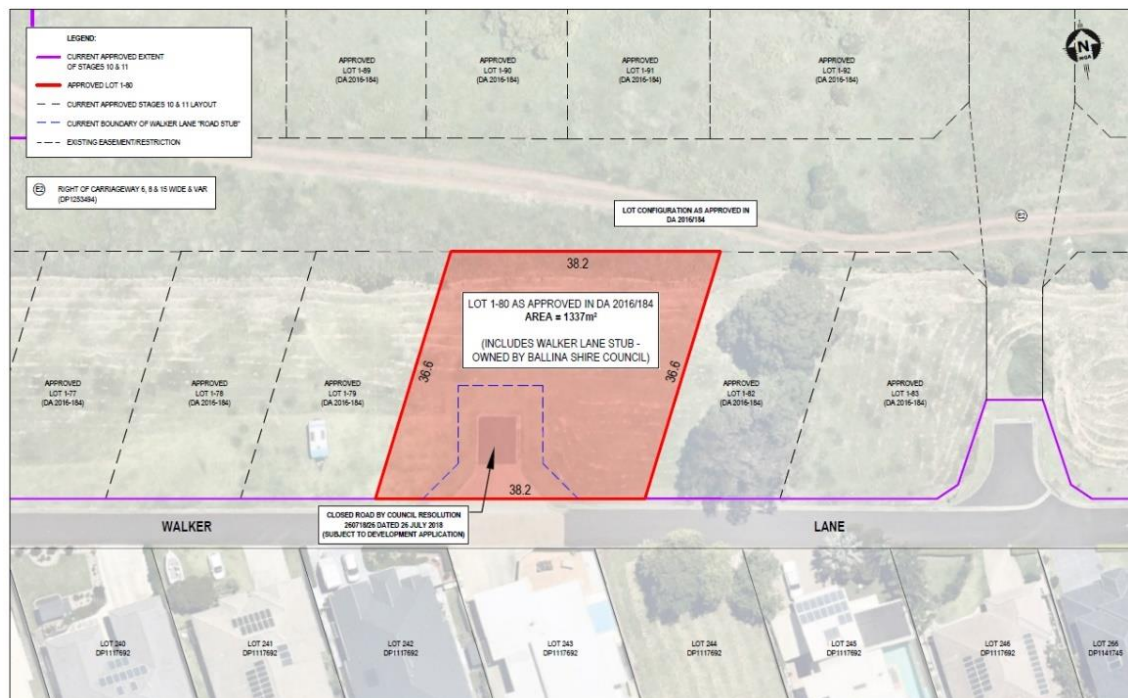


Figure 2: Lot 1-80 as approved via DA 2016/184

## 8.1 DA 2022/12 - Walker Lane, Cumbulam

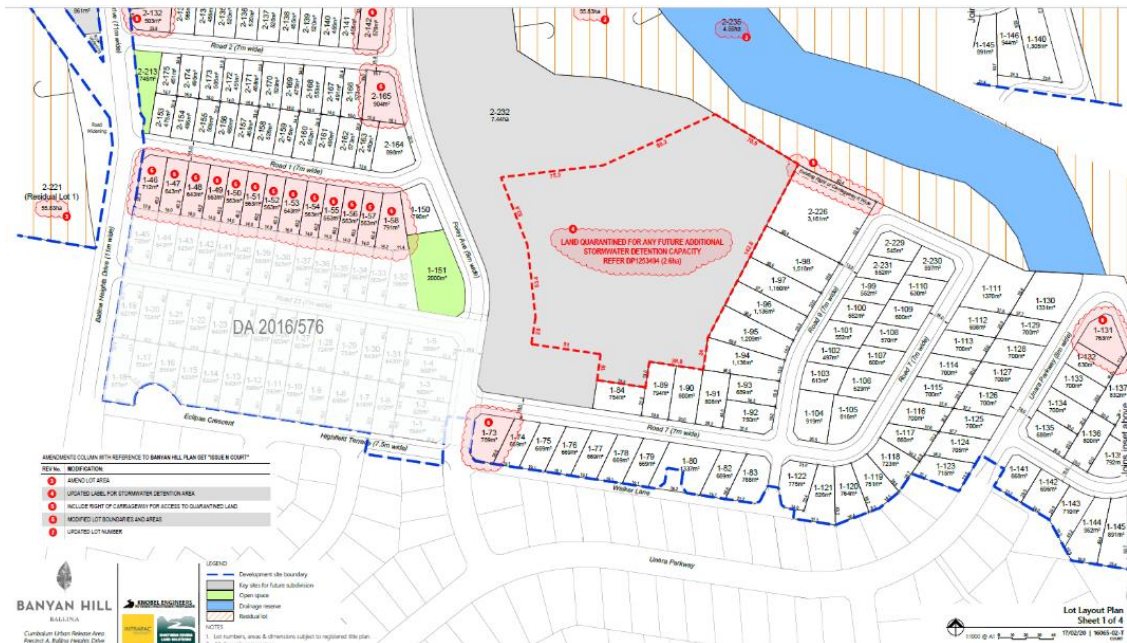


Figure 3: Approved Layout (including Stage 10) of DA 2016/184

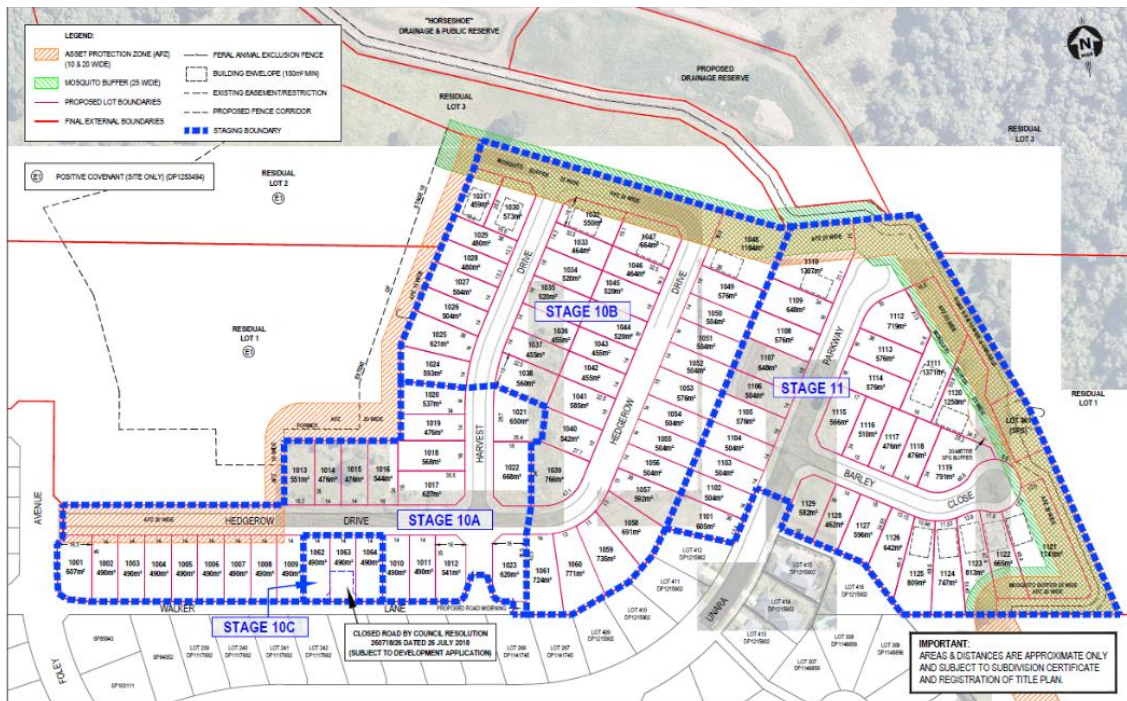


Figure 4: Proposed subdivision via undetermined development application DA 2022/173

### Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

**Public Exhibition**

The proposal was not placed on public exhibition.

Council did not receive any submissions in relation to the proposal.

**Report**

**Matters for Consideration**

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

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

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

**4.15 (1) (a) (i) - the provisions of any environmental planning instrument**

<ul style="list-style-type: none"><li>SEPP 55 – Remediation of Land</li></ul>	No issues are raised in relation to land contamination. Refer to Attachment 2 for further comment and assessment.
<ul style="list-style-type: none"><li>Ballina Local Environmental Plan 2012</li><li>Clause 4.1</li><li>Clause 4.6</li></ul>	<p>The proposal generally complies with the aims and objectives of the BLEP 2012. The application seeks a variation to Clause 4.1 Minimum subdivision lot size via Clause 4.6 Exception to development standards of the BLEP 2012.</p> <p>Clause 4.1 has been addressed below.</p> <p>The assessment of the request for a variation to the minimum subdivision lot size standard via Clause 4.6 has been elaborated upon for Council's consideration.</p> <p>Refer to Attachment 2 for further comment and assessment of the relevant controls (Clauses 1.2, 1.4, 2.3, 2.6, 7.5, 7.7, 7.8)</p>
<b>Clause 4.1 Minimum lot size</b>	
	<p>Clause 4.1 provides that the size of any lot resulting from subdivision of any land is not to be less than the minimum lot size shown on the Lot Size Map. The subject land has a minimum lot size of 450m<sup>2</sup>.</p> <p>The area of land to be excised from Walker Lane equates to 216.9m<sup>2</sup>. As the proposal results in a new lot (which is not consolidated into the larger lot - Lot 362 DP 1273203), the resulting lot does not comply with the minimum lot standard.</p>

	<p>The applicant has acknowledged this and submitted a written request to vary the development standard pursuant to Clause 4.6 of the BLEP 2012. Refer to below for comment in relation to Clause 4.6.</p>						
<p><b>Clause 4.6 Exceptions to development</b></p>							
<p>a) What is the development standard being varied? (provide details of clause in BLEP 2012, including objectives of the development standard, numeric value and percentage variation)</p>	<p>The development standard being varied in this instance is Clause 4.1 – Minimum subdivision lot size. The variation is of a numerical value.</p> <p>The objectives of Clause 4.1(1) are as follows:</p> <p>(a) <i>To ensure that subdivision is compatible with the character of the locality,</i></p> <p>(b) <i>To ensure that in the case of urban areas –</i></p> <p>(i) <i>The subdivision pattern reflects and reinforces the current or planned subdivision pattern of the locality, and</i></p> <p>(ii) <i>lot configurations are suitable to enable development that is consistent with relevant development controls.</i></p> <p>(c) N/A (relates to rural areas)</p> <table border="1" data-bbox="794 936 1388 1055"> <thead> <tr> <th>Minimum Lot Size (m<sup>2</sup>)</th> <th>Proposed Lot Size (m<sup>2</sup>)</th> <th>Percentage variation (%)</th> </tr> </thead> <tbody> <tr> <td>450m<sup>2</sup></td> <td>216.9m<sup>2</sup></td> <td>51.8%</td> </tr> </tbody> </table>	Minimum Lot Size (m <sup>2</sup> )	Proposed Lot Size (m <sup>2</sup> )	Percentage variation (%)	450m <sup>2</sup>	216.9m <sup>2</sup>	51.8%
Minimum Lot Size (m <sup>2</sup> )	Proposed Lot Size (m <sup>2</sup> )	Percentage variation (%)					
450m <sup>2</sup>	216.9m <sup>2</sup>	51.8%					
<p>b) What is the underlying objective of this development standard?</p>	<p>The underlying objective is to ensure that the subdivision pattern reflects and reinforces the current or planned subdivision pattern of the locality and is compatible with the character of the locality.</p>						
<p>c) In accordance with clause 4.6 of BLEP 2012:</p> <ul style="list-style-type: none"> <li><i>Has the applicant's written request adequately addressed the matters required to be demonstrated by subclause (3) of Clause 4.6 (i.e. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard)?</i></li> <li><i>Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the</i></li> </ul>	<p>To determine whether there are sufficient grounds to support the 4.6 objection, it is necessary to establish that compliance with the development is unreasonable or unnecessary in the circumstances and there are sufficient environmental planning grounds to justify contravening the development standard.</p> <ul style="list-style-type: none"> <li>The applicant has submitted:</li> </ul> <p><i>Strict compliance with the development standard, being the 450m<sup>2</sup> minimum lot size prescribed by clause 4.1 of the Ballina LEP 2012, is not considered reasonable or necessary in this instance as there are other measures such as restrictions placed on the title to ensure a dwelling cannot be erected on the resultant lot. This can be extinguished at a time when the lot is incorporated into the rest of the subdivision.</i></p> <p>It is agreed upon that the applicant has adequately justified throughout the Statement of Environmental Effects and written request (refer to Attachment 3) that the departure from the minimum</p>						

<p><i>objectives for development within the zone in which the development is proposed to be carried out,</i></p>	<p>lot size has satisfied the requirements of Clause 4.6(3).</p> <ul style="list-style-type: none"> <li>• The objective of the minimum subdivision lot size standard is as follows:           <ul style="list-style-type: none"> <li>(a) <i>To ensure that subdivision is compatible with the character of the locality,</i></li> <li>(b) <i>To ensure that in the case of urban areas –</i> <ul style="list-style-type: none"> <li>(i) <i>The subdivision pattern reflects and reinforces the current or planned subdivision pattern of the locality, and</i></li> <li>(ii) <i>lot configurations are suitable to enable development that is consistent with relevant development controls.</i></li> </ul> </li> <li>(c) N/A (relates to rural areas)</li> </ul> </li> </ul> <p>The proposal achieves the objectives of the development standard in that (a) the character of the locality is maintained and (b) the subdivision reflects the approved lot layout for Stage 10 of the Banyan Hill Estate via DA 2016/184 (and also the future lot configuration as shown within undetermined DA 2022/173), which is suitable to enable development which is capable of complying with Council's controls.</p> <p>The proposal is considered to be in the public interest.</p>
<p>d) Will the cumulative effect of similar approvals undermine the objective of the development standard or the objectives of the zone?</p>	<p>The circumstances of the proposal are unique and it is considered that there would be limited similar circumstances as that proposed as part of this application. As stated previously within this report, Walker Lane was created via DA 2007/146 to service the Ballina Heights Estate, and also forms part of the boundary between the Ballina Heights Estate and the Banyan Hill Estate. The 'road stubs' are assumed to have been created in anticipation of a future subdivision to the north of the Ballina Heights Estate, providing options for road connection between the existing road network and future road networks.</p> <p>The developer for the Banyan Hill Estate does not seek to rely on this particular road stub as a connection point to their residential subdivision.</p> <p>Nevertheless, it is not expected that this application and the purpose of the subdivision could set a precedent where the minimum lot standard is varied for any other purposes. This is largely due to other legislative pathways available to 'close' a road similar to the proposal which are often relied upon. This option was not available in relation to the current proposal, due to a technicality as to how the public road (Walker Lane) was originally created and registered with NSW Land Registry Services.</p>

	<p>Therefore, it is not expected that the proposal could set a precedent that would undermine the objectives of the standard or the objectives of the zone.</p>
<p>e) The Five Part Test (Note: only one needs to be satisfied)</p> <ul style="list-style-type: none"> <li>• <i>Are the objectives of the standard achieved notwithstanding non-compliance with the development standard?</i></li> <li>• <i>Is the underlying objective or purpose of the development standard not relevant to the development and therefore compliance is unnecessary?</i></li> <li>• <i>Will the underlying object of the purpose be defeated or thwarted if compliance was required and therefore is compliance unreasonable?</i></li> <li>• <i>Has the development standard been virtually abandoned or destroyed by Council's actions in granting consents departing from the development standard and therefore is compliance with the development standard unnecessary and unreasonable?</i></li> <li>• <i>Is compliance with the development standard unreasonable or inappropriate due to the existing use of the land and current environmental character of the subject property (should this property have been included in the current zone)?</i></li> </ul>	<p>The proposal involves the creation of a new lot which is to be excised from a public road. The new lot has a total area of 216.9m<sup>2</sup> which is a 51.8% departure from the minimum subdivision lot size of 450m<sup>2</sup>. Therefore, to determine a variation to the development standard under Clause 4.6, Council needs to be satisfied that compliance with the standard is unreasonable or unnecessary in the circumstances.</p> <p>To demonstrate the above, Council can apply one of the justifications (five part test) established in <i>Wehbe v Pittwater Council</i> [2007] NSWLEC 827. The applicant has not specifically identified the test in which they rely upon to support the Clause 4.6 request. However, Council is to assume that Test 1 is of relevance as the applicant has justified the departure on the basis that The Lot is consistent with the objectives of the standard.</p> <p>Test 1 provides whether the objectives of the standard can be achieved despite the non-compliance with the development standard specified by Clause 4.1.</p> <p>The objectives of Clause 4.1 are specifically stated and are as follows:</p> <ul style="list-style-type: none"> <li>(a) To ensure that subdivision is compatible with the character of the locality,</li> <li>(b) To ensure that in the case of urban areas             <ul style="list-style-type: none"> <li>–</li> <li>(i) The subdivision pattern reflects and reinforces the current or planned subdivision pattern of the locality, and</li> <li>(ii) Lot configurations are suitable to enable development that is consistent with relevant development controls.</li> </ul> </li> </ul> <p>Council can be satisfied that despite the non-compliance with the development standard, the proposal has achieved the objectives of Clause 4.1 in that the subdivision is compatible with the character of the locality (urban area) and in this instance reflects the planned pattern of the re-subdivision of Stage 10 of the Banyan Hill Estate.</p> <p>It is understood that the Lot will be consolidated into a larger residential lot which will be in full compliance with the minimum lot size standard. This has been approved as part of DA 2016/184, being Lot 1-80. It is noted that the undetermined application 2022/173 also proposes allotments which are to contain the consolidated road stub that comply with the minimum subdivision lot size (i.e. 490m<sup>2</sup>). The proposal is consistent with the objectives of Clause 4.1 despite the variation.</p>

**4.15(1)(a)(ii) the provision of any proposed instrument**

Comment: No issues raised. Refer to Attachment 2 for comment of draft SEPPs that apply.

**4.15(1)(a)(iii) provision of any development control plan**

Comment: The proposal is generally consistent with the overarching planning objectives and controls contained in Chapters 2 and 3 of the Ballina DCP. Refer to the Attachment 2 for an assessment of the clauses that are relevant to this application.

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

Comment: None applicable.

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

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

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

Comment: No issues anticipated. Refer to Attachment 2 for further comment.

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

Comment: The site is considered suitable. Refer to Attachment 2 for further comment.

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

Comment: No submissions were made in respect to the development.

**4.15(1)(e) the public interest**

Comment: The proposal is considered to be in the interest of the public. Refer to Attachment 2 for further comment.

**Conclusion**

The application has been assessed having regard to the relevant matters for consideration prescribed by Section 4.15 of the *Environmental Planning and Assessment Act 1979*, including the provisions of the *Ballina Local Environmental Plan 2012* and the *Ballina Development Control Plan 2012*.

The proposal seeks to make use of a redundant section of public road which in its road form, no longer forms part of an approved or proposed subdivision layout. In the context of the urban land release, the proposal is appropriate and provides an outcome which makes better use of the land.

## 8.1 DA 2022/12 - Walker Lane, Cumbulam

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The applicant has satisfactorily demonstrated that the proposal is suitable and is consistent with the objectives of the R3 Medium Density zone and the objectives of the standard can be achieved despite the variation to Clause 4.1.

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

Grant Approval – That Council approve the development application to create a Torrens Lot from a section of redundant public road, subject to standard planning and engineering conditions, on the basis that Council is satisfied that the proposal has adequately demonstrated that the objectives of the R3 Medium Density zone and objectives of Clause 4.1 minimum lot size will be achieved despite the variation to the minimum lot size.

Following approval of the application, negotiations will be required between Council (the owner of Walker Lane) and the land owner/developer of Lot 362 DP 1273203 (which is land forming part of the Banyan Hill Estate) for the purchase of the Lot (area of 216.9m<sup>2</sup>) prior to the issue of a Subdivision Certificate.

Refuse – That Council refuse the development application. This option could be taken if Council considered the departure from the minimum lot size as excessive and is not satisfied that the proposal is consistent with the objectives of the standard or the objectives of the zone.

Alternatively, Council could defer its decision on this matter to seek further information.

Approval is recommended for the reasons outlined in this report.

### RECOMMENDATIONS

1. That Council endorses the proposed variation to Clause 4.1 Minimum subdivision lot size development standard under the Ballina Local Environmental Plan 2012 of 450m<sup>2</sup> to enable the creation of an allotment with an area of 216.9m<sup>2</sup>, for the reasons outlined in this report.
2. That Development Application 2022/12 to undertake a subdivision of an existing road to create one x Torrens Title allotment (area of 216.9m<sup>2</sup>) be **APPROVED** subject to standard planning and engineering conditions, including a condition which requires the imposition of a restriction on the title of the Lot to ensure a dwelling cannot be erected.
3. That the General Manager is authorised to enter negotiations with the landowner/developer of Lot 362 DP 1273203 for the purchase of the new Torrens Title allotment (area of 216.9m<sup>2</sup>) prior to the issue of a Subdivision Certificate for DA 2022/12.

### Attachment(s)

1. DA 2022/12 - Locality Plan [⇨](#)
2. DA 2022/12 - 4.15 Assessment [⇨](#)
3. DA 2022/12 - Variation to Development Standard Application [⇨](#)



## 8.2 Burns Point Ferry Road Zoning Options

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### 8.2 Burns Point Ferry Road Zoning Options

<b>Section</b>	Strategic Planning
<b>Objective</b>	To present options for a Local Environmental Plan 2012 amendment to apply a non-urban zoning to land at Burns Point Ferry Road.

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#### **Background**

At the 26 May 2022 Ordinary meeting Council resolved *to receive a report on options for a Local Environmental Plan amendment in relation to the land at Burns Point Ferry Road to apply a non-urban zone.*

The resolution follows a Land and Environment (L&E) Court judgement (*Planners North v Ballina Shire Council [2021] NSWLEC 120*) regarding the deemed refusal of Development Application 2020/192.

A link to that judgement is as follows.

[Planners North v Ballina Shire Council - NSW Caselaw](#)

DA 2020/192 proposed a 230-site manufactured home estate (MHE) on the northern part of Lot 1 DP 124173; a 56.36ha property on the western side of Burns Point Ferry Road at West Ballina.

The northern part of the property was rezoned to R2 Low Density Residential in 2019, following a lengthy rezoning process.

The development application was lodged in June 2020.

As well as the MHE, it proposed significant filling of the development site with associated engineering works, and a private environmental conservation reserve on the southern part of the site (a Biobanking Agreement dated 19 January 2019 applies to that part of the land).

The Land and Environment Court appeal was lodged on 1 September 2020. On 3 November 2021, the Court dismissed the appeal and refused the application.

The landowner advises that a revised development concept is being prepared, addressing the biodiversity issues raised in the Court.

A letter of development intent prepared on behalf of the landowner is Attachment 1 to this report.

#### **Key Issues**

- High biodiversity values, including the presence of Ecologically Endangered Communities (EECs)
- Flood impacts and need for extensive filling
- Opportunity for residential development on the land.

## 8.2 Burns Point Ferry Road Zoning Options

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### Discussion

Vacant land on the western side of Burns Point Ferry Road consists of two properties.

The larger property, Lot 1 DP 124173, has an area of 56.36ha.

It was the subject of DA 2020/192 and the subsequent L&E Court appeal.

The northern part of Lot 1 is zoned R2 Low Density Residential, and the southern part is zoned RU2 Rural Landscape (refer to zoning map as follows).

There is also a smaller, 4,000m<sup>2</sup> site - Lot 1 DP 522558 - located on the corner of River Street and Burns Point Ferry Road.

It is zoned R3 Medium Density Residential.

This property previously contained the Ferry Boat Motel, which was demolished in 2008.

The two properties have different owners.

Lot 1 DP 522558 (the 'motel site') was rezoned from RU2 Rural Landscape to the current R3 Medium Density Residential zone in October 2013.

In considering the rezoning, a flood impact assessment was undertaken, which concluded that filling of the site would not result in flooding impacts in this locality.

Ecological assessment indicated that the site did not contain areas of significant vegetation, however it noted the proximity of adjacent Endangered Ecological Communities (EECs).

The current zoning of the adjoining Lot 1 DP 124173 (the larger of the two properties) was applied in June 2019, after a lengthy rezoning process, initiated originally by the land's owners in the late 1990s.

Both properties are vacant, with Emigrant Creek forming the southern and western boundaries of the larger property.

The location and zoning of the land is shown in Figures 1 and 2.

Lot 1 DP 522558 is shown on the southwestern corner of River Street and Burns Point Ferry Road and is wholly coloured dark pink in Figure 1 denoting an R3 Medium Density Residential zoning.

Lot 1 DP124173 is located on the western side of Burn Point Ferry Road and is part zoned RU2 Rural Landscape (light brown) and part R2 Low Density Residential (light pink coloured area adjacent to River Street).

This land extends between Burns Point Ferry Road and Emigrant Creek but does not include a series of land parcels along Emigrant Creek Lane (which contain dwellings and the Waterfront Caravan Park).

## 8.2 Burns Point Ferry Road Zoning Options

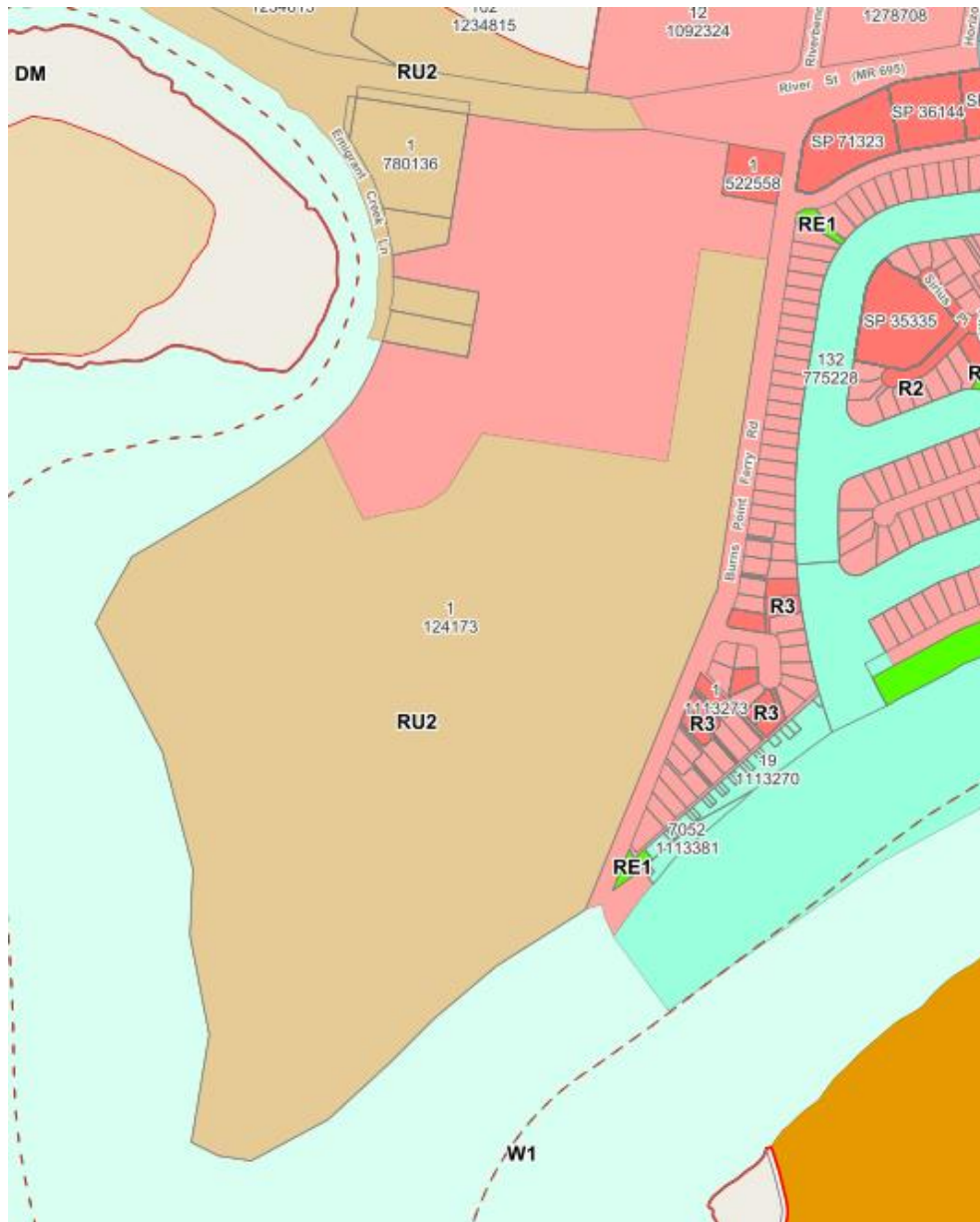


Figure 1: Lot 1 DP 522558 and Lot 1 DP 124173 Burns Point Ferry Road – Location and Zoning



**Figure 2: Aerial Photograph of Lot 1 DP 522558 and Lot 1 DP 124173 Burns Point Ferry Road**

### *Development History*

#### The Motel Site (Lot 1 DP 522558)

DA 2014/377 was approved in December 2014 for the construction of a medium density housing project involving 25 two-storey units above basement carparking. The proposal included filling of the site approximately 2m above existing ground levels.

Flooding assessment submitted with the application concluded that *'the proposed filling of the site will not cause drainage problems for the adjoining properties'*.

The approved development has not commenced and consent 2014/377 has lapsed.

## 8.2 Burns Point Ferry Road Zoning Options

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### The Larger Property (Lot 1 DP 124173)

DA 2020/192 was lodged in June 2020, proposing a 230-site manufactured home estate (MHE) on the northern part of the property, filling of the development site, associated engineering works, and a private environmental conservation reserve on the southern part of the site (a Biobanking Agreement dated 19 January 2019 applies to that part of the land).

The applicants lodged an appeal to the L&E Court on 1 September 2020, against Council's 'deemed refusal' of the application.

### DA 2020/192 and L&E Court Judgement

The development application and subsequent Court appeal related only to Lot 1 DP 124173 (the larger property).

The key points from the Land and Environment Court judgement are:

- development within the northern (R2) part of the land will have 'serious or irreversible impacts' on Ecologically Endangered Communities (EECs).
- not developing the southern (RU2) part of the land cannot be used to offset the 'serious or irreversible impacts'.

The Court also found that development for a manufactured home estate was prohibited on part of the R2 portion of the property.

Regarding flooding, the Court accepted expert evidence that filling the land would not result in significant increases in flood levels in the locality.

### Biodiversity Conservation Act – Serious or Irreversible Impacts

Based on evidence presented, the Court concluded that '*...the whole of the northern part of the site zoned R2 is comprised of three endangered ecological communities...*'.

Figure 3, taken from the Ecologists' Joint Report evidence, shows the whole of the R2 land mapped as EEC; the majority (pink) being Swamp Oak of low condition.

Blue is Swamp Oak of good condition and yellow is Salt Marsh of moderate condition.

## 8.2 Burns Point Ferry Road Zoning Options



**Figure 3: Endangered Ecological Communities - Lot 1 DP 124173 Burns Point Ferry Road**

The proposal included significant filling; an average height of 2.5m across this R2 zoned area, with maximum fill heights of around 3.5m.

The Court found that this filling would have serious and irreversible impacts on EECs located within the development footprint.

The Court also found that the applicants had not been able to demonstrate that the development would not have serious or irreversible impacts on the EECs located in the RU2 zoned area, outside the development footprint, associated with changes to stormwater and groundwater patterns.

Section 7.16 of the *Biodiversity Conservation Act 2016* states that '*the consent authority must refuse to grant consent .... if it is of the opinion that the proposed development is likely to have serious and irreversible impacts on biodiversity values*'.

### *Biodiversity Conservation Act – Avoidance*

The Biodiversity Conservation Act requires that impacts on high biodiversity values should be avoided, with mitigation of impacts, or offsets for impacts, only relevant where impacts cannot be avoided.

The Court found that the applicants were not able to demonstrate that impacts on the EECs had been avoided.

The applicants argued that impacts on these EEC could be offset by the previous Biobanking Agreement, which requires the conservation and enhancement of the RU2 part of the site.

## 8.2 Burns Point Ferry Road Zoning Options

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The Court found that *'the non-development of the southern part of the site zoned RU2, which is the Biobanking area, is not an avoidance measure'* because a manufactured home estate is prohibited in the RU2 zoned part of the land.

The prohibition in this case relates to the presence of mapped coastal wetland areas on the land.

### **Implications of Court Judgement**

The Court's judgement concluded that:

- urban development of the R2 zoned part of the property cannot avoid direct impacts on EECs
- it is difficult to avoid indirect impacts on EECs in the RU2 zoned part of that property
- not developing in the RU2 zoned part of the site cannot be considered as an offset to impacts of developing in the northern part of the site.

The Court's judgement indicates that the property is not suitable for urban land uses based on the biodiversity values of the land.

There was no evidence presented to the Court directly applicable to the biodiversity values of the motel site. The documentation submitted with the 2014 DA on that property quoted advice from Council to the effect that site vegetation was not a constraint to the development of the land.

It is possible, however, that EECs have been regenerating on this property since 2014.

### **Options for Non-Urban Zoning**

#### Public or Private Recreation Zone

The RE1 Public Recreation zone is applied to publicly owned land used for open space and recreation purposes. Such land is generally owned by Council or is Crown Land.

When applied to privately owned land, although acquisition is not necessarily required, there can be an expectation from landowners that it would be acquired by Council or the State Government.

The RE2 Private Recreation Zone is applied to privately owned land used for private open space or recreation.

Examples in the Shire include the Ballina golf course and the Alstonville showgrounds; privately-owned sites that invite the public onto the land for recreation purposes.

Manufactured housing estates (MHEs) are permissible on land in public and private recreation zones in the Shire.

For the subject land, the extent to which the permissibility applies, is limited by the presence of mapped coastal wetland areas.

## **8.2 Burns Point Ferry Road Zoning Options**

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Medium density residential development would be prohibited in both zones.

The RE1 zone, being a public recreation zone, is not a suitable zoning choice if the intention of Council is to continue to enable the potential for residential development of the land.

Applying an RE2 zone would allow the landowner of the larger property to pursue an application for a MHE over part of the land.

The Court judgement, however, suggests that it will be difficult to address the biodiversity values of the land in a manner that enables approval of a MHE development.

Other active recreational uses of the land are also likely to generate biodiversity impacts, given the need to clear vegetation or fill the land.

Overall, the use of recreational zones is not recommended unless the intent of Council is to pursue a recreational land for the site.

In this regard there is no identified need from a public perspective for this type of land use outcome on the land.

### Rural Zone

The southern part of the larger property is zoned RU2 Rural Landscape.

This zone applies most commonly across the hinterland parts of the Shire and aims to protect the rural character of these areas.

Before the current LEP, both properties were zoned 1(d) Rural (Urban Investigation) under Ballina Local Environmental Plan 1987.

In translating LEP 1987 to LEP 2012, 1(d) areas across the Shire were zoned RU2 Rural Landscape.

The motel site was rezoned to R3 Medium Density Residential in 2013.

The northern part of the larger property was rezoned to R2 Low Density Residential in 2019, following a lengthy rezoning process.

The zoning of RU2 over the southern part of that property remained in place following that rezoning, as there was no relevant environmental protection zone within BLEP 2012, because of the State Government's 'E Zone Review' process.

Manufactured home estate development would be permissible within parts of a rural zoning on this land (noting that the extent of permissibility is limited by the presence of mapped coastal wetlands on the land). Medium density residential development would be prohibited.

### Conservation Zone

The 2021 Land and Environment Court outcome demonstrates that the majority of the larger property contains ecologically endangered vegetation communities with high biodiversity values.



## 8.2 Burns Point Ferry Road Zoning Options

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The protection of high biodiversity values would ordinarily be managed by way of an Environmental Protection / Conservation zone.

Ballina Local Environmental Plan 2012 does not yet include such a zone, although Council has previously resolved to undertake a staged approach to the translation of remaining 'deferred areas', which will introduce C Zones (as they are now known) into BLEP 2012.

Council could introduce a C2 Environmental Conservation Zone into the LEP ahead of that review / translation process by applying it to this property. This would be by a Council-initiated Planning Proposal, using the findings of the Court case, and the evidence present to it, to justify the C2 zone.

In the standard LEP template, the objectives of the C2 Environmental Conservation Zone are:

- *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

These objectives are directly applicable to the subject property.

The C2 zone would provide a community benefit through the ongoing protection of biodiversity values in the Shire. It would, however, significantly restrict opportunities for the owner of the larger property to develop the land.

As presented to the October 2021 Council meeting, the land uses permitted with consent in the C2 zone would be:

*Dwelling houses; Environmental facilities; Extensive agriculture; Oyster aquaculture; Research stations; Roads.*

Development for the purposes of a manufactured home estate would be prohibited under that zoning.

There is no current ecological information available to determine whether a C2 Environmental Conservation Zone could be justified for the motel site.

### **Delivery Program Strategy / Operational Plan Activity**

Based on the information available, applying a conservation zone to the larger property aligns with the Delivery Program as follows:

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

*HE3.2 Minimise negative impacts on the natural environment*

### **Community Consultation Policy**

If Council resolves to prepare a Planning Proposal for the property, public consultation will be required in accordance with a subsequent Gateway determination from the State Government and Council's Community Engagement Policy.

## 8.2 Burns Point Ferry Road Zoning Options

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### Financial / Risk Considerations

A Planning Proposal could be prepared within existing resources. The Court judgement and associated Joint Expert Reports would be sufficient to provide background and justification for a proposed rezoning of the larger property.

Replacing the current urban zone with a more restrictive zoning (e.g. Conservation or Rural) does not create any financial compensation liability under the NSW planning system.

There is, however, the potential that applying a zoning of RE1 Public Recreation would create an onus on Council to acquire the land.

### Options

#### 1. *Take no action – leave existing zoning in place*

The judgement of the L&E Court indicates that the larger property is not suitable for large scale urban development.

The landowner advises that a revised development concept is being prepared to address the issues raised in the Court. Leaving the existing zoning in place would allow the owner to lodge a new development application.

Given the nature and extent of EECs within the R2 zoned portion of that land, it is difficult to say whether a smaller scale development could be designed in a way that does not result in 'serious or irreversible impacts' on EECs.

The current zoning gives the landowner no certainty regarding the future of the land and raises the potential for further conflicts and Court action.

There is insufficient information to justify changing the zoning of the motel site (Lot 1 DP 522558).

The assessment undertaken in 2013 (rezoning) and 2014 (DA) indicated that flood impacts could be adequately managed and that the site does not contain vegetation of high biodiversity value.

It is not known whether vegetation on this property has been regenerating to an extent that creates high biodiversity values, which would restrict future development potential.

Retaining the current R3 zoning could raise the potential for conflict over the future assessment of applications for the motel site.

#### 2. *Prepare a Planning Proposal to apply a zoning of RE1 Public Recreation or RE2 Private Recreation to the whole of the property.*

Neither property is immediately suitable for active recreational uses. The larger lot would need to be significantly altered to accommodate such uses, which would necessarily involve site disturbance and result in impacts to the existing biodiversity values of that property.

At 4,000m<sup>2</sup>, the motel site does not appear suitable for active recreational uses.

## 8.2 Burns Point Ferry Road Zoning Options

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Council's recent study into open space needs in the Shire as part of the preparation of a new Open Space and Community Facilities Contributions Plan, did not identify a need for land of this type for additional recreation facilities.

Neither zone is recommended on the basis that these zones should be applied in the case of recreational uses rather than intended residential development or urban land use outcomes.

In this case there are also better zoning options available to reflect rural or conservation outcomes.

3. *Prepare a Planning Proposal to apply a zoning of RU2 Rural Landscape to the whole of the property.*

The objectives of the RU2 zone are not relevant to either site and it would be difficult to justify the application of the RU2 zone given the nature of the land.

It would allow the landowner of the larger property to pursue an application for MHE. Dependent on scale, that would generate the same biodiversity issues addressed in the Court case. It would prevent the owner of the motel site from pursuing future residential development.

4. *Prepare a Planning Proposal to apply a zoning of C2 Environmental Conservation to the larger property.*

The judgement of the L&E Court demonstrates that the larger property is not suitable for urban development and that the whole of the land contains significant biodiversity values.

The C2 Environmental Conservation zone is applicable to the ongoing protection of such values and would prevent the landowner from making future applications to develop the land. There is no information to suggest that a C2 Environmental Conservation zone could be justified on the motel site.

However, if consideration of this zoning for this land is preferred by Council in principle, it is recommended that Council undertakes an ecological assessment of that property, to clarify whether it should be included in the Planning Proposal to implement a C2 Environmental Conservation zoning.

This is the preferred option as it provides for a land use zoning that better reflects the currently known characteristics of the land and provides for clarity about intended land use outcomes into the future.

In considering this approach, the conservation zoning needs to be weighed in relation to the loss of development potential for the parties with interests in the land, and the potential for costs to proponents and the public associated with applications that seek to overcome the constraints evident on the land.

In summary the decision before Council is to either be clear now that it does not consider the land to have urban development potential (apply the environmental protection zone) or to continue to enable the lodgement of development applications for urban uses that seek to address the constraints of the land (leave the zoning as is).

As an alternative to the zoning options, Council could defer this matter to seek further information (e.g. through a briefing).

## **8.2 Burns Point Ferry Road Zoning Options**

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### **RECOMMENDATIONS**

1. That Council undertakes an ecological assessment of Lot 1 DP 522558 to determine the presence or absence of vegetation with high biodiversity value.
2. That Council prepare a planning proposal to rezone the Lot 1 DP 124173 to C2 Environmental Conservation and include Lot 1 DP 522558 in the proposal for application of a C2 zone if it is demonstrated to contain vegetation with high biodiversity value.
3. That the draft planning proposal be reported to Council prior to seeking a Gateway Determination.

### **Attachment(s)**

1. RPSGroup - Letter of Development Intent - Burns Point Ferry Road [↔](#)

### 8.3 Open Spaces and Community Facilities Contributions Plan

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### 8.3 Open Spaces and Community Facilities Contributions Plan

<b>Section</b>	Strategic Planning
<b>Objective</b>	To present the outcomes of the Open Space and Community Facilities Contributions Plan public exhibition process.

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#### **Background**

Council considered a report at the 19 May 2022 Finance and Facilities Committee regarding a draft Open Space and Community Facilities Needs Analysis and Contributions Plan. The minutes of the Finance Committee meeting were confirmed at the 26 May 2022 Ordinary meeting, with Council resolving as follows:

- 1. That Council resolves to place the draft Ballina Shire Open Space and Community Facilities Contributions Plan and the Ballina Shire Open Space and Community Facilities Needs Analysis on public exhibition in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and the Regulations, for a minimum period of 28 days.*
- 2. That following the conclusion of the public exhibition, Council receive a further report on the draft Open Spaces and Community Facilities Contributions Plan, including any submissions received during public exhibition, for Council's further consideration.*

The plans were placed on public exhibition from 6 June to 8 July 2022. Six submissions were received during the exhibition period. The submissions are included as Attachment 1 to this report.

The purpose of this report is to present the outcomes of the public exhibition process and seek adoption of the Contributions Plan.

#### **Key Issues**

- Priority projects that should be funded in full, or in part, by contributions
- Long term financial planning

#### **Discussion**

As outlined in the report to the May 2022 Finance and Facilities Committee meeting, the preparation of the Open Spaces and Community Facilities Contributions Plan has been supported by a detailed needs analysis, which was publicly exhibited with the draft Contributions Plan.

### 8.3 Open Spaces and Community Facilities Contributions Plan

The detail provided in the needs analysis is important for establishing the basis of determining the reasonableness of the monetary contributions that are to be charged under the contributions plan, having regard to the increase for infrastructure, future development will bring about (referred to as 'nexus') and the share of the total demand that developers must pay (referred to as 'apportionment').

The total quantum of works that can be delivered and funded through the contributions plan is limited due to the NSW Government's imposition of a cap on the total amount of (combined) development contributions that may be levied on development.

Six public submissions were received during the public exhibition period in response to the draft plans. The submissions are provided as Attachment 1 to this report and summarised in the following table.

Submission Issues	Staff Response
<i>Peter Savage</i>	
Requests that worked examples be provided to clarify the amount of contributions payable under different development scenarios.	<p>The contributions payable under the Open Spaces and Community Facilities Contributions Plan are in addition to contributions that may be charged under other plans (depending on the particular circumstances) such as the Roads Contributions Plan and Water, Sewer and Rous County Council charges.</p> <p>In addition, contributions previously paid on an allotment may be credited against future contributions in some circumstances.</p> <p>The amount of contributions payable (under these plans) depends on a number of factors specific to the proposed development.</p> <p>Due to the multitude of different development scenarios, worked examples have the potential to be misleading.</p> <p>Prospective developers can request an estimate of contributions payable with respect to a particular development proposal. Given the complexities of particular cases, this is the preferred approach.</p> <p>In addition to this, Council's adopted fees and charges document also includes a summary table of all the contributions payable for a residential development, and this document is readily available on Council's website.</p>

### 8.3 Open Spaces and Community Facilities Contributions Plan

Submission Issues	Staff Response
<i>Michael Davis</i>	
<p>Requests an alphabetic or location list of proposed open spaces infrastructure identified in the plan.</p>	<p>A works schedule summary is provided in Appendix F of the contributions plan.</p> <p>The works schedule has been prepared to provide for flexibility in the future application of funds to meet particular needs identified in the plan.</p> <p>Consequently, some of the items identified in the works schedule do not specify particular locations, or reserves, on which the works are to be located.</p> <p>This means it is not practical to provide the detail requested in this submission as more detailed analysis is required as Council moves forward with a particular project.</p>
<i>Mary Hughes</i>	
<p>Raises concerns with the lack of provision for additional croquet facilities in the plan.</p>	<p>The preparation of the needs analysis was informed by the Sport and Recreation Facility Plan, prepared in 2020, which considered the provision of croquet facilities, which has been the subject of further consideration including cost-benefit analysis for provision on Cawarra Park.</p> <p>This matter is the subject of ongoing consideration by the Council as outlined in the Cawarra Park Masterplan report considered at the May 2022 Ordinary Meeting.</p> <p>The OSCF Needs Analysis has identified that Ballina Shire is well provided for with respect to land available for open space.</p> <p>The embellishment of the land that is required to make them suitable for particular uses needs to be funded through a combination of sources.</p> <p>Some (though limited) funding for works within local, district and foreshore areas is provided for in the contributions plan, subject to the masterplan process (under item 5 of the works schedule).</p> <p>The total cost of works that can be delivered by the contributions plan is, however, constrained by the State Government's developer contributions cap.</p> <p>From a financial planning perspective, the provision of croquet facilities is the type of project that should be funded by Council revenue and potentially grant funds, rather than specifically identified in a Developer Contributions Plan.</p>
<i>Patrick Packham</i>	
<p>Raises concerns with the proposed use of Cawarra Park for Croquet.</p>	<p>This submission will be considered as part of the Cawarra Park masterplan process.</p>

### 8.3 Open Spaces and Community Facilities Contributions Plan

Submission Issues	Staff Response
<p><i>Craig Zerk</i></p> <p>Requests the inclusion of improvement works to the foreshore area from Serpentine Park to Gawandii Beach in East Ballina.</p>	<p>Preliminary options assessment for the area around Gawandii Beach has been commenced in consultation with Crown Lands / Reflections Holiday Parks.</p> <p>It is anticipated the outcomes of this work will be presented to Council during 2022/23.</p> <p>There is an allocation provided in the plan for the upgrade and embellishment of local and district parks and foreshore areas (item 5 of the works schedule), in accordance with approved masterplans, to the value of \$2.5m. This amount is, however, to be applied to works in throughout the shire.</p> <p>The works mentioned in this submission may eventually be funded, in part, from the \$2.5m allocation, however that is a future financial planning consideration for Council.</p> <p>The total cost of works that can be provided for in the plan is constrained by the State Government's developer contributions cap, which means many future projects need to be funded from rate revenue, Council reserves, loan funds or grants.</p>
<p>Requests the inclusion of foreshore enhancement and improved parking and pedestrian access at Black Head.</p>	<p>Due to the cultural significance of Black Head for the local Indigenous community, the future of this area would best be addressed following the establishment of Council's Aboriginal Partnership Agreement.</p> <p>As per the previous submission these works may eventually be funded, in part from the \$2.5m identified for embellishment of foreshore areas.</p>
<p>Raises concern that mountain biking is not addressed in the plan.</p>	<p>Item 10 of the works schedule of the contributions plan (Appendix F) provides for new and upgraded cycling and skating facilities including '<i>enhanced or expanded facilities for skate park, pump track, BMX and mountain biking in Alstonville / Wollongbar / Lennox Head / Skennars Head and Wardell</i>' to the value of \$2 million (with \$362,210 to be collected from development under the contributions plan).</p> <p>The apportionment of this expenditure is important to acknowledge in that the contributions in the plan can only fund the percentage of the future cost of the project that can be attributed to future population growth.</p> <p>Where new facilities will cater for the existing population, the works must be funded from Council revenue sources such as rates, reserves and loans, as well as grant funds when available.</p>



### 8.3 Open Spaces and Community Facilities Contributions Plan

Submission Issues	Staff Response
<p>Requests the consideration of surfing infrastructure as part of the plan, including wave pools and artificial reefs.</p>	<p>The OSCF Contributions Plan cannot satisfy all recreational demands of the community, due to statutory restrictions imposed by the State Government.</p> <p>In addition, some recreational activities do not suit the public provision model. Golf courses are not typically delivered as public infrastructure, for example, as these are traditionally provided as private facilities.</p> <p>This largely reflects the nature of the activity and economics of access and maintenance, being largely an individual pursuit which lends itself to a 'pay-per-play' model of private provision.</p> <p>Similarly, where wave pools have been provided elsewhere it is understood that these have been provided as private facilities, often associated with resort style accommodation and competition facilities.</p> <p>The viability of artificial reefs within the coastal environment is best addressed through the coastal zone management processes, with reference to Crown Lands (as owner/manager of the 'land/water'), user groups, environmental impact assessment and cultural heritage values (including consultation with Aboriginal custodians).</p>
<p><i>Community Housing Industry Association NSW</i></p>	
<p>Requests that Council include the provision of affordable housing as part of the contributions plan.</p>	<p>The State Government's requirements with respect to the imposition of affordable housing contributions require that such may only be imposed where an 'up-zoning' is provided to the developer with some the windfall gain captured as a contribution.</p> <p>This limits the potential application of the affordable housing scheme, particularly in the case of Ballina Shire given the status of available vacant zoned land already within the planning pipeline.</p> <p>Further, provisions for the establishment of affordable housing contributions, under s.7.32 of the Act, require the preparation of an Affordable Housing Scheme in accordance with NSW Government guidelines.</p> <p>In any case, this process is a separate one from the matter of the imposition of developer contributions for the provision of open spaces and community facilities infrastructure, which is the subject of the draft contributions plan.</p>

### 8.3 Open Spaces and Community Facilities Contributions Plan

Submission Issues	Staff Response
Requests that Council waive the levying of development contributions in relation to affordable housing projects undertaken by registered community housing providers.	<p>Legislative amendments foreshadowed by the NSW Government, with respect to the Environmental Planning and Assessment Regulation (Infrastructure Contributions) 2021, had indicated that a statutory waiver of developer contributions will be provided in relation to social and affordable housing.</p> <p>These aspects of the contribution reforms were separated during passage through the parliament, with a waiver only being applied (so far) with respect to Special Infrastructure Contributions imposed by the State.</p> <p>It is unclear at this time whether, and to what degree, a contributions waiver will be extended by the Government to apply to local contributions.</p> <p>Notwithstanding, this matter will be considered further in the context of the housing strategy which will be the subject of reporting to Council and stakeholder engagement during 2022/23.</p>

Having regard to the above, there are no changes to the contributions plan or needs analysis recommended in response to the submissions received during the public exhibition process.

Consequently, the recommendation of this report is that the Ballina Shire Open Space and Community Facilities Contributions Plan and supporting Needs Analysis be adopted, as publicly exhibited.

A copy of the Draft Open Spaces and Community Facilities Contributions Plan, as publicly exhibited, is provided as Attachment 2.

A copy of the exhibited Open Spaces and Community Facilities Needs Analysis is provided as Attachment 3.

#### **Delivery Program Strategy / Operational Plan Activity**

Having up to date contributions plans in place is consistent with Delivery Program Strategy HE3.3 Match infrastructure with development to mitigate any impacts on the environment and Operational Plan Activity HE3.3d – Maintain Open Spaces and Community Facilities Developer Contribution Plan.

#### **Community Consultation Policy**

The Open Spaces and Community Facilities Needs Analysis has been prepared utilising a broad range of previous planning work, informed by various community engagement activities.

The draft Contributions Plan and Needs Analysis were placed on public exhibition from 6 June to 8 July 2022.

Six public submissions were received during the public exhibition period and are provided in Attachment 1 to this report.

### Financial / Risk Considerations

Updating the contributions plan ensures that contributions charges, and contributions collected, remain consistent with the schedule of works required to meet the community's needs and reflects reasonable estimates of infrastructure delivery costs. The funding from contributions helps to support the delivery of infrastructure identified in Council's Long Term Financial Plan.

The \$20,000 cap limits the projects that can be included in the contributions plan.

Council also needs to be mindful of the apportionment to development, as the balance must be funded by Council.

The works schedule identified in Appendix F (pages 50 to 55) is largely consistent with Council's Long Term Financial Planning, with the two major new inclusions being the Library and Cultural Hub for the Ballina Town Centre and the new Aboriginal Cultural Centre in Ballina.

The Library and Cultural Hub is identified as a long-term project, with a significant cost (estimated at \$21m), whereas the Aboriginal Cultural Centre has an estimate of \$600,000 as a shorter-term project.

Both of these projects only have a developer contributions apportionment of 18%, leaving a liability for Council.

Based on the contribution rates identified in this plan, the \$20,000 cap for a standard residential allotment will consist of \$7,882 for Open Spaces and Community Facilities and \$12,955 for Roads, which actually equates to \$20,837.

This then results in the contributions being reduced proportionally to meet the \$20,000 cap.

### Options

The following options are available.

*Option 1 – Adopt the Ballina Shire Open Space and Community Facilities and Needs Analysis as publicly exhibited.*

This option is recommended on the basis that the draft Open Spaces and Community Facilities Contributions Plan has been prepared on the basis of a Needs Analysis that has been informed an analysis of existing and future population, comparative benchmarks and having regard to previous community and stakeholder engagement processes and Council decisions.

The works identified in the plan also reflect the limitations placed upon Council by the NSW Government cap on developer contributions.

This plan is an important component of council's long term financial plan and the adoption of the plan will allow Council to start collecting and apply contributions funds to the implementation of the works in the plan. Many of the works in the existing plan have been completed and funded which means it is important for Council to adopt this new plan in a timely manner.

### 8.3 Open Spaces and Community Facilities Contributions Plan

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*Option 2 – Council could resolve to amend the draft Open Space and Community Facilities Contributions Plan with amendments made in response to submissions made during public exhibition or having regard to other concerns.*

This option would require further detailed work to be undertaken by staff and Council's contributions consultants having regard to the needs analysis and the NSW Government cap on developer contributions. This option may also require re-exhibition of the draft contributions plan, depending on the scope of any proposed changes.

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

In addition, as outlined in the May 2022 report on this matter, amendments to the State's contributions arrangements have come into effect as of 1 July 2022.

It is considered advantageous that the public exhibition process that has now been undertaken secures the opportunity to implement the current plan (noting the expected introduction of further reforms to the State's contributions arrangements, including possible future imposition of the Essential Works List (EWL) which may be more limiting on Council).

#### **RECOMMENDATIONS**

1. That Council adopts, in accordance with section 7.18 of the Environmental Planning and Assessment Act 1979, the Ballina Shire Open Spaces and Community Facilities Contributions Plan, as publicly exhibited and included as Attachment 2 to this report.
2. That Council endorses the Ballina Shire Open Spaces and Community Facilities Needs Analysis, as per Attachment 3 to this report.

#### **Attachment(s)**

1. Public Submissions [⇨](#)
2. Open Space and Community Facilities Contributions Plan (Exhibition Version) [⇨](#)
3. Open Space and Community Facilities Needs Analysis (Exhibition Version) [⇨](#)

## 8.4 Short Term Rental Accommodation

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### 8.4 Short Term Rental Accommodation

<b>Section</b>	Strategic Planning
<b>Objective</b>	To provide information about the potential to restrict short term rental accommodation.

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#### **Background**

At the 25 November 2021 Ordinary meeting Council resolved as follows:

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.*

This report provides information on short term rental accommodation (STRA) in Ballina Shire, the current State Government policy and regulatory framework, and actions taken by other councils to address impacts on long term rental availability.

STRA refers to the letting of a residential house or unit for holiday purposes. It differs from development application (DA) approved accommodation, such as a hotel, motel, serviced apartments or hostel.

It can be 'hosted', where the residents/ owners of the property remain on the premises, or 'non-hosted', where the permanent residents/ owners are away, or 'non-hosted' where the property has no permanent residents.

STRA is an 'informal tourism accommodation sector' that has significant disruptive potential (SCU Research Paper, Jan 2020). It enables individuals to become hosts and to compete with commercial accommodation operators and can also remove dwellings that are exclusively held for STRA from the long term residential rental market.

The NSW Government has established planning legislation to allow STRA in residential areas without planning applications or approvals.

#### **Key Issues**

- Impact of STRA on the availability and affordability of long term rental accommodation
- Impacts of STRA on local communities

#### **Discussion**

Southern Cross University School of Business and Tourism undertook research into STRA on the Northern Rivers, publishing a series of research papers, including *Study of resident perceptions of short-term holiday letting (STHL) in North Coast NSW council areas: Ballina Shire*, in January 2020 (Attachment 1).

## 8.4 Short Term Rental Accommodation

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That research paper provides an overview of STRA and its recent growth.

While there are a number of online platforms being used, Airbnb is clearly the market leader, providing a 'peer to peer' web-based platform linking hosts and users.

The SCU research reports that, as of November 2019, Airbnb was active in 65,000 cities in 191 countries, had around 150 million users, over 650,000 hosts and in excess of five million listings.

Listings in NSW increased from almost 29,700 at the end of 2016, to 67,801 at the end of 2019 - an increase of 138%. As of March 2022, there were 5,828 Airbnb listings for the Northern Rivers (NSW) area (Inside Airbnb).

### ***STRA in Ballina Shire***

The website Inside Airbnb (<http://insideairbnb.com>) provides world-wide STRA data taken from the Airbnb platform.

It includes STRA data for the Northern Rivers area, which can be interrogated at council level.

The most recent data relating to Ballina Shire was compiled in March 2022.

It shows a total of 668 listings in the Shire. Based on the 2011 Census data for the total number of dwellings in the Shire (19,700 private dwellings), this equates to approximately 3.4% of the total housing stock [Note: this does not include any STRA listed on platforms other than Airbnb].

At the end of 2016, there were 193 Airbnb listings, so the number of listings has increased by almost 250% in the last five years.

Of the current listings, approx. 618 "entire homes/ apartments" were shown as available for short-term letting on the platform (i.e. where the 'host' does not reside on the premises during the rental period).

This is 92.5% of the total number of listings in the Shire.

Inside Airbnb cannot, however, indicate how many of these non-hosted entire homes / apartments are available only when the permanent occupants are away from the premises, as opposed to a home being exclusively available for STRA with no permanent residents.

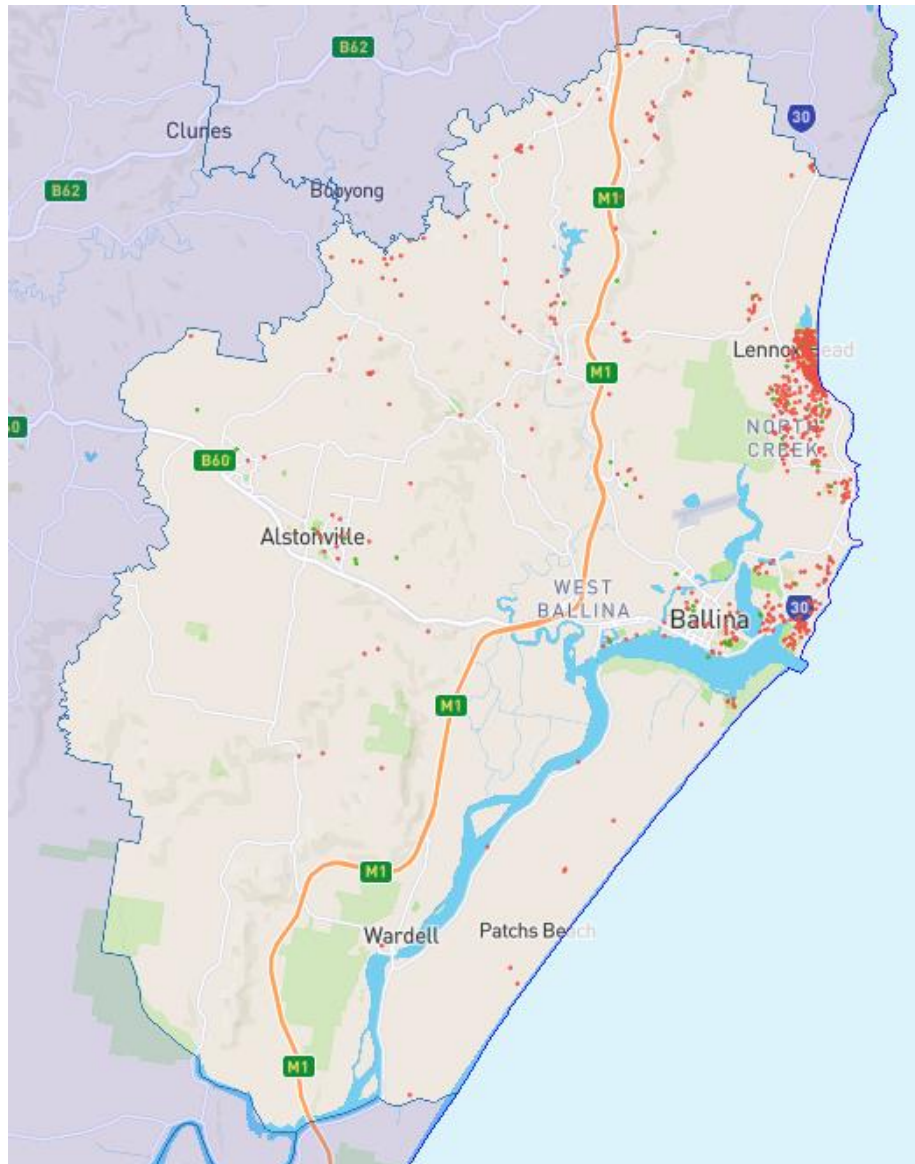
328 (49.1%) of the Shire's listings are, however, described as 'multiple listings'.

Inside Airbnb states that hosts with multiple listings are more likely to be running a business and are unlikely to be living in the property.

The following map, taken from Inside Airbnb, shows the distribution of all Airbnb listings in the Shire as at March 2022.

The highest concentration of STRA properties appears to be at Lennox Head.

## 8.4 Short Term Rental Accommodation



### **Long-Term Rental - Availability**

A search of the website <https://www.rent.com.au> on 20 June 2022 showed:

- 45 properties available for long-term rental within the Ballina postcode (2478), comprising a mix of apartments and houses, with an average weekly rent of \$740
- 11 properties available in Lennox Head, with an average weekly rent of \$760
- 17 properties available in the 2477 postcode, again a mix of apartments and houses, with an average weekly rent of \$693.

This equates to only 0.3% of the Shire's total dwelling stock.

This very low rental availability is confirmed by data provided by SQM Research for the postcode 2478, indicating a rental vacancy rate as at May 2022 of only 0.3%. ([SQM Research - Property - Residential Vacancy Rates - 2478](#))

Not surprisingly, the vacancy rate dropped significantly following the February / March floods; it was at 0.7% at February 2022.

## 8.4 Short Term Rental Accommodation

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For context, SQM data has been collected since 2005; the highest vacancy rate was 3.1% in July 2011.

*Note: SQM data is taken from online monitoring of major rental listing sites. Only those properties with a unique address are used, and only listings that have been advertised for three weeks or more are used.*

*Rentals available are compared to the total established dwellings from the most recent census.*

### **Long-Term Rental - Affordability**

SGS Economics and Planning publish annual data on rental affordability as part of an ongoing research project undertaken in conjunction with National Shelter, Beyond Bank Australia and the Brotherhood of St Laurence.

This includes a Rental Affordability Index (RAI), which is an indicator of rental affordability relative to household incomes.

The research includes an interactive map, which can be interrogated at Shire scale.

Attachment 2 contains a number of snap-shots from that tool, which provide an indication of rental affordability in Ballina Shire at the end of the second quarter of 2021.

Whilst the mapping is a simplification of some very complex issues, some key points are:

- there is no affordable rental accommodation for households at the median household income of approx. \$74,000 per annum, with the whole Shire mapped as 'severely unaffordable'

*[Note: 'severely unaffordable' means 38-60% of household income is spent on rent]*

- for a household income of \$80,000 per annum, the western part of the Shire is 'unaffordable' while the eastern part remains 'severely unaffordable'

*[Note: 'unaffordable' means 30-38% of household income is spent on rent]*

- at a household income of \$100,000 per annum, rental affordability in the western part becomes 'moderately unaffordable' while the eastern part moves to 'unaffordable'

*[Note: 'moderately unaffordable' means 25-30% of household income is spent on rent]*

- the western part of the Shire becomes 'acceptable' at a household income of \$120,000, but the whole of the Shire is not 'acceptable' until household income reaches \$125,000

*[Note: 'acceptable' means no more than 20-25% of household income is spent on rent]*

*Median rental prices for each area are obtained from an analysis of rental bonds lodged in that area. While it is an indication of rental costs, it does not directly include an assessment of rental availability.*



## 8.4 Short Term Rental Accommodation

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The 2021 Census data shows that the median household income for the Ballina Shire is \$1,429 per week, which equates to \$6,192 per month or \$74,308 per year.

The SGS data shows that households at or below that median are spending between 38% and 60% of their income on rent.

By comparison, the median mortgage in the Shire is \$1,950 per month (\$450 per week; \$23,400 per year), showing that households at the median household income level are spending approximately 30% of their income on their mortgage.

These patterns severely limit the levels of 'discretionary spending' available in the Shire, with associated economic challenges.

The SQM data confirms significant rental affordability issues in the Shire. For the postcode 2478, the May 2022 data shows ongoing significant weekly rental increases:

- 8.6% cost increase over the previous quarter
- 12.2% increase in the past 12 months, and
- 10.7% increase in the past 3 years.

STRA is not the only cause of the housing affordability issues but is certainly a contributor to those problems.

### STRA Legislation

The State Government's legislative changes to facilitate STRA commenced on 1 November 2021, underpinned by the State's view that STRA is a residential use captured by an existing consent for a dwelling and not a form of tourist and visitor accommodation (which would require separate approval).

The STRA provisions are within Part 6 of *State Environmental Planning Policy (Housing) 2021* (Housing SEPP).

The provisions differentiate between:

- *Hosted short-term rental accommodation*; short-term rental accommodation where the host resides on the premises during the provision of the accommodation.

Hosted STRA is exempt development, i.e. requiring no approvals; and there are no restrictions on the number of days a hosted property can be used to provide holiday accommodation.

- *Non-hosted short-term rental accommodation*; short-term rental accommodation where the host does not reside on the premises during the provision of the accommodation.

In Ballina Shire, use of a dwelling for non-hosted STRA is exempt development for a maximum of 180 days a year. Any period of 21 consecutive days or more where the accommodation is provided to the same occupants, is not counted in the 180 day allowance.

The exempt provisions mean that no approvals are required to undertake STRA in any approved dwelling in the Shire (where the exempt development criteria are met).

## **8.4 Short Term Rental Accommodation**

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The 180 day limit means that dwellings used exclusively for STRA will not be available for long-term rental. Outside of the use of such dwellings for STRA, they either remain vacant or owners occupy them for temporary periods.

The Housing SEPP specifies that the 180 day limit for non-hosted STRA applies in Ballina and Byron Shires, across the Greater Sydney Region and in parts of Clarence Valley and Muswellbrook Shires. Elsewhere, all STRA, hosted and non-hosted, is exempt development with no cap on the number of days.

The SEPP establishes a registration process, where STRA operators are required to register their property details on the NSW Government's Planning Portal. There is also a mandatory Code of Conduct for all registered STRA operators, although there are very few compliance/ enforcement options at the State Government level.

As at June 2022, the Planning Portal showed a total of 565 properties registered for STRA in Ballina Shire, including 343 non-hosted properties. 167 (48.7%) of these non-hosted properties are registered in Lennox Head.

Given the data from Inside AirBNB, which shows a total of 668 properties listed on the AirBNB platform as at March 2022 (see above), it is apparent that not all STRA properties are registering on the Planning Portal.

The State Government has not established any compliance systems to follow-up on registrations. STRA platforms, such as Airbnb, Stayz etc are required to only list registered properties, but it is not clear what level of compliance monitoring is undertaken by the State, if any. Importantly this registration system and compliance with it is a responsibility of the State Government.

### **STRA Complaints**

STRA has the potential to generate local conflicts primarily associated with noise and traffic.

There is, however, no significant history of complaints in Ballina Shire, with only three STRA-related complaints in the last two years.

The potential remains for complaints, and Council has a protocol and procedure for handling and managing complaints, aimed at ensuring property owners properly manage the activities undertaken at their premises.

The State Government has established a Code of Conduct, and property owners sign up to this code when registering their properties on the Planning Portal. The code is administered by NSW Fair Trading.

### **State Government Action Post 2022 Floods**

As part of the emergency housing considerations after the February / March floods, Council raised the issue of STRA with the State's emergency taskforce, suggesting that amending STRA provisions should be considered to assist with the provision of immediate to medium-term emergency housing.

The suggestions included:

- Decreasing permissible days for STRA in the SEPP for the next five years to encourage some property owners to make their properties available to the permanent rental market, in conjunction with state government subsidising rents for flood displaced residents.

## 8.4 Short Term Rental Accommodation

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- Doing a goodwill call out to current STRA owners (through the STRA register) to offer their properties to flood affected people to rent for a cheaper rate – again rent could be subsidised by Govt.

A recent Regional Housing Recovery Taskforce meeting was advised that there is no State Government intention to change the legislation to disincentivise STRA in the region, or to incentivise STRA owners to unlock their dwellings for accommodating flood-displaced residents in the medium term. This position relates to concerns that the SEPP has only just been put in place and that restrictions on STRA could disrupt the tourism economy.

### Responses in Other Areas

#### Byron Shire Council

Byron Shire has perhaps the most acute STRA issue in the State, with estimates that non-hosted STRA is accounting for approximately 35% of the total housing stock.

Given the issues arising from that, Council has been attempting to limit non-hosted STRA to a maximum of 90 days in most parts of the Shire, allowing a small number of tourism precincts where it could occur for 365 days per year.

Based on early discussions with Council, and contrary to Council's wishes, the Minister for Planning issued Section 9.1 Planning Direction 3.7 *Reduction in non-hosted short term rental accommodation period*, which applies only to Byron Shire.

It specifies that, where Council proposes to reduce the number of days that non-hosted STRA may be carried out:

- 90 days will be the minimum considered, and
- detailed evidence will need to be submitted to support the proposal, including social and economic assessment of impacts for the community in general and impacted property owners specifically.

Council submitted a Planning Proposal to DPE in March 2020. In June 2020, DPE requested further information, including more economic analysis to evaluate and consider impacts on the tourism industry.

Byron Shire Council's engagement with DPE made it clear that the Department was not supportive of having any areas where non-hosted STRA is not permitted and was also not in favour of a 90-day cap across the Shire.

Following further discussion, the State Government's Planning Delivery Unit (PDU) agreed to jointly fund an Economic Impact Assessment report, prepared by consultants engaged by the PDU. A preliminary draft of that report was provided to Council late in 2021.

A report to Byron Shire Council's 24 February 2022 Ordinary meeting provides a detailed summary of the Economic Impact Assessment (EIA). The report may be accessed on the Byron Shire website [Agenda of Ordinary Meeting - Thursday, 24 February 2022 \(infocouncil.biz\)](#) – page 119, and a summary of the key points is outlined below:

## 8.4 Short Term Rental Accommodation

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*The objective of the EIA was to review Council's Planning Proposal and compare it to five other policy options, ranging from a 180-day per year cap across the entire LGA through to an 'unregulated' model with no restriction on holiday letting, and three other variations on the precinct model that would see non-hosted STRA limited in some areas to either 90 days or 180 days per year.*

*The findings of the EIA provide several useful insights. For example, analysis of the demographic and housing data revealed that the Byron LGA is experiencing housing market failure, with poor affordability, very low rental vacancy rates and high concentrations of non-hosted STRA approaching 35% of total dwelling stock.*

*Another interesting finding was the relatively high proportion of under-utilised STRA properties, which are 'available' but not occupied for much of the year. This demonstrates an oversupply of accommodation in the STRA sector, but also reflects the choice of some owners who buy and hold properties primarily for enjoyment and may not be motivated by income from short-term or long-term rentals.*

*While the impacts of each policy vary, it is apparent that a lower day cap is going to increase the supply of long-term rentals, which in turn will decrease the supply of non-hosted STRA and the availability of tourist accommodation generally. Unsurprisingly, this effect would be felt more strongly under a 90-day cap compared to a 180-day cap. However, due to latent capacity in the STRA market from under-utilised properties, even a 90-day cap is unlikely to have a significant impact on visitation levels or retail driven spending and employment.*

*The EIA ultimately concluded that a 180-day per year cap across the entire Byron LGA was the preferred policy option from an economic perspective as it will provide the most substantial benefits across the relevant stakeholder groups while minimising detrimental impacts on the visitor market.*

Byron Council staff identified a number of concerns regarding the EIA, particularly the limited extent of social impact assessment undertaken.

Council engaged a specialist housing research academic, Dr Peter Phibbs, to peer review the EIA. Dr Phibbs is Professor of Urban and Regional Planning and Policy at the University of Sydney.

*Dr. Phibbs' review concluded that while the EIA offers some useful material, the rating system used to produce the report's recommendation is fundamentally flawed and does not allow a fair or balanced comparison of each policy. He noted that although economic impact analysis can be a useful aid in decision making, it is not intended to be used as an evaluative tool by itself. He also commented that the method used to compare each option is unreliable because no attempt is made to weigh the importance of the impacts on different stakeholder groups. This means that benefits to the local community of less STRA is more than outweighed by the negative impacts to visitors of having to pay more for their accommodation.*

Following consideration of the report, Council resolved to support the existing 90 day / 365 day planning proposal.

In June of this year, Council received a positive Gateway determination for its proposal, allowing them to proceed to public engagement.

## 8.4 Short Term Rental Accommodation

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In approving the Gateway, the Minister for Planning referred to the '*unique and exceptional circumstances facing Byron Shire regarding the impact of recent flooding on the availability and affordability of housing, combined with the existing high proportion of short term rental accommodation compared to permanent accommodation in the Shire*'.

The Minister also highlighted his concern about the potential impact of Council's proposal on the local economy.

Council is currently preparing for the public exhibition of its proposal. The Gateway requires a minimum of 56 days for the exhibition.

### Northern Rivers Joint Organisation

In August 2021, the Northern Rivers Joint Organisation (NRJO), representing Ballina, Byron, Kyogle, Lismore, Richmond Valley and Tweed councils, prepared and lodged a submission to the State Government's Regional Housing Taskforce.

Recommendation 1 of that submission was:

*Pause for the Northern Rivers the implementation of STRA SEPP - High priority & immediate*

The submission suggested that a social impact assessment of STRA should be undertaken, examining the impact of STRA on housing availability. It called for the Government to work with NRJO to establish a framework that will allow a sustainable balance between STRA and long term private rental.

Commencement of the SEPP, while paused for Byron Shire until January 2022, was not paused for the remaining Northern Rivers area and there has been no indication of the State Government's willingness to adopt NRJO's recommendation for an alternate framework.

### Tweed Shire Council

In August 2021, Tweed Shire Council resolved to write to the Minister requesting that the commencement of the STRA legislation be delayed for at least 12 months "in light of the current housing crisis we are facing in the Tweed Shire and across the North Coast".

Given that the SEPP provisions commenced on 1 November 2021 and that Tweed Shire Council has not been exempted from those provisions, it would appear that the State did not agree with Council's submission.

### Randwick Council

In June 2021, Randwick Council sought a Gateway determination for a Planning Proposal that, among other things, sought to introduce a new exempt provision that would limit the operation of non-hosted STRA to a maximum of 90 days per year.

The State Government provided a Gateway determination in September 2021, conditioned to require removal of that exempt provision, which would leave the 180-day limit in place.

## 8.4 Short Term Rental Accommodation

Randwick Council resolved to lodge a Gateway Review application against this condition. The Gateway Review was heard by the NSW Independent Planning Commission, who concluded that the Department's refusal of Randwick's proposed 90-day cap was justified.

The Panel noted that, while there was some merit in Council's argument, the State Government's STRA Policy, i.e. Part 6 of *State Environmental Planning Policy (Housing) 2021*, is very new and that the Department is proposing a two-year review of the policy, using data from the on-line registration system. They concluded, therefore, that any LGA specific amendment to that policy is premature.

### International Responses

STRA is creating concern in desirable tourist destinations world-wide. A 2020 report "*Platform Failures – How short-term rental platforms like Airbnb fail to cooperate with cities and the need for strong regulations to protect housing*" (Cox & Haar, Dec 2020) discusses some of the ways in which cities are regulating short-term rentals.

Most of the regulatory approaches are reported as attempts by individual cities to restrict short-term rental activity to legitimate "home sharing" and not to allow commercial activity. Most approaches include a combination of regulation and enforcement, including a permit or registration system.

**Table 1: Examples of City Regulations - STRA:**

<b>City</b>	<b>Permit or Registration System</b>	<b>Unhosted Limits</b>
Amsterdam	Yes	30 days/year Ban in some neighbourhoods Not allowed in social housing (estimated to be about 45% of Amsterdam's housing stock)
Barcelona	Yes	Limited number of permits (maximum of 9,600 permits for homes)
Berlin	Yes	90 days/year
Paris	Yes	120 days/year for primary residence Prohibited to rent secondary or non-primary residence
San Francisco	Yes	90 days/ year
New York	Yes	30 days/ year
Vienna	No	100% agreement from neighbours No more than 20% of the building Not allowed in social housing
Queenstown (NZ)	Yes	28 days/ year in outer residential zones 90 days/ year cap in city centre
London	Yes	90 days/ year

The Cox & Haar report highlights that significant resources continue to be required for enforcement in all these cities. The report also notes the difficulty that authorities have in obtaining accurate data from STRA platforms.

## 8.4 Short Term Rental Accommodation

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There is little doubt that STRA is having an impact on the availability of long term rental housing. While there are over 600 properties available for STRA in Ballina Shire, there are less than 50 properties available for longer term rental.

It is not possible, however, to conclude that STRA is the most significant contributor to low long term rental availability.

The experience of other councils indicates that Council would have very little chance of amending the existing STRA legislation to reduce STRA availability at present. Byron Shire Council appears to be the only LGA that has been able to progress such a proposal, and there is still no indication that they might eventually be successful in implementing changes.

The Minister for Planning, in allowing Byron Shire to move to public exhibition of their proposal, stressed the unique circumstances of Byron, where STRA is reported to account for approximately 35% of their available housing stock.

In Ballina Shire, Airbnb STRA constitutes approximately 3.4% of the available housing stock, albeit that percentage has increased by 250% in five years.

The 2021 Census shows a total of 19,700 private dwellings in the Shire (includes all dwelling types). On Census night, 1,421 of these dwellings were vacant – 7.2% of the total housing stock.

It is not possible to determine the circumstances for those dwellings being vacant, or how many were STRA premises unoccupied.

### Housing Affordability

The factors discussed are contributing to housing affordability issues in the Shire, together with State and Australia wide economic and financial factors that continue to drive housing prices and rental rates up.

Council has been grappling with affordability issues for some time. In addition to investigating options to deliver affordable housing on Council-owned land, and working on the preparation of a Shire-wide housing strategy, Council has been lobbying the State and Federal Governments to take action, including:

- Letter to Minister for Planning and Public Spaces in August 2021 regarding STRA, pointing out the link between an increase in STRA and a reduction in the supply of dwellings for permanent occupation. Council's letter also highlighted the social and economic impacts associated with increased house and rental prices primarily impacting low to moderate income households.

The letter requested that the Minister delay the implementation of the STRA reforms pending a more thorough assessment of these social and economic impacts.

The response from the Minister's Department expressed a view that the STRA legislation would '*strike a balance between supporting the economic value of STRA and managing social impacts on communities*'.

- Letter calling for support for a Housing Royal Commission sent to the Prime Minister and the Premier in August 2021.

The Premier's response referred to the establishment of the Regional Housing Taskforce.

## 8.4 Short Term Rental Accommodation

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- Letter to Minister for Water, Property and Housing, also in August 2021, seeking access to Government owned land for affordable housing and calling for development of additional public housing.

Meeting held with Parliamentary Secretary for Regional Housing. No follow up response received.

### **Delivery Program Strategy / Operational Plan Activity**

Housing affordability is a key consideration for Council. The following Operational Plan activity is relevant:

*PE3.3d Review local affordable housing planning and policy framework*

### **Community Consultation Policy**

Should Council resolve to pursue an amendment to the Ballina LEP 2012 or the Housing SEPP to regulate STRA a planning proposal will need to be prepared.

Such a proposal would need to be exhibited for public comment in accordance with Council's Community Consultation Policy and Community Participation Plan.

### **Financial / Risk Considerations**

Should Council wish to pursue a planning proposal or further engagement with the State Government, this can be accommodated within existing resources.

### **Options**

*Option 1 - Prepare a planning proposal seeking to introduce tighter restrictions on STRA availability*

Similar planning proposals have been prepared by Randwick City Council and Byron Shire Council.

Randwick's proposal was refused by the State Government, with that refusal upheld by the State's Independent Planning Commission on review.

Byron has received approval to start the process for their proposal, with the State clearly articulating that unique circumstances apply because of the significantly high proportion of STRA compared to total housing stock.

Other jurisdictions had sought to amend or delay the State's STRA provisions before the relevant SEPP was enacted. All failed.

The prevailing response has been that the STRA SEPP is new and should be allowed to operate at least two years before a review of the situation across the State.

Considering the experience of other councils and the responses from State Government in relation to STRA, there is little chance that a planning proposal seeking to amend STRA provisions would be successful at this time.

This approach is not recommended.



## 8.4 Short Term Rental Accommodation

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*Option 2 - Continue to monitor STRA numbers in the Shire and keep a watching brief on Byron Shire Council's planning proposal.*

Given it is unlikely that Council would be successful in amending STRA provisions to restrict this type of activity at this time, a monitoring approach is recommended.

Council staff will continue to monitor the number of STRA registrations and complaints received from STRA uses, and the data provided through Inside Airbnb. It will also be useful to monitor Byron Shire Council's progress with their STRA planning proposal.

The State Government has indicated that a STRA review would be undertaken two years after the start of the SEPP provisions (i.e. by November 2023). The information collated from the watching brief will provide the basis of Council's input to that review.

*Option 3 – Defer consideration of STRA.*

Council could defer consideration of STRA to seek additional information (e.g. further reporting or hold a briefing).

Given the status of STRA in the Shire is outlined in this report and the experience of other councils to date, this option is not recommended.

### **RECOMMENDATION**

That Council notes the content of this report regarding Short Term Rental Accommodation (STRA) and continues to maintain a watching brief on STRA numbers across the Shire.

### **Attachment(s)**

1. SCU Study into short term holiday letting - Ballina Shire [⇒](#)
2. SGS Economics Rental Affordability Index Snap Shot June 2022 [⇒](#)

## **8.5 Filling of Land, Cumbalum - Compliance Action**

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### **8.5 Filling of Land, Cumbalum - Compliance Action**

**Section** Public and Environmental Health

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

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#### **Background**

In November 2019 Council became aware of the placement of fill materials on land at Cumbalum.

This matter was previously reported to Council at the May 2021 Ordinary meeting where Council resolved to progress with prosecution and remedial works through the Court.

Council staff have investigated this matter and referred the investigation report to Council's solicitor for advice. The advice is the subject of a confidential report later in this agenda.

The purpose of this report is to provide an update on this matter in association with the confidential report.

#### **Key Issues**

- Filling of land
- Environmental impacts and in particular flood prone land impacts
- Potential cost implications to Council

#### **Discussion**

Council has identified a number of locations on the property where filling appears to have been undertaken. The volume of this fill is estimated to be approximately 49,500m<sup>3</sup>.

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

An investigation was commenced and the outcomes from the investigation were referred to Council's solicitor for advice.

Council's legal advice in relation to this matter has now been revised since the May 2021 resolution of Council and a new course of action recommended.

This is addressed in the confidential report.

## **8.5 Filling of Land, Cumbalum - Compliance Action**

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### **Delivery Program Strategy / Operational Plan Activity**

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

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

HE 3.2 – Minimise negative impacts on the natural environment

EL3.3 – Deliver responsive and efficient services

### **Community Consultation Policy**

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

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

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

### **Financial / Risk Considerations**

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

### **Options**

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

### **RECOMMENDATION**

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

### **Attachment(s)**

Nil

## 8.6 Development Applications – Variation to Development Standards

### 8.6 Development Applications – Variation to Development Standards

In accordance with Department of Planning and Environment reporting requirements, the following information is provided on development applications where variation to a development standard of 10% or less (via the BLEP 1987 or BLEP 2012) has been approved by staff under delegated authority.

DA No.	Date Approved	Applicant	Proposal and Address	EPI and Land Zoning	Development Standard and Approved Variation	Justification for variation
2021/445	10/05/2022	Newton Denny Chapelle	Erection of a multi dwelling housing development comprising three x single storey dwellings and one x single storey carer's dwelling under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 including earthworks, retaining walls, infrastructure, car parking and landscaping works – 111 Swift Street, Ballina	R3 Medium Density Residential – BLEP 2012	Clauses 10 and 14 of AFH SEPP 2009  Variation requested to the 400m walking distance to Business zone & variation requested to the 15% of the site to comprise deep soil zone.  Proposal involved 410m walking distance to B3 zone (2.5% variation) & 14.3% of the site to comprise deep soil zone	Variation to the 400m distance is minimal (10m or 2.5%) and ground level is flat assisting with accessibility.  Adequate provision on-site for landscaped areas with suitable building setbacks to boundaries.

#### RECOMMENDATION

That Council notes that there has been one application approved under delegation for variations to development standards of 10% or less for the period March to June 2022.

#### Attachment(s)

Nil

## 8.7 Development Applications - Works in Progress - July 2022

### 8.7 Development Applications - Works in Progress - July 2022

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 June 2022).

A list of 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 shorter timeframe.

The data and reporting is continually being refined and there may be adjustments that result in minor alterations to the data sets as the reporting is improved and reviewed.

#### Outstanding DAs by Month

The following tables for 2021 and 2022 provide 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	Nov	Dec
Less than 90 days	97	93	84	90	87	77	50	61	64	107	144	192
90 to 180 days	61	71	100	126	143	146	142	142	152	125	102	87
180 to 365 days	58	60	68	74	85	98	94	89	83	78	65	60
More than 365 days	43	41	38	37	35	31	30	27	23	21	19	15
<b>TOTAL</b>	<b>259</b>	<b>265</b>	<b>290</b>	<b>327</b>	<b>350</b>	<b>352</b>	<b>316</b>	<b>319</b>	<b>295</b>	<b>331</b>	<b>330</b>	<b>354</b>

Assessment Timeframe	2022					
	Jan	Feb	Mar	Apr	May	Jun
Less than 90 days	107	150	109	147	113	140
90 to 180 days	159	140	163	127	131	93
180 to 365 days	67	63	82	71	97	87
More than 365 days	23	23	31	29	34	30
<b>TOTAL</b>	<b>356</b>	<b>376</b>	<b>385</b>	<b>374</b>	<b>375</b>	<b>350</b>

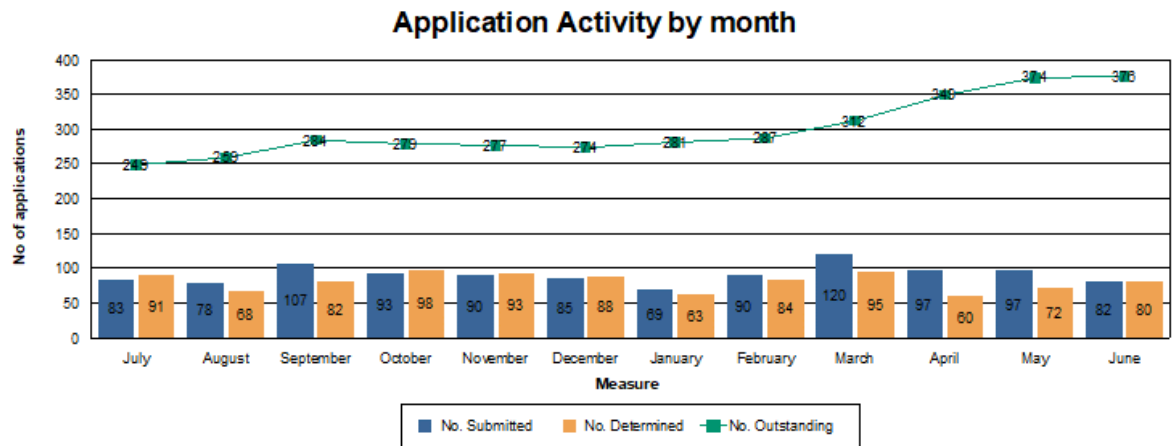
## 8.7 Development Applications - Works in Progress - July 2022

From July through to December last year there was a reduction in the numbers of applications under assessment for more than 90 days. This reduction is a reflection of the introduction of the NSW Planning Portal and the way in which applications are progressed through an initial adequacy review prior to lodgement. The volume of new applications started to rise again at the end of 2021 with the overall volume for 21/22 slightly down compared to 20/21 (although higher than 19/20).

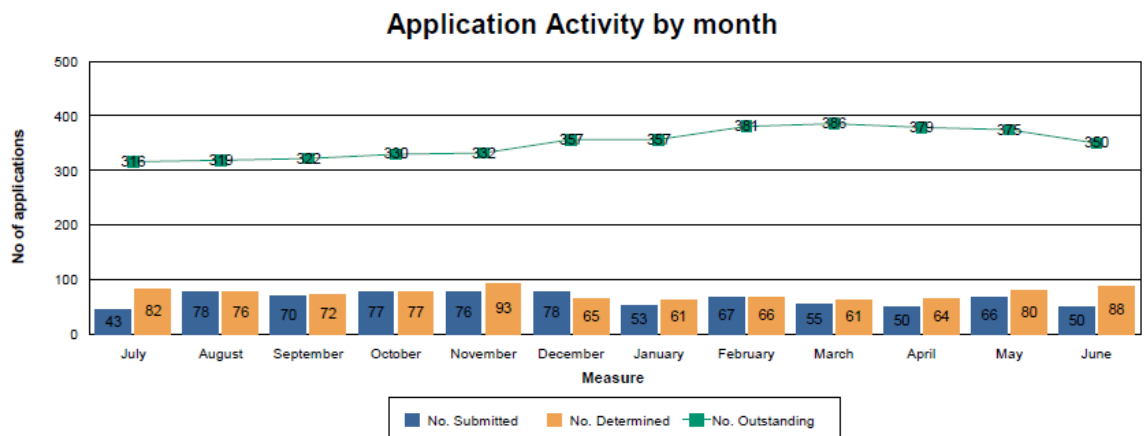
### DA Determination Trend (Financial Year Comparison)

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 2021-June 2022



The number of DAs remaining undetermined in Council's assessment system is a reflection of continuing high volumes and complexity as well as some position vacancies during the last year. A series of vacancies have now been filled and new staff commenced progressively during February and March. The current volume of undetermined DAs is consistent with numbers reported by Tweed and Byron Shire councils.

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

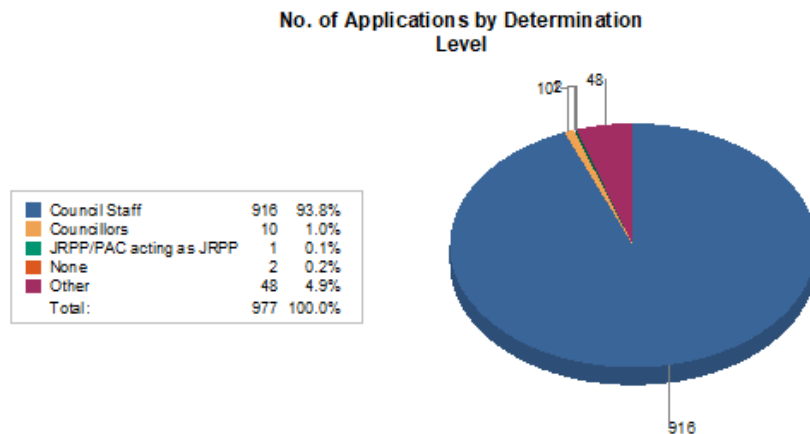
## 8.7 Development Applications - Works in Progress - July 2022

A significant number of DAs were determined during May and June 2022 (80 and 88 respectively). This is a reflection of ongoing efforts by staff to complete assessments, recruitment of staff completed earlier in the year and completion of a number of housing DAs using external consultants.

### Determination Method

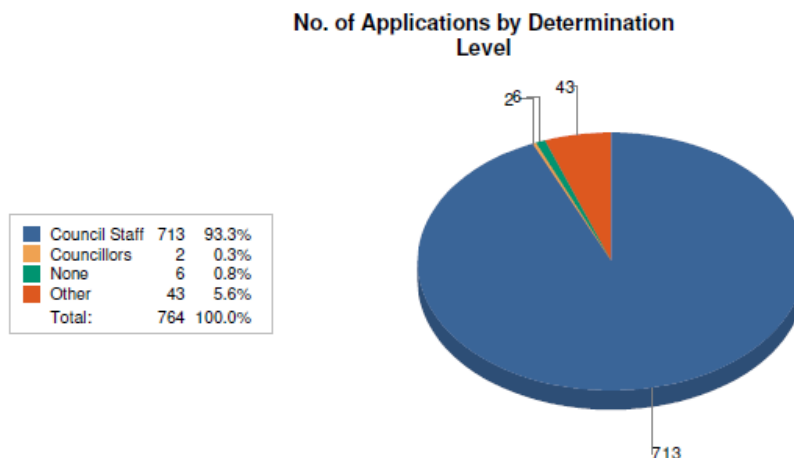
The following pie charts provide an overview as to how applications are being determined. 'Other' denotes applications withdrawn. 'None' denotes applications rejected. In both cases, the applications do not progress to determination.

*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 2021 to June 2022*



## 8.7 Development Applications - Works in Progress - July 2022

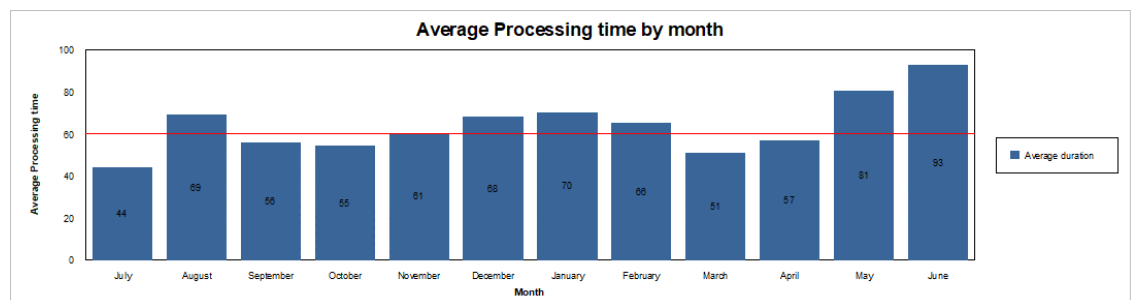
In the current financial year to date, 99.7% of applications determined have been determined under delegated authority.

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

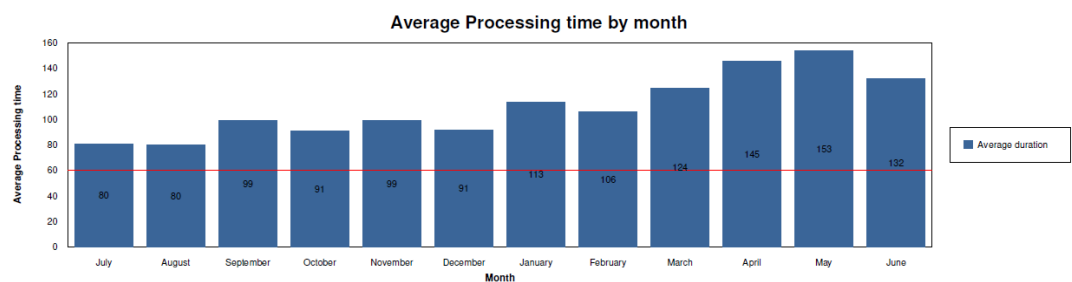
### Processing Time

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

#### 2020/2021 Year



#### July 2021 to June 2022



Similar to the number of DAs remaining undetermined, the average assessment time is a reflection of continuing high volumes and complexity as well as position vacancies.

Although there has been an improvement in the average determination time for June, a long-term downward trend is dependent on a significant reduction in the number of DAs in the system that are undetermined at any given time.

The current resourcing strategy is aimed at reducing the volume of DAs held each month and in turn average processing times over a 12-18 month period.

### 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.



## 8.7 Development Applications - Works in Progress - July 2022

	Year				
	17/18	18/19	19/20	20/21	21/22
No. of DAs Submitted	861	890	976	1093	1020
% Change	N/A	+3.4%	+9.7%	+12%	-7.2%

### 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, Riveroaks 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. Most recently certificates were issued to enable registration of land in stage 4 at Banyan Hill and stages 5 and 6 at River Oaks.

### Department of Planning and Environment, Port Stephens Council and Consultant Planners

Council has received some welcome external assistance with its assessment of DAs. Two Sydney based planning consultancies engaged by the Department of Planning and Environment under the 'Regional Housing Flying Squad' program have taken on the assessment of 13 urban dwelling house DAs. This is a one-off assistance for this financial year under this program.

In addition, Port Stephens volunteered to assist Council in response to the recent flood events. To date they have taken on the assessment of 10 DAs for urban dwelling and secondary dwelling applications, with the possibility of some additional DAs. A local planning consultant has also been assisting with the assessment of housing DAs. External consultants will continue with assessment work for Council (through Council engagements) for at least the next six months to assist in reducing the volume of outstanding DAs, improving determination times and prioritising DAs for housing.

### RECOMMENDATION

That Council notes the contents of the report on the status of outstanding development applications for July 2022.

### 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.

US2022/16	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> :					
	<table border="1"><thead><tr><th>Property</th><th>Tenant</th><th>Tenure</th></tr></thead><tbody><tr><td>Part of 25 Simpson Avenue Wollongbar (known as Wollongbar Hall, excluding the garage), located on part of Lot 267 DP1209571</td><td>Wollongbar Progress Association Incorporated (Y0546527)</td><td>Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$535 per annum plus GST)</td></tr></tbody></table>	Property	Tenant	Tenure	Part of 25 Simpson Avenue Wollongbar (known as Wollongbar Hall, excluding the garage), located on part of Lot 267 DP1209571	Wollongbar Progress Association Incorporated (Y0546527)
Property	Tenant	Tenure				
Part of 25 Simpson Avenue Wollongbar (known as Wollongbar Hall, excluding the garage), located on part of Lot 267 DP1209571	Wollongbar Progress Association Incorporated (Y0546527)	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$535 per annum plus GST)				
	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.					
	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.					
US2022/17	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> :					
	<table border="1"><thead><tr><th>Property</th><th>Tenant</th><th>Tenure</th></tr></thead><tbody><tr><td>24 Swift Street Ballina and part of 26 Swift Street Ballina (known as Ballina Players Theatre and part of storage building behind Wigmore Hall), located on part of Lot 7 DP668267 and part of Lot 70 DP1005100</td><td>The Ballina Players Incorporated (Y1622144)</td><td>Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$535 per annum plus GST)</td></tr></tbody></table>	Property	Tenant	Tenure	24 Swift Street Ballina and part of 26 Swift Street Ballina (known as Ballina Players Theatre and part of storage building behind Wigmore Hall), located on part of Lot 7 DP668267 and part of Lot 70 DP1005100	The Ballina Players Incorporated (Y1622144)
Property	Tenant	Tenure				
24 Swift Street Ballina and part of 26 Swift Street Ballina (known as Ballina Players Theatre and part of storage building behind Wigmore Hall), located on part of Lot 7 DP668267 and part of Lot 70 DP1005100	The Ballina Players Incorporated (Y1622144)	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$535 per annum plus GST)				
	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.					
	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.					

**9.1 Use of Council Seal**

<p>US2022/18</p>	<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="619 286 1471 443"> <thead> <tr> <th>Property</th> <th>Tenant</th> <th>Tenure</th> </tr> </thead> <tbody> <tr> <td>Part of 13-15 Old Pacific Highway Newrybar (known as Newrybar Hall), located on part of Lot 10 DP1202765</td> <td>Newrybar Community Hall Inc (Y1341840)</td> <td>Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$535 per annum plus GST)</td> </tr> </tbody> </table> <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>	Property	Tenant	Tenure	Part of 13-15 Old Pacific Highway Newrybar (known as Newrybar Hall), located on part of Lot 10 DP1202765	Newrybar Community Hall Inc (Y1341840)	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$535 per annum plus GST)
Property	Tenant	Tenure					
Part of 13-15 Old Pacific Highway Newrybar (known as Newrybar Hall), located on part of Lot 10 DP1202765	Newrybar Community Hall Inc (Y1341840)	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$535 per annum plus GST)					
<p>US2022/19</p>	<p>That Council affix the common seal on the survey plan of consolidation for land at Ross Park (73-75 Ballina Street) and Lennox Park (89-97 Ballina Street) Lennox Head. The land is owned by Council.</p> <ul style="list-style-type: none"> <li>• The land parcels being consolidated at Ross Park are lots 11-13 section 1, DP 11687.</li> <li>• The land parcels being consolidated at Lennox Park are lots 1-4 section 1, DP 11687.</li> </ul> <p>The reason to consolidate the land parcels is in conjunction with the new survey control for the Lennox Head business area. As Ballina Street was fully reconstructed, all old survey marks were destroyed. This plan shows all the old survey marks located prior to works and the new survey marks placed.</p> <p>The request to have the plan endorsed by Council is necessary as the landowner (Council) must sign the plan to enable plan registration at NSW Land Registry Services.</p> <p><b>Location Diagram</b></p> 						

## 9.1 Use of Council Seal

US2022/20	<p>Assignment of Registered Lease AP332806X – Tweed Byron and Ballina Community Transport Inc to The Community Transport Company Limited for 246/755684 part being that part of the building known as the Ballina Kentwell Community Centre at 20 Bangalow Road Ballina.</p> <p>Assignment of Community Group Licence Agreement for occupation of Reception Area at Kentwell Community Centre</p> <p><u>Explanation</u></p> <p>Tweed Byron and Ballina Community Transport Inc are merging with The Community Transport Company Ltd and have requested assignment of the lease and licence for the occupation of areas at the Kentwell Community Centre</p>						
US2022/21	<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="616 719 1433 972"> <thead> <tr> <th data-bbox="616 719 879 748">Property</th> <th data-bbox="885 719 1074 748">Tenant</th> <th data-bbox="1080 719 1433 748">Tenure</th> </tr> </thead> <tbody> <tr> <td data-bbox="616 757 879 972">Part of Quays Reserve, 96-98 Kalinga Street, West Ballina (being two sports buildings and one storage building), located on part of Lot 62 DP263861</td> <td data-bbox="885 757 1074 972">Ballina Rugby Club Incorporated (Y0084003)</td> <td data-bbox="1080 757 1433 972">Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$535 per annum plus GST)</td> </tr> </tbody> </table> <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>	Property	Tenant	Tenure	Part of Quays Reserve, 96-98 Kalinga Street, West Ballina (being two sports buildings and one storage building), located on part of Lot 62 DP263861	Ballina Rugby Club Incorporated (Y0084003)	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$535 per annum plus GST)
Property	Tenant	Tenure					
Part of Quays Reserve, 96-98 Kalinga Street, West Ballina (being two sports buildings and one storage building), located on part of Lot 62 DP263861	Ballina Rugby Club Incorporated (Y0084003)	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$535 per annum plus GST)					

### Attachment(s)

Nil

## 9.2 Investment Summary - June 2022

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### 9.2 Investment Summary - June 2022

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

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#### **Background**

In accordance with the Local Government (General) Regulation 2021, the Responsible Accounting Officer of a council must provide a monthly investment report setting out the council's cash and investments.

The report is to be presented at the Ordinary meeting, immediately following the end of the respective month. This report has been prepared to confirm the cash and investments held, as at 30 June 2022. This report provides details of the total funds invested, where the investments are held and other related matters, to confirm that Council is complying with Council's Investment Policy and to ensure transparency.

#### **Key Issues**

- Compliance with Investment Policy

#### **Discussion**

Council's investments are in accordance with Council's Investment Policy, Section 625 of the Local Government Act 1993 and the Local Government (General) Regulation 2021. A copy of the Investment Policy is available on Council's website.

The total balance of investments, as at 30 June 2022, was \$103m, which is a \$6m increase from the balance as at 31 May 2022. Council's investments were invested at a weighted average interest rate of 1.142% during June 2022. This was 0.477% less than the June average 90 Day Bank Bill Index (BBSW) of 1.619%.

This is the second month where Council's portfolio average interest rate has been below the benchmark and is due to the significant rise in the BBSW following the Reserve Bank of Australia's increase to the cash rate by 25 basis points in May 2022, and an additional 50 basis points to 0.85% on 7 June 2022.

The balance of Council's Commonwealth Bank business account, as at 30 June 2022, was \$14,319,766 which is \$3,456,020 lower than the balance at 31 May 2022. Total combined cash and investments, as at 30 June 2022, was \$117,319,766, compared to \$114,775,786 at 31 May 2022.

This net increase of \$2.5m has resulted from loan drawdowns totaling \$7.8m for Wollongbar Urban Area Expansion Stage 3 (\$2m), Airport carpark / runway works (\$2m), Airport Boulevard (\$2.8m) and River Street Burns Point to Barlows Road (\$1m); offset by loan repayments totaling \$2.5m and significant progress claim payments to creditors.

## 9.2 Investment Summary - June 2022

TCorp's monthly Economic Commentary report for June 2022 can be viewed using the following link:

<https://www.tcorp.nsw.gov.au/resource/010722.pdf>

### *Restricted Reserves*

The majority of Council's investment portfolio is restricted by legislation (external) and Council (internal) uses for specific purposes.

The next table reflects the portfolio percentages based on 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%
<b>Total</b>		<b>100.0%</b>

\* Reflects reserves held as at 30 June 2021. This table will be updated for 30 June 2022 as part of the financial statements completion process.

### *Debtors*

As at the date of preparing this report, Council's accounting, rating and reporting end of financial year procedures are in progress. The rate levying for the year ended 30 June 2023 is yet to take place and will include the 2021/22 quarter four water billing levy.

Significant adjustments to the 30 June debtor balances will occur as part of these processes.

Consequently, the balance of rates and annual charges debtors as at 30 June 2022 will change and due to this, information on debtors as at 30 June has not been presented in this report.

## 9.2 Investment Summary - June 2022

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### *Clarification of “green” investments*

At the 23 June 2022 Ordinary meeting Council resolved as follows:

*That Council seek clarification of “green” investments from an appropriate authority.*

Council currently has two types of deposits which have been classified as “green” within Table B of this report.

These deposits are Westpac Banking Corporation (Westpac) “Green Tailored Deposits” and Commonwealth Bank of Australia (CBA) “Environmental, Social & Governance Term deposits (ESGT)”.

Westpac’s Green Tailored Deposits are certified by the Climate Bonds Initiative (CBI).

The CBI is an investor-focused not-for-profit organisation, promoting large-scale investments that will deliver a global low carbon and climate resilient economy.

The CBI seeks to develop mechanisms to better align the interests of investors, industry and government so as to catalyse investments at a speed and scale sufficient to avoid dangerous climate change.

More information on the initiative is available on the CBI website: [www.climatebonds.net](http://www.climatebonds.net)

The certification by CBI is based on the “Climate Bonds Standard”.

The Climate Bonds Standard is an internationally recognised scheme utilised to prioritise investments which genuinely contribute to addressing climate change.

More information and a copy of the standard is available on the CBI website.

Before a product such as the Green Tailored Deposit can be certified by the CBI, it must also be verified by a third party verifier, approved by the CBI.

Only eligible debt instruments (such as Green Tailored Deposits) which fund Eligible Projects and Assets may be certified by CBI. Eligible Projects & Assets are those assets which meet the scientifically derived criteria in the Standard and are regarded as contributing to the delivery of a low carbon and climate resilient economy.

The Principal Balances of the Green Tailored Deposits are expected to be associated with a pool of Nominated Projects & Assets.

The Nominated Projects & Assets can include those in the sectors/investment areas identified by the Climate Bonds Initiative such as renewable energy, low carbon transport, low carbon buildings, and water infrastructure.

In issuing or monitoring, as applicable, the certification, Climate Bonds Initiative has assumed and relied upon the accuracy and completeness of the information supplied or otherwise made available to Climate Bonds Initiative.

## 9.2 Investment Summary - June 2022

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Climate Bonds Initiative does not assume or accept any responsibility to any person for independently verifying such information or to undertake any independent evaluation of any Nominated Projects and Assets or of the institution itself.

The Product Information Statement and an example confirmation for Westpac's Green Tailored Deposit are included as Attachments 1 and 2.

CBA's "Environmental, Social & Governance Term deposit (ESGTD)" are certified by the Responsible Investment Association Australasia (RIAA).

The certification is based on the Australian and New Zealand Standard for responsible investing.

Certification of a product or service under RIAA's Responsible Investment Certification Program (RI Certification) signifies that the relevant product or service takes into account environmental, social, governance or ethical considerations in accordance with the Australian and New Zealand Standard for responsible investing, as published from time to time on RIAA's website at <https://responsibleinvestment.org>

RI Certification signifies that the product or service adheres to the strict operational and disclosure practices required under the RIAA Responsible Investment Standard for that category of product or service.

More information on RIAA's Responsible Investment Certification Program can be found at <http://responsibleinvestment.org/ri-certification/>

Proceeds of ESGTPs are allocated towards Sustainability-Linked Loans (SLLs).

SLLs are any types of loan instruments and/or contingent facilities that are aligned with the core components of the Sustainability Linked Loan Principles (SLLP) as jointly published by the Loan Markets Association, the Asia Pacific Loan Market Association (APLMA) and the Loan Syndications and Trading Association, or otherwise incentivise the borrower's achievement of predetermined sustainability performance objectives.

The SLLPs (available on the APLMA website [www.aplma.com](http://www.aplma.com)) are a set of voluntary guidelines for assessing whether a loan incentivises a borrower's sustainability performance.

The SLLPs require the borrower's sustainability performance to be measured using predefined sustainability performance targets (SPTs), as measured by predefined key performance indicators (KPIs).

Examples of common KPIs for SLLs are increasing installed renewable energy capacity and reducing greenhouse emissions.

The Product Information Statement and an example confirmation for CBA Environmental, Social & Governance Term Deposit are included as Attachments 3 and 4.



## 9.2 Investment Summary - June 2022

### A. Investments by Institution

Funds Invested With	Fossil Fuel Free / Green	Rating S&P	31 May \$'000	30 June \$'000	Quota %	% of Total
AMP Bank	No	BBB	5,000	5,000	10%	4.85%
Auswide Bank	Yes	BBB	2,000	2,000	10%	1.94%
Bank of Communications	No	A-	1,000	1,000	20%	0.97%
Bank of Queensland	No	BBB+	5,000	5,000	10%	4.85%
Bank of Us	Yes	BBB+	5,000	5,000	10%	4.85%
Bendigo & Adelaide Bank	Yes	BBB+	7,000	7,000	10%	6.80%
Commonwealth Bank	No	AA-	1,000	1,000	20%	6.80%
Commonwealth Bank (Green)	Yes	AA-	6,000	6,000		
Defence Bank Ltd	Yes	BBB	6,000	6,000	10%	5.83%
Heritage Bank	Yes	BBB+	5,000	5,000	10%	4.85%
IMB Ltd	Yes	BBB	2,000	2,000	10%	1.95%
ING Bank	No	A	4,000	6,000	10%	5.83%
ME Bank	No	BBB+	7,000	7,000	10%	6.80%
MyState Bank Ltd	Yes	BBB+	5,000	5,000	10%	4.85%
National Australia Bank	No	AA-	4,000	9,000	20%	8.74%
Newcastle Perm Build Society	Yes	BBB	2,700	2,700	10%	2.62%
Suncorp Limited	Yes	A+	15,300	15,300	20%	14.85%
Westpac Bank Corp	No	AA-	7,000	9,000	20%	12.62%
Westpac Bank Corp (Green)	Yes	AA-	7,000	4,000		
<b>Total</b>			<b>97,000</b>	<b>103,000</b>		

Credit Rating Summary as per the Investment Policy	Maximum Allowed		Value 31 May \$'000	Value 30 June \$'000	% 31 May	% 30 June
	%	Value				
A- or Higher	100%	103,000	45,300	51,300	46.7%	49.8%
BBB	60%	61,800	51,700	51,700	53.3%	50.2%
<b>Total</b>			<b>97,000</b>	<b>103,000</b>	<b>100%</b>	<b>100%</b>

### B. Fossil Fuel Free and Green Investments

Environmental Classification	31 May		30 June	
	(\$'000)	(%)	(\$'000)	(%)
Fossil Fuel Aligned and Non-Green Investments	34,000	35	43,000	42
Fossil Fuel Free Investments	50,000	52	50,000	48
Green Investments	13,000	13	10,000	10
<b>Total</b>	<b>97,000</b>	<b>100</b>	<b>103,000</b>	<b>100</b>

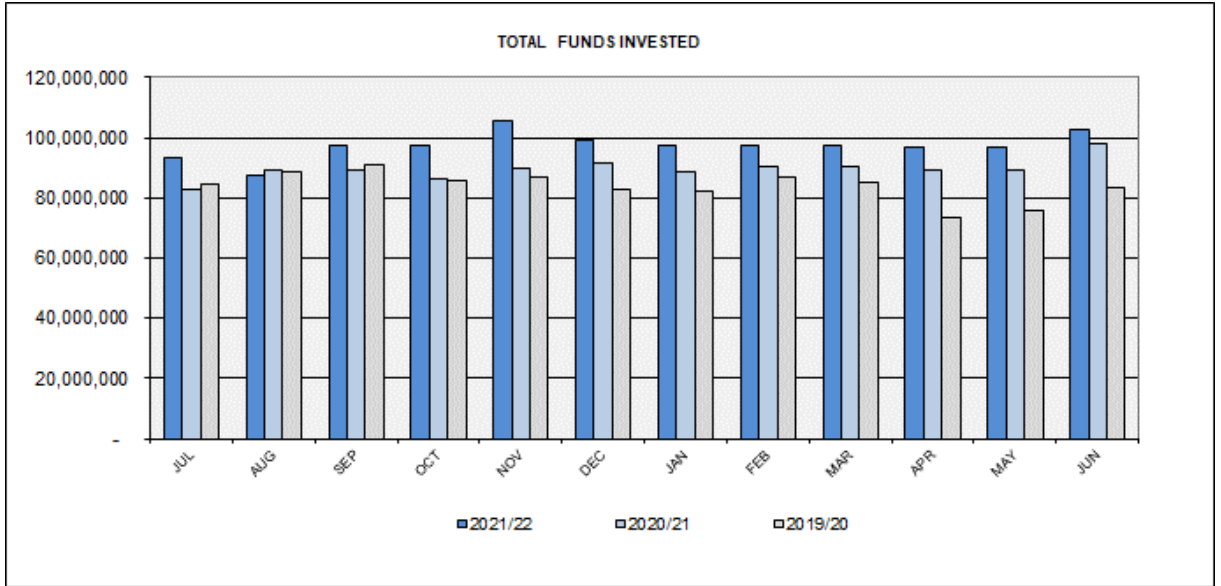
In June 2022, two green and three non-fossil investments matured, totaling \$9m. The three maturing investments totaling \$6m with Suncorp were reinvested with Suncorp after receiving quotes from other fossil and non-fossil institutions. In one instance, the Bank of Queensland offered an interest rate that was 0.12% higher than Suncorp; however, Council's portfolio at the time was 54% invested in BBB rated investments (policy limit is 60%).

A decision was made to reinvest with Suncorp which is A+ and non-fossil.

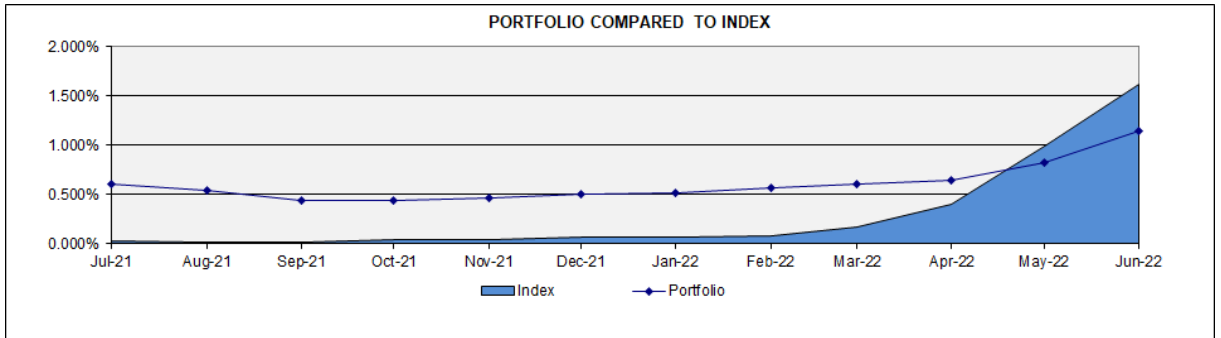
An additional four investments were placed with fossil institutions due to the interest rates quoted by non-fossil and lower rated institutions being significantly lower.

**9.2 Investment Summary - June 2022**

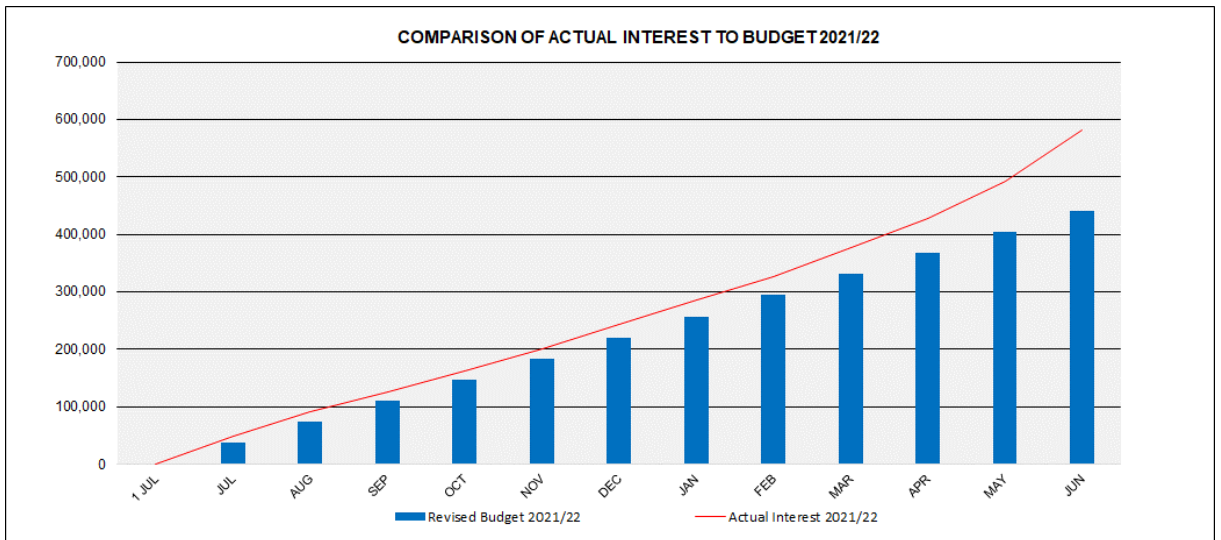
**C. Monthly Comparison of Total Funds Invested**



**D. Comparison of Portfolio Investment Rate to 90 Day BBSW**



**E. Progressive Total of Interest Earned to Budget**



## 9.2 Investment Summary - June 2022

### F. Investments held as of 30 June 2022

Purchase Date	Issuer	Type	Rate	Maturity Date	Amount \$'000
03/08/17	Westpac Banking Corporation	FRN	1.7469%	03/08/22	2,000
18/08/17	Westpac Banking Corporation	FRN	2.1300%	18/08/22	1,000
06/02/18	Newcastle Permanent Bld Society	FRN	2.3050%	06/02/23	700
30/07/18	Westpac Banking Corporation	FRN	1.6422%	31/07/23	1,000
31/07/18	Westpac Banking Corporation	FRN	1.6422%	02/08/23	1,000
06/09/18	Newcastle Permanent Bld Society	FRN	2.3050%	06/02/23	1,000
11/01/19	Commonwealth Bank of Australia	FRN	1.4399%	11/01/24	1,000
08/02/19	Westpac Banking Corporation	FRN	1.9937%	06/02/24	2,000
28/10/19	Bank of Communications	FRN	1.5962%	28/10/22	1,000
24/02/21	Suncorp-Metway Limited	FRN	1.5205%	24/02/26	1,300
04/03/21	Newcastle Permanent Bld Society	TD	1.8717%	04/03/26	1,000
18/06/21	Bendigo & Adelaide Bank	FRN	2.4862%	18/06/26	1,000
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	Bank of Queensland	TD	0.4300%	01/09/22	3,000
01/10/21	MyState 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	MyState Bank Ltd	TD	0.5500%	19/10/22	2,000
03/11/21	MyState Bank Ltd	TD	0.7000%	02/11/22	1,000
09/11/21	Suncorp-Metway Limited	TD	0.5200%	08/11/22	2,000
11/11/21	AMP Bank	TD	1.0000%	08/11/22	3,000
17/11/21	Heritage Bank	TD	0.4700%	15/11/22	2,000
18/11/21	Heritage Bank	TD	0.5000%	15/11/22	3,000
30/11/21	Defence Bank Ltd	TD	0.6000%	29/11/22	1,000
09/12/21	Suncorp-Metway Limited	TD	0.5500%	06/12/22	2,000
14/12/21	Suncorp-Metway Limited	TD	0.5500%	13/12/22	1,000
15/12/21	Commonwealth Bank - Green	TD	0.5000%	08/12/22	2,000
18/01/22	Auswide Bank	TD	0.5500%	17/01/23	2,000
20/01/22	MyState Bank Ltd	TD	0.7500%	10/01/23	1,000
25/01/22	AMP Bank	TD	1.1000%	24/01/23	2,000
02/02/22	Bank of Us	TD	0.8000%	31/01/23	3,000
08/02/22	National Australia Bank	TD	0.7700%	07/02/23	2,000
08/02/22	Bank of Queensland	TD	0.8000%	07/02/23	2,000
15/02/22	National Australia Bank	TD	0.8700%	14/02/23	2,000
22/02/22	Defence Bank Ltd	TD	0.9200%	21/02/23	1,000
01/03/22	Defence Bank Ltd	TD	0.9200%	28/02/23	2,000
01/03/22	Defence Bank Ltd	TD	0.9200%	28/02/23	1,000
08/03/22	Bendigo & Adelaide Bank	TD	0.6700%	06/09/22	3,000
22/03/22	Bank of Us	TD	0.6000%	19/07/22	2,000
06/04/22	Suncorp-Metway Limited	TD	1.7300%	05/04/23	1,000
21/04/22	ING Bank (Australia) Ltd	TD	1.9000%	20/04/23	3,000
22/04/22	ING Bank (Australia) Ltd	TD	2.3000%	20/04/23	1,000

## 9.2 Investment Summary - June 2022

Purchase Date	Issuer	Type	Rate	Maturity Date	Amount \$'000
18/05/22	ME Bank	TD	3.1000%	17/05/23	3,000
23/05/22	ME Bank	TD	3.2000%	18/05/23	2,000
30/05/22	ME Bank	TD	3.2000%	24/05/23	2,000
02/06/22	Westpac Banking Corporation	TD	3.1500%	31/05/23	1,000
02/06/22	Westpac Banking Corporation	TD	3.1500%	31/05/23	1,000
07/06/22	Suncorp-Metway Limited	TD	3.1700%	06/06/23	2,000
22/06/22	Suncorp-Metway Limited	TD	3.6300%	21/03/23	2,000
28/06/22	Suncorp-Metway Limited	TD	3.5900%	04/04/23	2,000
28/06/22	ING Bank (Australia) Ltd	TD	3.8800%	04/04/23	2,000
30/06/22	National Australia Bank	TD	2.3600%	05/10/22	3,000
30/06/22	National Australia Bank	TD	2.7200%	23/11/22	2,000
	<b>Totals</b>				<b>103,000</b>
TD = Term Deposit; FRN = Floating Rate Note					

### RECOMMENDATION

That Council notes the report of banking and investments for June 2022.

### Attachment(s)

1. Westac Green Tailored Deposit Product Information [⇒](#)
2. Westpac Example Deposit Confirmation [⇒](#)
3. CBA ESGTD Product Information [⇒](#)
4. CBA Example Deposit Confirmation [⇒](#)

### 9.3 Ward Committee - Membership

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#### 9.3 Ward Committee - Membership

##### **Delivery Program**

Governance

##### **Objective**

To obtain approval to amend membership of the Council's C Ward Committee.

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#### **Background**

At the January 2022 Ordinary meeting, Council resolved to retain the existing structure and membership of the three Ward Committees, with expressions of interest to be called for any additional membership.

An expression of interest (EOI) process calling for Ward Committee membership occurred in February 2022 with applications reported to the March 2022 Ordinary Council meeting.

Since the EOI process, Council has received another two applications as follows:

- LinC Alstonville - C Ward Committee
- Ballina Naval and Maritime Museum – A Ward Committee.

A copy of each application is attached to this report.

#### **Key Issues**

- Community representation on Council's Ward Committees

#### **Discussion**

Council reviews the membership of Ward Committees after each Local Government Election.

Ward Committees have no delegated authority and membership is limited to representatives from locally based not for profit community groups, with one member representing each group.

To ensure currency in the membership of Ward Committees, if a community group has not attended a meeting in twelve months and they do not respond to Council's correspondence, the community group has been removed from the Ward Committee. This decision is based on a Council resolution from June 2018.

Current membership of the Ward Committees is as follows:

#### **A Ward**

#	Organisation
1	Ballina Day View Club
2	Lighthouse Day Club
3	Ballina Environment Society

### 9.3 Ward Committee - Membership

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#	Organisation
4	Ballina CWA
5	East Ballina Lions Club
6	Ballina Bears Cricket Club
7	Ballina District Citizens and Ratepayers Association
8	Ballina Peninsular Residents Association
9	Ballina Evening View Club
10	Ballina Coast High School (State Government)
11	Ballina Croquet Club
12	Dementia Inclusive Ballina Alliance
13	Rotary Club of Ballina-on-Richmond
14	St Vincent de Paul
15	St Andrew's Village Ballina Limited
16	Northlakes Ballina Group
17	Ballina Shire Southern Beaches Users Club Incorporated
18	Ballina Cancer Advocacy Network (BCAN)
19	Ballina Chamber of Commerce
20	Ballina Lighthouse and Lismore Surf Lifesaving Club

#### **B Ward**

#	Organisation
1	Lennox Head Residents Association
2	Ballina Environment Society
3	Lennox Head Chamber of Commerce
4	Lennox Head Combined Sports Association
5	Marine Rescue Ballina
6	Cumbalum Residents Association
7	Lennox Head-Alstonville Surf Life Saving Club
8	NSW Sport & Recreation (Lennox Head) (State Government)
9	Lake Ainsworth Association
10	Lennox Head Landcare
11	Sanctuary Lennox Residents Committee
12	Lennox Community Gardens Inc.
13	Skennars Head Residents' Association

#### **C Ward**

#	Organisation
1	Rous Mill Ratepayers Association
2	Wollongbar Progress Association Inc and Hall Committee
3	Wardell Progress Association
4	Alstonville Plateau Historical Society
5	Ballina Environment Society
6	Alstonville/Wollongbar Chamber of Commerce
7	Tuckombil Landcare (including Bulwinkel Landcare)
8	Alstonville and District Cricket Association
9	Alstonville Football Club
10	Alstonville Community Pre-school
11	Alstonville Asphalt Watch Group
12	Probus Club of Alstonville
13	WardellCORE

### **9.3 Ward Committee - Membership**

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#### **Delivery Program Strategy / Operational Plan Activity**

This report is consistent with Delivery Program strategy E11.2 Involve our community in our planning and decision-making processes.

#### **Community Consultation Policy**

Ward Committees are one component of Council's community engagement and play an important role in Council's interaction with the community.

#### **Financial / Risk Considerations**

Nil

#### **Options**

The options are to approve or not approve the nominations for membership.

The recommendation is for approval.

#### **RECOMMENDATION**

That Council approves the following applications for membership of Council's Ward Committees:

- LinC Alstonville – C Ward – As per Attachment 1
- Ballina Naval and Maritime Museum – A Ward - As per Attachment 2.

#### **Attachment(s)**

1. Application from LinC Alstonville [⇒](#)
2. Application from Ballina Naval and Maritime Museum [⇒](#)

## 9.4 Councillor Expenses - Twelve Monthly Review

### 9.4 Councillor Expenses - Twelve Monthly Review

#### Delivery Program

#### Governance

#### Objective

To report on Councillor Expenses for the twelve month period to 30 June 2022.

#### Background

The Office of Local Government's Model Councillor Expenses and Facilities Policy requires a report to Council every six months outlining the provision of expenses and facilities to each Councillor. The information is also published on Council's website. The purpose of this report is to comply with the policy.

#### Key Issues

- Councillor expenses and facilities expenditure
- Compliance with Council policy

#### Discussion

This report details the expenditure incurred for the period 1 July 2021 to 30 June 2022, which covers two terms of Council. The expenditure is based on claims submitted and paid. It excludes the Councillor and Mayor annual allowances.

#### **Councillor's Expenses and Facilities Expenses (\$ excl GST) 1 July 2021 to 30 June 2022**

Previous Councillors	General Travel Expenses	Professional Development / Conferences	ICT	Home Office	Incidentals	Mayor Vehicle (1)	Carer	Totals \$
Wright	0	972	247	0	0	6,000	0	7,219
Smith	0	0	128	98	0	N/A	0	226
Willis	0	0	94	0	0	N/A	0	94
Parry	0	0	0	0	0	N/A	0	0
Williams	0	0	425	0	0	N/A	0	425
<b>Total</b>								<b>\$7,964</b>

Councillor	General Travel Expenses	Professional Development / Conferences	ICT	Home Office	Incidentals	Mayor Vehicle (2)	Carer	Totals \$
Cadwallader	2,058	312	1,066	0	68	6,000	0	9,504
Dicker	511	3,140	301	0	366	N/A	1,100	5,418
J Johnson	64	0	544	21	33	N/A	0	662
Chate	305	1,927	530	0	239	N/A	0	3,002
E Johnston	137	280	385	0	33	N/A	0	835
McCarthy	0	0	721	0	33	N/A	0	754
Buchanan	0	0	135	0	33	N/A	0	168
Ramsey	512	2,721	189	108	258	N/A	0	3,789
Meehan	242	0	782	212	33	N/A	0	1,269
Bruem	69	0	136	0	239	N/A	0	444
<b>Total</b>								<b>\$25,845</b>

(1) Twelve month internal plant charge for the provision of the Mayoral vehicle.

(2) Offset by Mayoral contributions of 25% of the standard vehicle lease fee paid by Council staff since April 2022 – Mayoral contributions total - \$522.98.

The policy provides the following limits (all monetary values are excluding GST):



## **9.4 Councillor Expenses - Twelve Monthly Review**

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- \$3,000 annual limit for Councillors and \$6,000 annual limit for the Mayor on general travel expenses.
- \$5,000 annual limit on professional development and conferences (excluding induction training)
- \$100 per month for reimbursement of Information and Communication Technology (ICT) expenses (data, software and internet), which is in addition to the cost of providing the Council ICT. This annual limit was increased from \$80 per month to \$100 per month following the Policy review in 2022.
- \$500 annual limit on home office expenses.
- \$4,000 annual limit on Carer expenses. This annual limit was increased from \$2,000 per annum following the Policy review in 2022.
- There is no cap on corporate training subject to annual budget limits.

### **Delivery Program Strategy / Operational Plan Activity**

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

### **Community Consultation Policy**

The Councillor's Expenses and Facilities Policy must be reviewed within 12 months of an election, and the review of this policy occurred earlier in 2022.

### **Financial / Risk Considerations**

Council has funding allocated in the Operational Plan for this expenditure.

### **Options**

This report is for noting.

### **RECOMMENDATION**

That Council notes the contents of this update on the Councillor expenses, as per the Councillor's Expenses and Facilities Policy, for the period 1 July 2021 to 30 June 2022.

### **Attachment(s)**

Nil

## **9.5 Community Land Lease - Wardell and District War Memorial Hall**

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### **9.5 Community Land Lease - Wardell and District War Memorial Hall**

**Section** Governance

**Objective** To advise Council of the results of the public notification of a proposed lease of the Wardell and District Memorial Hall.

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#### **Background**

This matter was reported to the Finance and Facilities Committee meeting on 19 May 2022.

The recommendation from that Committee meeting was submitted to the May 2022 Ordinary meeting where Council resolved as follows:

- 1. That Council, in accordance with the provisions of the Local Government Act 1993, approves a new lease of 49 Richmond Street, Wardell to the Wardell and District Progress Association, for a term of four years at a rent equal to the statutory minimum charged by Crown Lands (currently \$535 per annum plus GST)*
- 2. That Council provide statutory public notification of the proposed lease of this community land, with a report to be presented to Council, if any submissions are received.*
- 3. That Council authorises the General Manager to affix the seal to the lease document in point one.*

This report provides the outcomes from the exhibition process.

#### **Key Issues**

- Contents of submissions
- Approval for the lease of the Wardell and District War Memorial Hall

#### **Discussion**

In accordance with the Local Government Act, 1993, the proposal to lease community land was advertised/exhibited with submissions closing on 6 July 2022.

Fifteen submissions were received with all in support of the grant of the lease to Wardell Progress Association.

A summary of the submissions is outlined in the following table.

## 9.5 Community Land Lease - Wardell and District War Memorial Hall

Ref.	Name of submitter	Date of submission	General grounds of support (please read full submission for further detail)
1.	Tina van Eyk and Kevin van Eyk	15/06/2022	<ul style="list-style-type: none"> <li>• Many activities are held in the Hall for local families</li> <li>• They have attended school performances, arts and crafts sessions and charity events at the Hall</li> <li>• There are no other community spaces to hold these types of events for the Wardell community</li> <li>• The Hall is available for use by the broader community</li> <li>• The Hall has been well cared for by the WPA members for many years</li> <li>• Volunteers at WPA have put their time and energy into maintaining the hall for everyone</li> </ul>
2.	Paola Rickard and Jeff Rickard	17/06/2022	<ul style="list-style-type: none"> <li>• WPA have met their lease obligations and have been good tenants</li> <li>• WPA are mindful of neighbours of the hall and the liability requirements of the hall</li> <li>• WPA have demonstrated care of the hall/hall maintenance to ensure the hall's heritage status is protected</li> <li>• The hall is a space for diverse community needs – wakes, yoga classes, school competitions/activities, charity fundraisers etc</li> <li>• Community members want to hire the full space, without sharing the space with other groups. Community wants easy access, reasonable hire rates and prompt replies to requests for booking the hall. Hirers want a clean, well maintained and safe hire space</li> <li>• WPA can provide space for recovery agencies and support groups</li> <li>• WPA has launched a website with easy to use application for hire of the hall. The website will also advertise community events</li> <li>• The community want a return to normality and restoring the hall back for community use under WPA's caretaking role will assist in this recovery</li> <li>• If an Expression of Interest were to be called, there would be further exhibition periods, further submission periods, and that uncertainty will further divide the community and delay recovery</li> <li>• Leasing the hall to WPA is demonstrably the best use of this community asset</li> </ul>
3.	Bec Heywood	17/06/2022	<ul style="list-style-type: none"> <li>• WPA is a long term tenant of the hall and have always accommodated the needs of the community</li> <li>• WPA has maintained and improved the hall whilst protecting its heritage</li> <li>• The process of leasing the hall has been drawn out and divisive</li> <li>• Under WPA, the hall will be able to be used for all community events.</li> <li>• Wardell does not have another community hall for the public to access when needed for events for everyone or to gather for any large function. The pub</li> </ul>

## 9.5 Community Land Lease - Wardell and District War Memorial Hall

Ref.	Name of submitter	Date of submission	General grounds of support (please read full submission for further detail)
			<p>and club are no longer available, so the community needs the hall for this purpose</p> <ul style="list-style-type: none"> <li>Local school children will be returning to demountable buildings post flood. They will need access to the hall. The space is familiar to them</li> <li>With the hall available for use by the full community, it will bring stability and normality</li> </ul>
4.	Allan Drury	17/06/2022	<ul style="list-style-type: none"> <li>WPA has shown care for this beautiful building</li> <li>WPA have used the hall for many diverse functions</li> <li>Wardell needs a separate licensed workers club, which could be used as a multipurpose evacuation centre for natural disasters and storage in times of major natural disaster</li> <li>The hall could continue to serve as a community meeting place and place for events. Small towns need both a community hall and a club</li> <li>WPA should carry on their good work in this building</li> </ul>
5.	Norman Sedgman	17/06/2022	<ul style="list-style-type: none"> <li>It would be an injustice to change the management of the hall at this time</li> <li>Although Core have done a wonderful job managing the needs of many families and residents during the impact of flooding, the hall needs to be retained by WPA as tenant, as they have managed and understand the local requirements of the community</li> </ul>
6.	Kerry Walker	17/06/2022	<ul style="list-style-type: none"> <li>WPA have been doing a wonderful job for the whole community in the last few years – new paths, lighting. WPA is instrumental in improving Wardell</li> <li>The hall was looking great before the flood. New side entrances – wheelchair access. New awning out the back. New BBQ.</li> <li>WPA had many events organized in the last few years, but they were impacted by Covid.</li> <li>WPA deal with different levels of government to obtain grants for improvements. WPA also help the community deal with many issues and concerns. WPA do a fabulous job</li> </ul>
7.	Resident of Wardell for 41 years	18/06/2022	<ul style="list-style-type: none"> <li>Resident of Wardell for 41 years</li> <li>The hall should be kept for all of the community of the town.</li> <li>When the floods hit, people were in the hall removing flood effected tables, chairs and Red Cross History out of the Diggers Room. I had never seen those people before.</li> <li>WardellCore set themselves up in the hall. They showed disregard for the hall. Drilled holes in the roof. Had dogs wondering through the kitchen. Many years of hard work on the hall was gone.</li> </ul>

## 9.5 Community Land Lease - Wardell and District War Memorial Hall

Ref.	Name of submitter	Date of submission	General grounds of support (please read full submission for further detail)
			<ul style="list-style-type: none"> <li>• Enabled people to be toxic to others on their media platforms. Carried out sanding on the Diggers Room floor without permission</li> <li>• The community put a lot of hard work into fundraising in order to maintain the hall over many years</li> <li>• Giving a lease to Core to have their own business will be devastating to the community.</li> <li>• Small towns need a community hall to gather for functions, bringing everyone together.</li> <li>• We want the hall looked after for all, and the WPA is the best to do that. They have looked after the hall for the past 13 years from when the hall was given to Council.</li> <li>• I have been mortified by what I have seen happening outside the hall the last few months. No health regulations have been followed. Food cooked and served without gloves, dogs around food. This would not be permitted in Ballina so why is it allowed in Wardell</li> </ul>
8.	Patrick Carney	18/06/2022	<ul style="list-style-type: none"> <li>• The decisions of Council at its previous meetings regarding leasing to the hall to WPA should be honoured</li> <li>• Council staff connected with the hall can attest that the WPA are competent and highly motivated. WPA have been looking after the hall for a number of years.</li> <li>• It would be a risk to Council to lease the hall to a group of people with little affiliation to the town and with little knowledge of their background.</li> <li>• The committee of WPA are well known and respected members of the community, who have given many hours to improve the hall and the town as a whole</li> </ul>
9.	Russell Krampe	20/06/2022	<ul style="list-style-type: none"> <li>• Implores Council to lease the hall to WPA</li> <li>• In 2009 the hall was in a general state of disrepair. WPA have fought to get the hall painted (interior and exterior), restored flooring, new state of the art bathrooms, replace the memorial monument, a new function purpose BBQ, generally up to scratch</li> <li>• WPA have also been instrumental in town improvements</li> <li>• Sensible choice as custodians for the hall is WPA, based on their previous track record.</li> </ul>
10.	Richmond River Cane Growers Association	20/06/2022	<ul style="list-style-type: none"> <li>• They are the next door neighbour of the hall</li> <li>• The services provided by WardellCore immediately following the flood provided much needed support to people in a difficult time.</li> <li>• However, WPA should remain as the managers of the hall</li> </ul>

## 9.5 Community Land Lease - Wardell and District War Memorial Hall

Ref.	Name of submitter	Date of submission	General grounds of support (please read full submission for further detail)
			<ul style="list-style-type: none"> <li>WPA has deep roots in the community</li> <li>WPA has managed the use of the hall in a very responsible manner. As a neighbour, they appreciate WPA's consideration and support of locals</li> <li>They have held meetings and events at the hall and been very happy with the venue and WPA</li> </ul>
11.	David Wright	21/06/2022	<ul style="list-style-type: none"> <li>He attended WPA meetings for nearly 34 years. For the first 20 years, the hall was a Trust Hall (Sugar Cane) with trustees running the hall</li> <li>Council took over the hall as the hall needed a great deal of work. An agreement was reached with Wardell and District Progress Association to lease the hall and help with upgrades and pursuing grants</li> <li>WPA has worked hard to get \$1million upgrades to Wardell – footpaths, boardwalk, State and Federal grants. The grants were obtained to service all residents of Wardell</li> <li>The hall is home for school performances, Light up the Hall, funeral receptions, Red Cross, CWA and Blackwall Historical Society</li> <li>He believes Council would be in breach of agreements made in discussions before Council received a transfer of the hall if the lease was not awarded to WPA. The hall is for use by the community and not a single entity. He believes an agreement would not have been reached with the previous hall committee, WPA and Council if there was a chance the hall would be leased to a different entity</li> <li>He believes Council would be legally and morally wrong to offer the hall to another body</li> </ul>
12.	Ronda Thomas	21/06/2022	<ul style="list-style-type: none"> <li>The decisions made by Council with respect to leasing the hall to WPA should be upheld</li> <li>The committee of WPA are well known and respected members of the community</li> <li>WPA have given many hours to improve the hall and the town as a whole</li> <li>WPA have had a long and fruitful relationship with Council</li> <li>WPA are proud of the many improvements done around Wardell, and the grants WPA have been able to secure</li> <li>It would be a risk to approve a 4 year lease to a small group of people who have no affiliation with or little or no knowledge of Wardell and its residents</li> </ul>
13.	Unreadable name (Submission signed and posted in)	22/06/2022	<ul style="list-style-type: none"> <li>Absolute support for WPA holding the lease of the hall</li> <li>WPA has done many things for the community for many years</li> <li>Without the pub and rec club, the community needs the hall more than ever.</li> </ul>

## 9.5 Community Land Lease - Wardell and District War Memorial Hall

Ref.	Name of submitter	Date of submission	General grounds of support (please read full submission for further detail)
			<p>WPA will make sure all are able to use the hall. WPA will look after the hall</p> <ul style="list-style-type: none"> <li>• Rifts and tension have been caused because of both WPA and Core wanting to lease the hall</li> <li>• Core want to make it neighbourhood soup kitchen. From Core's social media, they are encouraging attendance from people outside Wardell</li> <li>• Wardell needs help getting people back into their homes, not more social issues brought to Wardell</li> <li>• Wardell needs mental health support, but that needs a confidential place. The hall and bank are not ok for that</li> <li>• People are being pressured into supporting the Core to get the hall lease because Core supported them during the flood</li> <li>• Core are asking people to contribute towards their rent which is not fair. The community didn't ask them to go to the bank</li> <li>• Council should consult with the Wardell community before approving a neighbourhood centre in Wardell. Most of us don't want it</li> </ul>
14.	Wardell Public School P&C Association	04/07/2022	<ul style="list-style-type: none"> <li>• The Wardell Public School was destroyed in the March floods. Children will be returning to demountable classrooms at the end of term 3/start of term 4</li> <li>• It is imperative the hall remains open to the whole community to use. They need a space big enough for the whole school to meet. With reduced space at the school, they will use the hall for children's activities, parent meetings, P&amp;C meetings and school functions, as they have done in the past.</li> <li>• There will be no canteen at the school upon return. WPA have offered for the school to use the kitchen in the hall.</li> <li>• The hall will be heavily utilized by the school while the school is being rebuilt</li> <li>• They will have joint activities in the hall between the three local schools – Wardell Public, Cabbage Tree Island and Empire Vale</li> <li>• The school P&amp;C has a long relationship with WPA and they are confident WPA will continue to have the whole community's best interest at heart</li> <li>• They hope the hall will continue to be a place where the community can gather, socialize and hold private functions, without the hall being commercialized</li> </ul>
15.	Wardell and District Progress Association	06/07/2022	<ul style="list-style-type: none"> <li>• With WPA being the tenant, the hall will be available for multiple uses. Exercise groups, meetings, training days, presentations, wakes, weddings, reunions, Red Cross, school activities and meetings. The activities are vital for the recovery of the area</li> </ul>

## 9.5 Community Land Lease - Wardell and District War Memorial Hall

Ref.	Name of submitter	Date of submission	General grounds of support (please read full submission for further detail)
			<ul style="list-style-type: none"> <li>• WPA are non-political and all committee members are elected</li> <li>• They have insurances in place</li> <li>• They have obtained grants in the past for new flooring, interior and exterior painting and new toilets in the hall. They have made various other improvements – BBQ, new stove, improved accessible toilets, AED, new blinds etc</li> <li>• WPA are compliant with government regulations. WPA respect the hall's heritage and seek Council's consent to improvements</li> <li>• WPA re considerate of their neighbours, require insurance for large bookings and heavily scrutinize adolescent party bookings. WPA are considerate of the neighbours of the hall when allowing bookings</li> <li>• WPA report their financials, including to Council</li> <li>• WPA are able to negotiate suitable places for WardellCore and any other group offering support for flood affected people as they require it</li> <li>• Since the March 2022 flood, WPA has offered the hall to Wardell Public School for various activities, assemblies, presentations; Wardell School P&amp;C for fundraisers and meetings; Baptist Church for functions; Richmond River Can Growers Association for meetings, presentations; St Barnabas Church for Friday activities for children</li> <li>• All halls in the area are managed by either a progress association, community group or Council.</li> <li>• Community halls should not be used for business or private enterprise ventures.</li> <li>• Community halls should be managed by a group with no other interest other than managing the hall and making it available to all groups in the community</li> </ul>

### Delivery Program Strategy / Operational Plan Activity

Delivery Program Strategy CC3.3 is to “Support improved health outcomes by providing equitable access to community facilities”.

The Wardell and District Progress Association, as the proposed lessee, have committed to ensuring a broad range of community use of the facility, as per their original application, as reported to the May 2022 Finance and Facilities Committee meeting.

The submissions received provide support to that objective.

### Community Consultation Policy

The proposal was publicly notified from 1 June to 6 July 2022.



### **Financial / Risk Considerations**

There is a requirement for any lessee to pay for minor maintenance costs of the building and to pay rates and charges associated with the property. The proposed lessee has complied with these conditions in previous leases.

Council Policy is to apply the statutory minimum charged by Crown Lands (currently \$535 per annum plus GST) for community hall leases to not-for-profit community-based groups.

The preferred term, as per the current policy, is now four years.

### **Options**

The options are to approve the lease, not to approve, or amend the condition.

The recommendation is to approve the lease, which is consistent with Council's decision from the May 2022 Ordinary meeting.

### **RECOMMENDATIONS**

1. That Council, in accordance with the provisions of the Local Government Act 1993, approves a new lease of 49 Richmond Street, Wardell to the Wardell and District Progress Association, for a term of four years at a rent equal to the statutory minimum charged by Crown Lands (currently \$535 per annum plus GST).
2. That Council authorises the General Manager to affix the Council seal to the lease document in point one.

### **Attachment(s)**

1. Lease - Wardell and District War Memorial Hall - Submissions [⇒](#)

## 9.6 Donations - Community and Sporting Groups - 2022/23

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### 9.6 Donations - Community and Sporting Groups - 2022/23

<b>Section</b>	Communications
<b>Objective</b>	To allocate the community and sporting groups donations for 2022/23

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#### **Background**

Council has two policies where submissions are called from the community each year for funding assistance.

The two policies are:

- Donations - Financial Assistance for Community Groups
- Donations - Community Sporting Groups Capital Works Assistance

The 2022/23 Operational Plan includes the following funding allocations for these programs:

- Donations - Financial Assistance for Community Groups \$80,000
- Donations - Community Sporting Groups Capital Works Assistance \$32,000

In accordance with a resolution from the June 2022 Ordinary meeting, a working party of Councillors met on 11 July 2022 to identify a preferred allocation of available funds, based on submissions received during the preparation of the 2022/23 Operational Plan. Councillors Cadwallader, Johnston, McCarthy, Bruem, Chate and Ramsey were in attendance.

The purpose of this report is to consider the recommendations from that meeting and confirm the allocation of the donations for 2022/23.

#### **Key Issues**

- Fair and equitable allocation of Council monies

#### **Discussion**

Details of the submissions received for donations were distributed to all Councillors prior to the working party meeting and have been loaded to the Councillor Hub.

The submissions are lengthy and have not been reproduced within this business paper. A complete copy of all the submissions will be available at the Council meeting, or if a hard copy is required prior to the meeting, these can be arranged through the General Manager's office.

#### **Donations Financial Assistance for Community Groups**

Table one provides a summary of the various submissions for general donations and the final column is the recommended donation amount.

Table One: Submissions for Community Donations

Ref	Applicant	Project	Amount Requested (\$)	Amount Approved (\$)
1	Ballina Hospital Auxiliary	Venue hire fees at the Ballina Jockey Club for the Craft Show	2,500	2,000
2	Ballina Jetboat Surf Rescue **	Consumables for Rescue Vehicles	3,000	0
3	Ballina Jetboat Surf Rescue **	Renewals and Insurances for Rescue Vehicles	9,000	9,000
4	Lions Club of Ballina Inc.	Venue hire fees at the Richmond Room for monthly Club Board meetings	2,040	1,632
5	Breast Cancer Support group (Bosom Buddies) ***	Venue hire fees at the Kentwell Centre for monthly meetings	550	440
6	Community Sewing Group	Venue hire fees at the Northlakes Hall for regular meetings and sewing lessons	1,359	1,087
7	Lennox Head VIEW Club	Venue hire fees at the Lennox Head Cultural Centre for meetings	1,500	1,200
8	St Andrews Village Auxiliary	Purchase/replace Christmas lights and display	1,000	1,000
9	Rotary Club of Ballina on Richmond **	Promote and manage a "Ballina says NO to Domestic Violence" walk event	3,000	3,000
10	Rous Mill and District Memorial Hall	Insurance costs and the professional assistance of a Chartered Accountant	4,091	2,046
11	Rotary Club of Ballina on Richmond **	Promote and manage the "Rotary Duck Race" event	3,500	3,500
12	Lennox Arts Board Inc	Promote and manage a range of Arts & Cultural event activities	5,871	500
13	Ballina Hot Meal Centre Inc	Purchase food staples to continue to provide free meals to the community	1,000	1,000
14	Alstonville-Wollongbar Rural Fire Brigade	Wheelchair toilet fittings for the new station extension to be built	438	438
15	Lennox Head Residents' Association Inc ** Heritage Committee	Venue hire fees at the Lennox Head Cultural Centre; fees at the Lennox Head Markets and marketing in conjunction with Centenary activities	1,250	1,000

## 9.6 Donations - Community and Sporting Groups - 2022/23

Ref	Applicant	Project	Amount Requested (\$)	Amount Approved (\$)
16	Ballina and District Ministers Association Inc	Promote and run the 2022 Ballina Riverside Carols event	5,000	5,000
17	Ballina & District Historical Society Inc	Install a new kitchen in the Ballina District Museum facility	3,367	3,367
18	Lions Club of Lennox Head Inc	Operational costs associated with fundraising activities	1,814	1,814
19	Dementia Inclusive Ballina Alliance	Design, preparation and circulation of a quarterly newsletter to reach those living with Dementia	1,000	1,000
20	Meerscham Vale Hall	Landscaping materials to remedy the recent rain damage to the front entrance of the hall	1,080	1,080
21	Northern NSW Helicopter Rescue Service Limited	Branded marquee to keep volunteers protected from the elements at fundraising activities and events	995	995
22	Country Womens Association of NSW – Ballina Branch	Install solar power system for the CWA Hall	6,000	6,000
23	Ballina Shire Concert Band Inc	Venue hire fees at the Lennox Head Cultural Centre in holding their 140th Band Concert	1,622	1,298
24	Lennox Head Residents' Association Inc ** Coast Care Committee	Equipment and a shade shelter to conduct repair works at various Lennox Head sites that complement Council works; and for associated insurance	1,600	500
25	Lennox Head Residents' Association Inc ** Boomerang Bags	Venue hire fees at the CWA Hall for the manufacture of reusable shopping bags	600	480
26	Lennox Head Residents' Association Inc **	Venue hire fees at the CWA Hall for monthly meetings and association insurance	440	352
27	Lennox Head Playgroup ***	Venue hire fees at the Lennox Head Cultural Centre; and a portable gazebo for children's activities	4,190	3,352
28	Ballina Senior Citizens Inc	Installation of an air conditioning unit for Wigmore Hall	5,000	5,000
29	Pearces Creek Hall Inc ** - Painting	External painting and timberwork costs for Pearces Creek Hall	7,755	7,755

## 9.6 Donations - Community and Sporting Groups - 2022/23

Ref	Applicant	Project	Amount Requested (\$)	Amount Approved (\$)
30	Pearces Creek Hall Inc ** - Insurance	Annual insurance policy costs for Pearces Creek Hall	1,000	500
31	Rous Public School P and C Association *	Operational expenses for the Bonfire Night and Fireworks Display	15,000	10,000
32	The Healthy Minds Club *	Operational expenses for the Community Connect Campout	25,000	0
33	Our Kids	Temporary fencing for the Our Kids day out	1,000	1,000
34	Healthy Hospo Hearts ***	Swimming pool and BISC passes for fundraising efforts	2,664	2,664
			<b>125,226</b>	<b>80,000</b>
<p>* late application</p> <p>** more than one application from the same organisation</p> <p>*** not incorporated</p>				

In determining the applications and to ensure the allocation was fair and equitable, with funding provided to most requests, the working party agreed to the following:

- requests for venue hire fees approved to 80%
- requests from community halls seeking building insurance funded to 50%
- where there were multiple requests from the same organisation, that partial or nil approval be granted

### Donations Community Sporting Groups Capital Works Assistance

Table two outlines applications received for the community sporting groups capital works assistance program.

**Table Two: Submissions for Community Sporting Groups**

Ref	Applicant	Project	Amount Requested (\$)	Amount Approved (\$)
1	Alstonville Croquet Club Inc	Purchase of an outdoor awning for the Clubhouse	4,000	4,000
2	Ballina Touch Association Inc	Purchase a ride-on line marking machine	10,000	0
3	Ballina Croquet Inc	Development Application and Planning Fees in relation to a new croquet facility	10,000	0
			<b>24,000</b>	<b>4,000</b>

## 9.6 Donations - Community and Sporting Groups - 2022/23

The Ballina Croquet Inc submission seeking development application fee and planning fees was not considered as no location has been confirmed for a new croquet facility.

The request from Ballina Touch Association for the purchase of a ride-on line marking machine is inconsistent with the Council policy, which states that Council funds cannot be used to purchase removable fixtures or fittings.

### Delivery Program Strategy / Operational Plan Activity

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

- CC2.1 Create events and activities that promote interaction and education as well as a sense of place
- CC2.2 Encourage community interaction, volunteering and wellbeing
- CC2.3 Assist disadvantaged groups within our community
- CC3.3 Support improved health outcomes by providing equitable access to community facilities

### Community Consultation Policy

The donations program was promoted in Council's Community Connect, eNews and social media throughout April and May 2022. Community groups were emailed inviting applications.

### Financial / Risk Considerations

Council has allocated funds in the 2022/23 financial year of \$80,000 for Financial Assistance for Community Groups and \$32,000 for Community Sporting Groups Capital Works Assistance.

### Options

The options are to support or amend the recommendations from the meeting.

### RECOMMENDATIONS

1. That Council confirms the following Donations – Financial Assistance for Community Groups for 2022/23.

Ref	Applicant	Project	Amount Approved (\$)
1	Ballina Hospital Auxiliary	Venue hire fees at the Ballina Jockey Club for Annual Craft Show	2,000
2	Ballina Jetboat Surf Rescue	Consumables for Rescue Vehicles	0
3	Ballina Jetboat Surf Rescue	Renewals and Insurances for Rescue Vehicles	9,000

## 9.6 Donations - Community and Sporting Groups - 2022/23

Ref	Applicant	Project	Amount Approved (\$)
4	Lions Club of Ballina Inc.	Venue hire fees at the Richmond Room for monthly Club Board meetings	1,632
5	Breast Cancer Support group (Bosom Buddies)	Venue hire fees at the Kentwell Community Centre for monthly meetings	440
6	Community Sewing Group	Venue hire fees at the Northlakes Hall for regular meetings and sewing lessons	1,087
7	Lennox Head VIEW Club	Venue hire fees at the Lennox Head Cultural Centre for regular meetings	1,200
8	St Andrews Village Auxiliary	Purchase/replace Christmas lights and display	1,000
9	Rotary Club of Ballina on Richmond	Promote and manage a "Ballina says NO to Domestic Violence" walk event	3,000
10	Rous Mill and District Memorial Hall	Insurance costs and the professional assistance of a Chartered Accountant	2,046
11	Rotary Club of Ballina on Richmond	Promote and manage the "Rotary Duck Race" event	3,500
12	Lennox Arts Board Inc	Promote and manage a range of Arts & Cultural event activities	500
13	Ballina Hot Meal Centre Inc	Purchase food staples to continue to provide free meals to the community	1,000
14	Alstonville-Wollongbar Rural Fire Brigade	Wheelchair toilet fittings for the new station extension to be built	438
15	Lennox Head Residents' Association Inc Heritage Committee	Venue hire fees at the Lennox Head Cultural Centre; hire fees at the Lennox Head Markets and marketing material in conjunction with Centenary activities	1,000
16	Ballina and District Ministers Association Inc	Promote and run the 2022 Ballina Riverside Carols event	5,000
17	Ballina & District Historical Society Inc	Install a new kitchen in the Ballina District Museum facility	3,367
18	Lions Club of Lennox Head Inc	Operational costs associated with fundraising activities	1,814

**9.6 Donations - Community and Sporting Groups - 2022/23**

<b>Ref</b>	<b>Applicant</b>	<b>Project</b>	<b>Amount Approved (\$)</b>
19	Dementia Inclusive Ballina Alliance	Design, preparation and circulation of a quarterly newsletter to reach those living with Dementia	1,000
20	Meerscham Vale Hall	Landscaping materials to remedy the recent rain damage to the front entrance of the hall	1,080
21	Northern NSW Helicopter Rescue Service Limited	Branded marquee to keep volunteers protected from the elements at fundraising activities and events	995
22	Country Women's Association of NSW – Ballina Branch	Install solar power system for the CWA Hall	6,000
23	Ballina Shire Concert Band Inc	Venue hire fees at the Lennox Head Cultural Centre associated with holding their 140th Band Concert	1,298
24	Lennox Head Residents' Association Inc Coast Care Committee	Equipment and a shade shelter to conduct repair works at various Lennox Head sites that complement Council works; and for associated insurance	500
25	Lennox Head Residents' Association Inc Boomerang Bags	Venue hire fees at the CWA Hall for the manufacture of reusable shopping bags	480
26	Lennox Head Residents' Association Inc	Venue hire fees at the CWA Hall for monthly meetings and association insurance	352
27	Lennox Head Playgroup	Venue hire fees at the Lennox Head Cultural Centre; and a portable gazebo for children's activities	3,352
28	Ballina Senior Citizens Inc	Installation of an air conditioning unit for Wigmore Hall	5,000
29	Pearces Creek Hall Inc - Painting	External painting and timberwork costs for Pearces Creek Hall	7,755
30	Pearces Creek Hall Inc - Insurance	Annual insurance policy costs for Pearces Creek Hall	500
31	Rous Public School P and C Association	Operational expenses for the Bonfire Night and Fireworks Display	10,000



## 9.6 Donations - Community and Sporting Groups - 2022/23

Ref	Applicant	Project	Amount Approved (\$)
32	The Healthy Minds Club	Operational expenses for the Community Connect Campout	0
33	Our Kids	Temporary fencing for the Our Kids day out	1,000
34	Healthy Hospo Hearts	Swimming pool and BISC passes for fundraising efforts	2,664
			<b>80,000</b>

2. That Council confirms the following Donations – Community Sporting Groups Capital Works Assistance Program for 2022/23.

Ref	Applicant	Project	Amount Approved (\$)
1	Alstonville Croquet Club Inc	Purchase and installation of an outdoor awning for the Clubhouse	4,000
2	Ballina Touch Association Inc	Purchase a ride-on line marking machine	0
3	Ballina Croquet Inc	Development Application and Planning Fees in relation to a new croquet facility for the region	0
			<b>4,000</b>

### Attachment(s)

Nil

## 9.7 Donations - Rates and Charges - 2022/23

### 9.7 Donations - Rates and Charges - 2022/23

<b>Section</b>	Financial Services
<b>Objective</b>	To obtain Council approval to donate the 2022/23 rates and charges in accordance with the Donations - Rates and Charges policy.

#### Background

Council's Donations – Rates and Charges policy was developed to provide guidelines for the management of rates and charges donations to community-based service organisations.

The policy identifies the various categories of organisations that provide a community-based service, which are located on Council or Crown Land controlled by Council, (there are some exceptions) and the level of assistance provided each year in respect to Council's rates and charges.

This policy has undergone numerous reviews over the years to ensure that it reflects the sentiment of each Council.

Even though a policy has been adopted, Council resolves annually to confirm the donation of the various rates and charges in accordance with Section 356 of the Local Government Act (LGA).

#### Key Issues

- Annual donation of rates and charges
- Equity
- Benefit and cost

#### Discussion

The following table provides details of specific fixed rates and charges to be donated for the 2022/23 rating year based on the policy.

All amounts have been rounded to the nearest dollar.

**Table One – Donations – 2022/23 Rates and Annual Charges**

Assess No.	Organisation	Ordinary Rate	Water Access	Waste-water Access	Storm-water	On Site Septic	Waste	Total (\$)
<b>Category A - 100% of all rates and charges donated</b>								
415027	Ballina Lighthouse SLSC	0	349	783	0	0	0	1,132
120347	Lennox SLSC	0	1,402	3,910	0	0	0	5,312
295613	Surf Life Saving FNC Branch Inc.	0	698	783	0	0	0	1,481
173390	Ballina CWA	0	224	783	0	0	401	1,408

## 9.7 Donations - Rates and Charges - 2022/23

Assess No.	Organisation	Ordinary Rate	Water Access	Waste-water Access	Storm-water	On Site Septic	Waste	Total (\$)
<b>Category B - 100% of all fixed rates and charges donated (excludes measurable user pays charges)</b>								
145397	Biala School	0	224	783	0	0	0	1,007
145363	Fox St Preschool	0	224	783	0	0	0	1,007
172661	Ballina Playgroup	0	224	783	0	0	0	1,007
172679	River Street Childrens Centre	0	224	783	0	0	0	1,007
213734	Lennox Preschool	0	224	783	0	0	0	1,007
418960	Wollongbar Preschool	0	224	783	0	0	0	1,007
151966	Rainbow Children's Centre	6,131	224	783	100	0	0	7,238
417590	Alstonville Community Preschool	0	224	783	75	0	0	1,082
115643	Alstonville Ag Society	4,562	922	3,107	300	0	0	8,891
235231	Meerschaum Vale Hall	1,245	224	0	0	70	0	1,539
254780	McLeans Ridges Hall	2,527	0	0	0	70	0	2,597
417338	Newrybar Hall	2,084	0	0	0	70	0	2,154
250663	Pearces Creek Hall	1,762	0	0	0	70	0	1,832
234170	Rous Mill Hall	2,137	0	0	0	70	0	2,207
230045	Tintenbar School of Arts Trustees	1,919	0	0	0	70	0	1,989
232013	Wardell Hall	3,961	224	783	50	0	0	5,018
186115	Wigmore Hall	0	224	783	0	0	0	1,007
264036	Alstonville RSL Sub Branch Hall	2,152	224	783	25	0	0	3,184
422684	Wollongbar Community Hall	0	224	783	50	0	0	1,057
213726	Lennox Scouts	0	224	783	0	0	0	1,007
253556	Alstonville Scouts	0	0	0	0	70	0	70
294243	Ballina Scouts	0	224	783	0	0	0	1,007
334289	Ballina Jetboat Surf Rescue	923	224	0	25	0	0	1,172
423070	Marine Rescue NSW	0	349	1,162	0	0	0	1,511
283527	Alstonville Plateau Historical Society	3,886	224	783	50	0	0	4,943
239675	Pimlico Hall	999	0	0	0	70	0	1,069
437477	Lennox Head Community Gardens Inc	0	224	0	0	0	0	224
410417	Ballina Community Gardens Inc	0	224	783	0	0	0	1,007
<b>Totals (Category A, B)</b>		<b>34,288</b>	<b>8,200</b>	<b>23,056</b>	<b>675</b>	<b>560</b>	<b>401</b>	<b>67,180</b>

## 9.7 Donations - Rates and Charges - 2022/23

The next table **provides estimates** of the water consumption-based charges that are to be donated on a quarterly basis during 2022/23, in addition to the fixed annual charges provided in the previous table. Actual amounts donated are determined by future quarterly water meter readings.

**Table Two – Donations – 2022/23 Estimated Volumetric Based Charges**

Assessment Number	Organisation	Estimated Water Consumption Bill (\$)	Estimated Wastewater Usage Bill (\$)	Estimated Total Bills (\$)
415027	Ballina Lighthouse & Lismore SLSC	630	330	960
120347	Lennox/Alstonville SLSC	1,940	1,330	3,270
295613	Surf Life Saving FNC Branch Inc.	2,085	632	2,717
173390	CWA of NSW (Ballina)	126	125	251
<b>Totals (Estimated)</b>		<b>4,781</b>	<b>2,417</b>	<b>7,198</b>

The next table provides a comparison between the estimated 2022/23 rates and charges donations and the actual 2021/22 rates and charges donations.

**Table Three – Donations – Comparison between 2022/23 and 2021/22**

Rate or Charge Description	Proposed 2022/23 Donations	Actual 2021/22 Donations	Difference (\$)	Difference (%)
Ordinary Rates	34,288	33,685	603	1.8
Water Access Charges	8,200	7,910	290	3.7
Water Consumption Charges	4,781	4,611	170	3.7
Wastewater Access Charges	23,056	23,056	0	0
Wastewater Usage Charges	2,417	2,417	0	0
Waste or Recycling Charges	401	387	14	3.6
On Site Sewage Management Fees	560	536	24	4.5
Stormwater Management Charges	675	675	0	0
<b>Totals</b>	<b>74,378</b>	<b>73,277</b>	<b>1,101</b>	<b>1.5</b>

The proposed 2022/23 donations are consistent with the 2021/22 financial year, allowing for the adopted rate and charge increases.

### **Delivery Program Strategy / Operational Plan Activity**

The donations are funded in the 2022/23 Operational Plan and budget.

### **Community Consultation Policy**

The Council Policy and Operational Plan are exhibited prior to adoption.

### **Financial / Risk Considerations**

Financial support to community organisations, allows the organisation to spend more money on providing their service(s) to the local community.

## **9.7 Donations - Rates and Charges - 2022/23**

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### **Options**

The options are to approve, or not approve, the rates and charges donations for each of the assessments detailed within this report.

The donations listed are consistent with the Council policy.

### **RECOMMENDATION**

That Council, in accordance with the Donations – Rates and Charges Policy, approves the donation of the 2022/23 rates and charges, as detailed within Tables One and Two of this report, which includes future estimated water consumption and wastewater usage charges, pursuant to Section 356 of the Local Government Act.

### **Attachment(s)**

Nil

## 9.8 Policy (Review) - Code of Meeting Practice

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### 9.8 Policy (Review) - Code of Meeting Practice

<b>Section</b>	Governance
<b>Objective</b>	To adopt the recently exhibited Code of Meeting Practice.

---

#### **Background**

Section 360 (3) of the Local Government Act (LGA) states as follows:

- 3) *A council must, not later than 12 months after an ordinary election of councillors, adopt a code of meeting practice that incorporates the mandatory provisions of the model code prescribed by the regulations. The adopted code may also incorporate the non-mandatory provisions and other provisions.*

The Office of Local Government (OLG) also recently released an updated Model Code of Meeting Practice and a council's adopted Code must not contain provisions that are inconsistent with the mandatory provisions (Section 360(4)).

Section 360 (5) of the LGA also states that:

- 5) *A council and a committee of the council of which all the members are councillors must conduct its meetings in accordance with the code of meeting practice adopted by it.*

Council reviewed the Code at the May 2022 Ordinary meeting and resolved as follows:

*That Council approves the exhibition of the draft Code of Meeting Practice, as per Attachment 2 of this report, in accordance with Section 361 of the Local Government Act, with an amendment to include provision for Councillors to obtain the General Manager's approval to attend a meeting via audio-visual means, as per draft Clauses 5.19 to 5.30 as outlined in this report.*

This review was based on the OLG's latest Model Code.

The purpose of this report is to adopt the revised Code of Meeting Practice following public exhibition. A copy of the exhibited Code is included as Attachment 1.

The Code of Meeting Practice was placed on public exhibition from the period 3 June to 1 July (28 days) with the submission period from 3 June to 15 July 2022 (42 days).

No submissions were received during the submission period.

#### **Key Issues**

- Mandatory and non-mandatory provisions of the Model Code
- Ensure adopted Code supports effective meeting procedures

### Discussion

Council last adopted a Code of Meeting Practice in March 2019 based on the then OLG Model Code.

The OLG released an updated Model Code in October 2021, with the Code still containing mandatory and non-mandatory provisions.

As reported to the May 2022 meeting, the major change between this new Code and the previous Code relates to information on how Councillors can attend meetings remotely through audio-visual (A-V) equipment, particularly Clauses 5.19 to 5.30. The current exemption that allows Councillors to attend by A-V, instead of in person, expired on 30 June 2022.

This is a major change to the Code in that the OLG template provides a prescriptive process for Councillors to attend a meeting by audio-visual link.

Effectively the request to attend by audio-visual link must be made in writing to the General Manager prior to the meeting and the Council must then approve, or decline, the request at the meeting. The Councillor requesting approval can participate in the debate.

The ability to attend meetings by audio-visual link commenced as a result of the COVID-19 pandemic, when the Office of Local Government relaxed the requirement to physically attend meetings to be able to vote.

The current exemption expired on 30 June 2022 and from that date onwards Councillors will only be able to attend by audio-visual link if the Code of Meeting Practice permits that to do so. In effect, this means that all Councillors will need to be physically present at the July 2022 Ordinary meeting, until the new Model Code is adopted.

The following clauses were included in the draft exhibited Code following the resolution from the May 2022 Ordinary meeting, to clarify how a Councillor is to attend a meeting by audio-visual link.

- 5.19 *Councillors may attend and participate in meetings of the council and committees of the council by audio-visual link.*
- 5.20 *Notification by a councillor to attend a meeting by audio-visual link must be made in writing to the general manager prior to the meeting in question.*
- 5.21 *Councillors may provide notification of their intention to attend more than one meeting by audio-visual link.*
- 5.22 *Delete*
- 5.23 *Delete*
- 5.24 *Delete*
- 5.25 *Delete*
- 5.26 *Delete*
- 5.27 *Delete*

## 9.8 Policy (Review) - Code of Meeting Practice

---

- 5.28 *This code applies to a councillor attending a meeting by audio-visual link in the same way it would if the councillor was attending the meeting in person. Where a councillor is attending a meeting by audio-visual link under this code, they are to be taken as attending the meeting in person for the purposes of the code and will have the same voting rights as if they were attending the meeting in person.*
- 5.29 *A councillor must give their full attention to the business and proceedings of the meeting when attending a meeting by audio-visual link. The councillor's camera must be on at all times during the meeting except as may be otherwise provided for under this code.*
- 5.30 *A councillor must be appropriately dressed when attending a meeting by audio-visual link and must ensure that no items are within sight of the meeting that are inconsistent with the maintenance of order at the meeting or that are likely to bring the council or the committee into disrepute.*

### **Delivery Program Strategy / Operational Plan Activity**

The Code of Meeting Practice is an important component of ensuring accountability and transparency in Council's decision making processes.

### **Community Consultation Policy**

Section 361 of the Local Government Act requires councils to exhibit any draft Code of Meeting Practice for not less than 28 days inviting public submissions and a total of 42 days must be allowed for submissions to be received.

### **Financial / Risk Considerations**

Council has a statutory requirement to review the Code of Meeting Practice within 12 months of an election.

### **Options**

The options are to adopt the exhibited Code of Meeting Practice, or identify further amendments, which would then potentially require further exhibition, dependent on the magnitude of those changes.

The recommendation is to adopt the exhibited Code of Meeting Practice, which is consistent with the May 2022 Ordinary meeting resolution.

### **RECOMMENDATION**

That Council adopts the exhibited Code of Meeting Practice, as per Attachment 1 to this report.

### **Attachment(s)**

1. Policy (Review) - Code of Meeting Practice (as exhibited) [⇒](#)



## 9.9 Policy (Review) - Related Party Disclosures

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### 9.9 Policy (Review) - Related Party Disclosures

<b>Section</b>	Financial Services
<b>Objective</b>	To review the Related Party Disclosures Policy.

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#### **Background**

The objective of the Related Party Disclosures policy is to ensure that all relevant related party transactions are identified on a periodic basis in a manner that facilitates complete and effective disclosure in the annual general purpose financial statements.

The Local Government Act 1993 and Local Government (General) Regulation 2005, requires all local government organisations in NSW to produce annual financial statements that comply with Australian Accounting Standards.

Councils must disclose certain related party relationships and related party transactions together with information associated with those transactions in their general purpose financial statements, in order to comply with Australian Accounting Standard Board (AASB) standard 124 Related Party Disclosures (AASB 124).

The focus of this report is to ensure the policy is contemporary and effective.

#### **Key Issues**

- An effective framework and procedures that ensure the complete identification and disclosure of related party transactions and relationships
- Whether the policy meets the requirements of Council and current legislation and is written using clear and concise plain English

#### **Discussion**

The objectives of having a Related Party Disclosures policy include:

- a) ensuring that there are clearly defined procedures for periodically identifying which persons are Council's key management personnel (KMP) and what are KMP related party relationships, including definitions and examples of close family members
- b) providing concise guidance on what constitutes related party transactions and relationships, and factors needing to be considered when determining whether transactions or relations are or are not captured by the disclosure requirements
- c) identifying the procedures and approved forms for the annual reporting of related party transactions, including the Related Party Identification Form and Related Party Transactions Notification Form

## 9.9 Policy (Review) - Related Party Disclosures

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- d) ensuring Council's general purpose financial statements comply with AASB 124 Related Party Disclosures

Related party disclosures are required of Key Management Personnel (KMP), as their role, through their decision-making power, can have a significant material impact on the financial position of a council. KMPs are persons having authority and responsibility for planning, directing and controlling the activities of Council, directly or indirectly.

For Council, KMPs include:

- Mayor
- Councillors
- General Manager
- Directors

KMPs also include any and all people occupying or acting in the above positions during the financial year for a reasonable period of time.

Related parties include Council's KMP, their close family members, and any entities that they or any of their close family members control or jointly control.

A related party transaction is any transaction (whether a transfer of resources, services or obligations) between the reporting local government and any of the related parties, regardless of whether a price is charged. If there is a related party transaction with Council applicable to a reporting financial year, AASB 124 requires Council to disclose in the financial statements the nature of the related party relationship and information about the transaction, including outstanding balances and commitments associated with the transaction.

The following transactions or provisions of services are examples of related party transactions:

- Paying rates
- Use of Council owned facilities such as swimming pools, libraries, parks, sporting fields and other public open spaces (whether charged a fee or not)
- Attending Council functions that are open to the public
- Employee compensation whether it is for KMP or close family members of KMP
- Application fees paid to Council for licences, approvals or permits
- Lease agreements for housing rental (whether for a Council owned property or a property sub-leased by Council)
- Lease agreements for commercial properties
- Monetary and non-monetary transactions between Council and any business or associated entity owned or controlled by the related party (including family) in exchange for goods and / or services provided by / to Council (trading arrangement)
- Sale or purchase of any property owned by Council, to a person identified above
- Sale or purchase of any property owned by a person identified above, to Council
- Loan arrangements
- Contracts and agreements for construction, consultancy, or services

## **9.9 Policy (Review) - Related Party Disclosures**

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Council's Related Party Disclosures policy provides an overarching framework and the detailed procedures required for all members of its KMP to periodically provide notifications to the General Manager of any existing or potential related party transactions between Council and any of their related parties during a financial year, and any changes to previously notified related party relationships and transactions relevant to the subject financial year.

The policy was last reviewed in April 2018. A review of the current policy has been completed and the amended policy is included as Attachment 1.

The policy review found that Council's current policy is still contemporary in respect to current legislation and reporting requirements. Policy enhancements recommended are to update the references to 'Group Managers' to 'Directors'; and to include additional explanatory information and examples of related party transactions in Attachment C.

### **Delivery Program Strategy / Operational Plan Activity**

The Related Party Disclosures Policy aligns with CSP Outcome EL1 'Decision making is inclusive, transparent and underpinned by sustainability'.

### **Community Consultation Policy**

The policy will be placed on public exhibition enabling the community to provide a submission on the revised policy.

### **Financial / Risk Considerations**

Compliance with AASB 124 Related Party Disclosures as part of Council's annual financial statements.

### **Options**

Council may accept or amend the proposed changes to the policy. The changes recommended are considered enhancements which do not change the policy direction in any way. Furthermore, the changes do not introduce new policy requirements or remove existing requirements.

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

## **RECOMMENDATIONS**

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

### **Attachment(s)**

1. Policy (Review) - Related Party Disclosures ⇌

## **9.10 Policy (Review) - Councillor and Staff Interaction**

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### **9.10 Policy (Review) - Councillor and Staff Interaction**

<b>Section</b>	Governance
<b>Objective</b>	To review the Councillor and Staff Interaction Policy.

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#### **Background**

All of Council's existing policies are progressively reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Councillor and Staff Interaction policy.

Council first adopted this policy in May 2004 and the policy is typically reviewed following a Council election.

Council adopted the current policy in April 2017.

#### **Key Issues**

- Whether the policy meets the requirements of Council and current legislation
- Clarity of roles between Councillors and staff in respect to interaction

#### **Discussion**

It is essential that councils have a councillor and staff interaction policy to ensure that all parties are clear on the boundaries for appropriate interaction. The existing Council policy is based on the model document provided by the Office of Local Government (OLG).

The OLG released a new Model Councillor and Staff Interaction Policy in April 2022, which is similar to the existing policy.

A copy of the updated OLG Model Policy is included as Attachment 1 to this report, with Council's existing policy available for review on Council's website.

Key clauses in the new Model Policy include:

- Positive working relationships are a key element to any council's success (Preface)
- The Policy should be read in conjunction with Council's Code of Conduct (clause 1.2)
- Councillors cannot direct staff, with the General Manager directed by resolution (clause 4.7 c))
- The General Manager is responsible for implementing lawful decisions without undue delay (clause 4.8)

## **9.10 Policy (Review) - Councillor and Staff Interaction**

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- Councillors do not have a right to matters they are only curious about (clause 5.1)
- Councillors should only contact the General Manager and staff whose positions are included in Schedule 1 of the Model Policy (clause 6.1)
- Appropriate and inappropriate interactions examples are provided (Part 8)

As with other model documents provided by the OLG, the items in black font are the minimum standard and items identified as red allow for amendments.

It is actually not mandatory for Council to adopt this Model Policy, as it is a Model Policy and not a Model Code.

Model Codes, such as the Code of Meeting Practice and Code of Conduct, set minimum standards, which a council cannot dilute.

However, a Model Policy is not prescribed, and is only offered as a guide to councils, as best practice.

The following comments are made in respect to the items marked as red in the Model Policy.

- Clause 1.2 – Council name to be inserted – Ballina Shire
- Clause 4.6 – Number of councillors – Ten
- Clause 5.3 – Councillor Support Officer – This position is the Personal Assistant to Mayor and General Manager. Support is also provided by a number of other staff.
- Clause 5.4 d) – Request a staff member be present at a meeting. There are some concerns that this is fairly open ended, however it is recommended that it be included, to clarify that this option is available, as Clause 5.8 clarifies the approval process.
- Clause 5.7 – Timeframes for responses. Some enquiries can be complex and take a longer period of time, however as a minimum a Councillor should receive a response within five working days.
- Clause 5.8 – Notification time for a staff member to attend a meeting. The preferred period is at least five working days, to assist with scheduling.
- Clause 5.18 – Reporting on Councillor requests. The Model Policy provides for regular reporting on Councillor requests and responses. From an operational perspective this will be difficult to report accurately, as Councillor requests are received in a wide range of formats (email, phone calls, in meetings etc). There also seems to be little benefit in providing a report to Council on the number and response times.

If Councillors have concerns with response times, this can be raised with the General Manager at any time, and the cost of compiling and reporting this data, does not justify any benefits to be gained. On that basis the recommendation is to delete this clause.

## **9.10 Policy (Review) - Councillor and Staff Interaction**

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- Clause 6.5 – As per Clause 5.3
- Schedule 1 – Authorised staff contacts. Standard practice has been for the General Manager, the Directors, and the Section Managers to be the approved contacts, along with the Personal Assistant to the Mayor and General Manager.

### **Delivery Program Strategy / Operational Plan Activity**

The Councillor and Staff Interaction Policy is an important element in the effective functioning of a council.

### **Community Consultation Policy**

As this is a Model OLG policy, designed for Councillors and staff, there is no legislative requirement to exhibit the policy for public comment.

### **Financial / Risk Considerations**

Inappropriate interactions between Councillors and staff can lead to a poor performing council, which is why it is important to have this policy in place and to ensure that there is compliance with the policy.

### **Options**

The options are to adopt the OLG Model Policy or provide further enhancements.

The recommendation is to adopt the OLG Model Policy, as attached to this report, as it is provided as a best practice guide to councils, along with a number of amendments to the red font in the Model Policy, as outlined in this report.

### **RECOMMENDATION**

That Council adopts the Office of Local Government's Model Councillor and Staff Interaction Policy, as per Attachment 1 to this report, with the following additions in respect to the items marked as red font in the attachment:

- Clause 1.2 – Ballina Shire Council
- Clause 4.6 – Ten Councillors
- Clause 5.3 – Councillor Support Officer – Personal Assistant to Mayor and General Manager.
- Clause 5.4 d) – Retain this clause
- Clause 5.7 – Five working days
- Clause 5.8 – Five working days
- Clause 5.18 – Delete

## **9.10 Policy (Review) - Councillor and Staff Interaction**

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- Clause 6.5 – Councillor Support Officer – Personal Assistant to Mayor and General Manager.
- Schedule 1 – General Manager, Directors, Section Managers and the Personal Assistant to the Mayor and General Manager.

### **Attachment(s)**

1. Model Office of Local Government - Councillor and Staff Interaction Policy  
[⇒](#)

## 9.11 Tender - Geotechnical Consultancy Services

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### 9.11 Tender - Geotechnical Consultancy Services

**Section** Engineering Works

**Objective** To report the outcomes of the tender evaluation for the Tender - Geotechnical Consultancy Services

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#### **Background**

The works to be undertaken under this contract are Geotechnical Consultancy Services.

The background to this is that Council staff often engage with the market on a project-by-project basis for these services, which results in number of inefficiencies.

Firstly, the time taken to prepare request for quotation documents and assess submissions detracts from other duties that need to be undertaken.

Secondly, once it has been decided that geotechnical services are required, there are inherent lead times in waiting for sufficient quotes to comply with Council's procurement policy and procedures.

The preferred approach is to have a tender panel in place for a period of three years to create efficiencies in the procurement process.

Tenders were subsequently called on 12 May 2022 and at the close of tenders on 2 June 2022, eight tender submissions were received.

This report outlines the results of the tender process.

#### **Key Issues**

- Comply with the Local Government (General) Regulation 2021
- Obtain value for money

#### **Discussion**

Eight companies downloaded the documentation with tenders received from:

- Douglas Partners Pty Ltd
- CMW Geosciences (NSW) Pty Ltd
- D&N Geotechnical Pty Ltd
- Regional Geotechnical Solutions Pty Ltd
- Macquarie Geotechnical Pty Ltd
- Civil Consult Pty Ltd
- Spec Geotechnical Testing Pty Ltd
- Geotechnical Investigations Pty Ltd



## 9.11 Tender - Geotechnical Consultancy Services

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

- Insurance
- Work Health and Safety
- Required registrations or accreditations

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

- Pricing structure 70%
- Local and community 15%
- Experience and capability 15%

Geotechnical Investigations Pty Ltd has been assessed as the preferred tenderer based on the evaluation.

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

### **Delivery Program Strategy / Operational Plan Activity**

The content of the report is consistent with Delivery Program Strategy – EL3.3 – Deliver responsive and efficient services.

### **Community Consultation Policy**

Council has undertaken a public tender process in accordance with the Local Government (General) 2021.

### **Financial / Risk Considerations**

This tender does not pose any additional financial burden, or risk, to Council as the geotechnical services will need to be procured regardless of whether this is through a tender, or an individual request for quotations.

The total cost of the preferred tender, for the three-year period, is approximately \$150,000 excluding GST.

### **Options**

The options for Council are set out in Part 7 Section 178 (1) of the Local Government (General) Regulation 2021, which requires that:

*(1) After considering the tenders submitted for a proposed contract, the council must either:*

- (a) accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*
- (b) decline to accept any of the tenders.*

Based on the tender evaluation, it is recommended that Council accept the tender from Geotechnical Investigations Pty Ltd.

**RECOMMENDATION**

1. That Council in accordance with the Local Government (General) Regulation 2021 Section 178(1)(a), accepts the tender from Geotechnical Investigations Pty Ltd for Geotechnical Consultancy Services for the total amount of approximately \$150,000 (excluding GST) for the three-year period of the tender.
2. That Council authorises the General Manager to sign the contract documents.

**Attachment(s)**

1. Confidential memorandum - Tender for Geotechnical Consultancy Services (Under separate cover) (Confidential)

## **9.12 Tender - Traineeship / Apprenticeship Services**

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### **9.12 Tender - Traineeship / Apprenticeship Services**

**Section** People and Culture

**Objective** To report the outcomes of the tender evaluation for the Tender - Traineeship / Apprenticeship Services

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#### **Background**

The works to be undertaken under this contract are the Provision for Traineeship / Apprenticeship Services for a two-year period. The engagement of trainees and apprentices is an important recruitment process for the future operations of Council. Currently Council engages trainees and apprentices in several fields including horticulture, water operations, mechanical, electrical, civil construction, carpentry, and administration.

The engagement of a group training organisation provides Council with specialist advice and assistance in the recruitment, training and support requirements associated with fulfilling state training and other legislative requirements.

Tenders were called in May 2022 and at the close of tenders on 2 June 2022, six tender submissions were received. This report outlines the results of the tender process.

#### **Key Issues**

- Comply with the Local Government (General) Regulation 2021
- Obtain value for money

#### **Discussion**

Eleven companies downloaded the documentation with tenders received from:

- Corporate Staff Solutions
- Hunter Valley Training Company
- Programmed Health Professionals Pty Ltd
- HGT Australia Limited t/a NovaSkill
- Maxima Group
- Hospitality Training Network Limited t/a HTN

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

- Insurances
- Previous Local Government Experience and Knowledge of Relevant Legislation

## 9.12 Tender - Traineeship / Apprenticeship Services

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

- Pricing structure 35%
- Capability Knowledge of Industry and Experience 50%
- Local and community 15%

HGT Australia Limited t/a NovaSkill has been assessed as the preferred tenderer based on the evaluation. Details of the assessment and pricing options have been provided to Councillors by a confidential memorandum.

### **Delivery Program Strategy / Operational Plan Activity**

The content of the report is consistent with Delivery Program Strategy EL3.2 – Encourage a motivated and adaptive workforce.

### **Community Consultation Policy**

Council has undertaken a public tender process in accordance with the Local Government (General) 2021.

### **Financial / Risk Considerations**

Trainees are charged to the operating budgets where they are working.

### **Options**

The options for Council are set out in Part 7 Section 178 (1) of the Local Government (General) Regulation 2021, which requires that:

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

Based on the tender evaluation, it is recommended that Council accept the tender from HGT Australia Limited t/a NovaSkill.

### **RECOMMENDATIONS**

1. That Council in accordance with the Local Government (General) Regulation 2021 Section 178(1)(a), accepts the tender from HGT Australia Limited t/a NovaSkill for the Traineeship / Apprenticeship Services for a two-year period of the tender.
2. That Council authorises the General Manager to sign the contract documents.

### **Attachment(s)**

1. Confidential memorandum - Tender for Traineeship / Apprenticeship Services (Under separate cover) (Confidential)

## 9.13 Tender - Surf Life Saving Services

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### 9.13 Tender - Surf Life Saving Services

**Section** Open Spaces

**Objective** To report the outcomes of the tender evaluation for the Tender - Surf Life Saving Services

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#### **Background**

Council has historically contracted out the provision of professional surf lifesaving services on its beaches, with Surf Life Saving Services Pty Ltd trading as Australian Lifeguard Service being the incumbent provider.

The existing contract expired at the end of the 2021/22 season. In developing a new tender, Council specified existing core service levels that have previously been in place and included additional service levels for consideration.

A request for tender was advertised in May 2022 for surf lifesaving services for a four-year period. At the close of tenders on Tuesday 21 June 2022, one tender submission was received. This report outlines the results of the tender process.

#### **Key Issues**

- Comply with the Local Government (General) Regulation 2021
- Obtain value for money

#### **Discussion**

At the close of tender period on 21 June 2022, one tender submission was received from the following provider, being the existing provider:

- Surf Life Saving Services Pty Ltd trading as Australian Lifeguard Service

A tender evaluation panel was convened to assess the tender against the following mandatory criteria, being:

- WHS Management Systems – supplied and conform to legislation and regulation requirements
- Insurances – supplied conforming cover level

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

- Fees and Charges 30%
- Experience and Past Performance 25%
- Capability 30%
- Social and Community 15%

The evaluation panel scoring, and ranking based on the criteria and weighting is highlighted in the table below.

### 9.13 Tender - Surf Life Saving Services

Tender Assessment	Weighting (%)	Australian Service	Lifeguard
Fees and Charges	30		25
Experience and Past Performance	25		22.7
Capability	30		27
Social and Community	15		13.6
<b>Total</b>	<b>100</b>		<b>88.3</b>
<b>Ranking</b>			<b>1</b>

The proposed fee from the Australian Lifeguard Service for providing the core level of lifeguard services is \$432,623 (excluding GST) for Year One and a 3% annual increase for the remaining three years.

Core services (Schedule A) are based on Council's existing service level as per the table below.

Item	Beach Name	Minimum Lifeguards	Service Days per Week	Exclusions	Period of Service (NSW school holidays)
1	Seven Mile Beach	2	5 days/week Mon-Fri only	Weekends and public holidays (volunteers)	Approx 7 months Start Spring school holidays through Summer to end of Easter/Autumn school holidays
2	Sharpes Beach	2	7 days/week	School term days	Spring, Summer, Easter and Autumn school holidays
3	Flat Rock	1	7 days/week	School term days	Spring, Summer, Easter and Autumn school holidays
4	Shelly Beach	2	7 days/week	School term days	Spring, Summer, Easter and Autumn school holidays
5	Lighthouse Beach	2	5 days/week Mon-Fri only	Weekends and public holidays (volunteers) School term days	Spring, Summer, Easter and Autumn school holidays

In addition to the provision of core services, Council also invited submissions to undertake additional services.

These have previously been identified in the Coastal Public Safety Risk Assessment as options to consider implementing, noting annual reports and previous contractor feedback indicate the core service as meeting the needs of the community.

The cost of the additional services for Year One is in addition to the core service.

## 9.13 Tender - Surf Life Saving Services

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<b>Additional Services</b>	<b>Schedule</b>	<b>Additional Cost (\$) (excluding GST)</b>
Increase to Seven Months at Lighthouse Beach	B	74,951
QLD school holidays outside of NSW School Holidays	C	73,794
Increase to 2 Lifeguards at Flat Rock	D	24,955

Surf Life Saving Services Pty Ltd trading as Australian Lifeguard Service has been assessed as the preferred tenderer based on the evaluation.

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

### **Delivery Program Strategy / Operational Plan Activity**

The provision of lifeguard services on our beaches is aligned with the Delivery Program and Operational Plan (2022–26) actions as follows:

CC1.1 Actively promote safety and wellbeing strategies.

### **Community Consultation Policy**

Council has undertaken a public tender process in accordance with the Local Government (General) 2021.

### **Financial / Risk Considerations**

This report is provided to assist Council meet its statutory requirements in regard to tendering and procurement.

Beach safety is also a high risk activity and it is essential that Council has professional services available at the patrolled beaches.

In respect to funding, Council's 2022/23 budget for the provision of the Surf Lifesaving Contract is \$388,000 (ex GST) for maintaining the current service levels. Additional funding of \$44,623 (excluding GST) is required to meet the cost of Australian Lifeguard Services delivering the core services for 2022/23.

No funding sources have been identified to provide any additional services.

### **Options**

The options for Council are set out in Part 7 Section 178 (1) of the Local Government (General) Regulation 2021, which requires that:

*(1) After considering the tenders submitted for a proposed contract, the council must either:*

*(a) accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or*

*(b) decline to accept any of the tenders.*

### 9.13 Tender - Surf Life Saving Services

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

- (3) *A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:*
- (a) *postpone or cancel the proposal for the contract,*
  - (b) *invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details,*
  - (c) *invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,*
  - (d) *invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,*
  - (e) *enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,*
  - (f) *carry out the requirements of the proposed contract itself.*
- (4) *If a council resolves to enter into negotiations as referred to in subclause 3 (e), the resolution must state the following:*
- (a) *the council's reasons for declining to invite fresh tenders or applications as referred to in subclause (3) (b)–(d),*
  - (b) *the council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3) (e).*

The options include:

1. Not accept the tender and invite fresh tenders
2. Appoint Surf Life Saving Services Pty Ltd trading as Australian Lifeguard Service to provide core surf lifesaving services
3. Not accept the tender and enter into negotiations with Australian Lifeguard Service
4. Council may fund and implement additional services.

Option one is not recommended as Council has undertaken the tender process in accordance with the Local Government (General) Regulations 2021.

The market for professional lifeguard services is limited.

Option two is recommended as the preferred option as the appointment of Australian Lifeguard Service will deliver quality beach safety for the community.



## 9.13 Tender - Surf Life Saving Services

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This recommendation also requires a further report to Council to identify savings to offset the increase needed in the current budget.

Option three is not recommended as the tenderer has tendered in good faith.

The tenderer carries the risk of staff and equipment pricing over the four-year period and have done so under previous contracts.

While only one tender has been received, Australian Lifeguard Service has been a long-standing provider of lifeguard services to Ballina Shire, and a high number of coastal councils throughout NSW.

If option four, providing additional service levels is of interest, Council can add an additional point to the recommendation, confirming which additional services are required, and seeking a further report on the options to fund those additional services.

### RECOMMENDATIONS

1. That Council, in accordance with the Local Government (General) Regulation 2021 Section 178(1)(a), accepts the tender for the provision of core surf lifesaving services, as per Schedule A, for a four-year period from Australian Lifeguard Service for the amount of \$432,623 excluding GST (Year 1) with an annual 3% (or CPI if CPI is greater than 3%) cumulative increase in accordance with the provided schedules.
2. That Council authorises the General Manager to sign the contract documents.
3. That Council notes a further report will be submitted back to Council, potentially as part of the next Quarterly Financial Review, outlining the proposed budget adjustments of approximately \$45,000 to offset the impact of the tender amount being greater than the current allocated budget.

### Attachment(s)

1. Confidential memorandum - Tender for the Provision of Surf Lifesaving Services for a Four Year Period (Under separate cover) (Confidential)

## 9.14 Organisation Structure - Re-determination

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### 9.14 Organisation Structure - Re-determination

**Section** Governance

**Objective** To re-determine the Council organisation structure as per Section 333 of the Local Government Act.

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#### **Background**

Section 335 of the Local Government Act (LGA) outlines the functions of the general manager of a council with clauses (h) to (j) stating that the general manager is responsible for the appointment, direction and dismissal of staff; i.e.

- (h) to appoint staff in accordance with the organisation structure determined under this Chapter and the resources approved by the council,*
- (i) to direct and dismiss staff*
- (j) to implement the council's workforce management strategy*

The one staff member the elected council appoints is the general manager.

Even though the general manager employs the staff the elected council is responsible for determining the organisation structure.

This is outlined in section 332 of the LGA, which states, in part, as follows:

#### **332 Determination of structure**

- 1) *A council must, after consulting the general manager, determine:*
  - a) the senior staff positions within the organisation structure of the council,*
  - b) the roles and reporting lines (for other senior staff) of holders of senior staff positions,*
  - c) the resources to be allocated towards the employment of staff.*
- 1A) *The general manager must, after consulting the council, determine the positions (other than the senior staff positions) within the organisation structure of the council.*
- 1B) *The positions within the organisation structure of the council are to be determined so as to give effect to the priorities set out in the strategic plans (including the community strategic plan) and delivery program of the council.*
- 2) *A council may not determine a position to be a senior staff position unless:*
  - a) the responsibilities, skills and accountabilities of the position are generally equivalent to those applicable to the Executive Band of the Local Government (State) Award, and*
  - b) the total remuneration package payable with respect to the position is equal to or greater than the minimum remuneration package (within the*

## 9.14 Organisation Structure - Re-determination

*meaning of Part 3B of the Statutory and Other Offices Remuneration Act 1975 ) payable with respect to senior executives whose positions are graded Band 1 under the Government Sector Employment Act 2013 .*

In addition to Section 332, Section 333 states as follows:

### **333 Re-determination of structure**

*The organisation structure may be re-determined under this Part from time to time. The council must review, and may re-determine, the organisation structure within 12 months after any ordinary election of the council.*

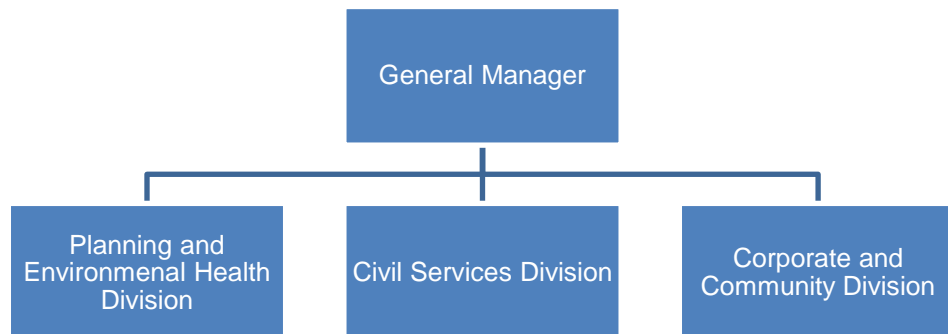
With the Council election held in December 2021, Council must review, and may re-determine the organisation structure, as per Section 333, by December 2022. The report seeks direction from Council to comply with Section 333.

### **Key Issues**

- Effective organisation structure
- Options

### **Discussion**

The current organisation structure was adopted by Council at the December 2018 Ordinary meeting, with the structure as follows.



Council also confirmed that the senior staff positions within the adopted structure, as required by Section 332 (1) and (2) of the LGA, are as follows:

- General Manager
- Director – Planning and Environmental Health
- Director – Civil Services
- Director – Corporate and Community

Senior staff has a specific meaning in the Local Government Act in that a defined senior staff member may be placed on a maximum five-year performance contract, albeit that their total remuneration package must be above the pre-determined amount as outlined in Section 332 (2) b).

The contract is a standard template provided by the Office of Local Government.

## 9.14 Organisation Structure - Re-determination

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All other permanent staff, other than senior staff, in the Council are employed in accordance with the Local Government Award.

There is currently a review underway in respect to the possibility of the senior staff reference being removed from the LGA, which would then result in the position of general manager being the one position on a performance-based contract.

This review is a result of the Independent Commission Against Corruption (ICAC) investigation of the former Canterbury City Council, referred to as Operation Dasha, part of which related to a situation where some councillors expressly or impliedly threatened to cause the dismissal of Council's General Manager unless he dismissed the Council's Director of City Planning (such as by terminating or not renewing the director's contract of employment) and appoint another person, chosen by the councillors, to that position.

A link to that report is as follows.

[Canterbury City Council - allegations concerning former councillors and other public officials \(Operation Dasha\) - Independent Commission Against Corruption \(nsw.gov.au\)](https://www.nsw.gov.au/canterbury-city-council-allegations-concerning-former-councillors-and-other-public-officials-operation-dasha-independent-commission-against-corruption)

ICAC recommendation number two from the report is:

*That the Department of Planning, Industry and Environment conducts a review into the "no reason" termination provision in the Standard Contract, which should canvass options such as requiring a two-thirds majority vote of a council, an absolute majority vote or the availability of mediation.*

The Office of Local Government and LGNSW are examining whether the removal of the "no reason" termination clause for the senior staff positions effectively means that those positions should then be covered by the Local Government Award and not on performance-based contracts. There are mixed views on this within the industry and it is uncertain as to when this review will be completed.

In respect to the current Council organisation structure the major objectives of the structure are to:

- Ensure the Council's planning functions (strategic planning, development assessment, public and environmental health, compliance etc) are within the one Division. The previous structure had the strategic planning and development assessment sections in different divisions, at arm's length, however that can, at times, result in some internal tensions in respect to certain strategic planning outcomes that may be difficult to practically implement.

Under this structure the one Director is able to identify the preferred recommendation prior to reporting to Council. It also ensures that staff with similar technical qualifications and experience are now located in the one Division.

## 9.14 Organisation Structure - Re-determination

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- Ensure there is a more reasonable spread of resources across the three divisions. Prior to this restructure all the field-based staff were within the one Division (Civil Services). With Council having over 200 field-based staff there was an imbalance in workload and resources across the organisation.

The Open Spaces Section (Manager – Cheyne Willebrands) now forms part of the Planning and Environmental Health Division and the Facilities Management Section (Manager – Craig Brown) now forms part of the Corporate and Community Division.

Integrating field and office-based staff within Divisions helps to break down barriers that can sometimes exist within a council, which in can turn can improve communication right across the entire council.

- The Civil Services Division has a major focus on project delivery and asset maintenance, with the main infrastructure areas of Engineering Works (roads, stormwater etc) and Water and Wastewater.
- The Corporate and Community Division brings together all the corporate and commercial functions, as well as a range of community services such as Community Facilities, Customer Service, Communication and Tourism.

The adopted organisation structure, inclusive of the major sections within Council, is as follows.

### Organisation Divisions and Sections

<b>Planning and Environmental Health Division</b>	<b>Civil Services Division</b>	<b>Corporate and Community Division</b>
Strategic Planning	Engineering Works	Communications and Customer Service
Development Assessment	Water and Wastewater	Financial Services
Public and Environmental Health	Infrastructure Planning	People and Culture
Open Spaces	Project Management Office	Commercial Services
	Resource Recovery	Facilities Management
		Information Services

### Delivery Program Strategy / Operational Plan Activity

An organisation structure that is aligned with Council's directions and goals helps to support the actions identified in the Delivery Program and Operational Plan.

### Community Consultation Policy

The organisation structure is not required to be exhibited for public comment. Any changes to existing staff positions are subject to Local Government Award consultation and notification requirements.

### Financial / Risk Considerations

Staff resources represent a major resource for Council and it is essential that the structure supports an effective and functioning workforce.

### Options

There are two options available:

1. Undertake a review of the organisation structure, which would typically involve the appointment of an external consultant.
2. Retain the current structure

In respect to option one, the last review of the organisation structure by an external consultant was completed in 2013. The recommendations in that review have been implemented, with some superseded by further changes to the structure.

There are a number of specialist consultants who provide this service to councils and the cost of a consultancy can range anywhere from \$20,000 to \$70,000.

From an operational perspective there are no significant factors that are identifying the need for an external review of the organisation and the preference is to retain the existing structure, until at least the next term of Council.

Council's benchmarks on a number of measures including external community satisfaction surveys and Office of Local Government comparative data, are typically equal to or better than median results.

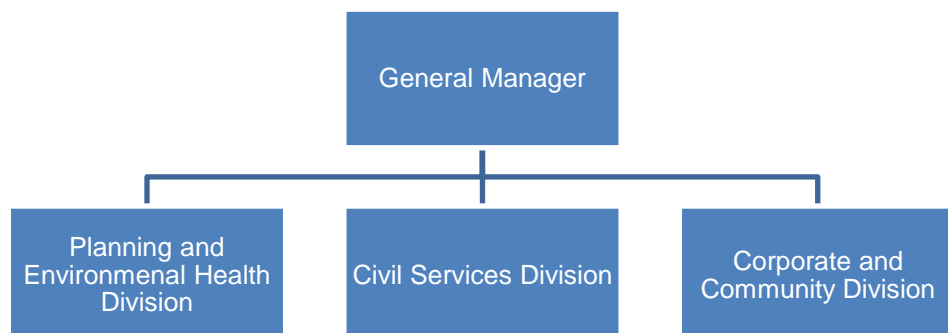
The last two and half years of the Covid-19 pandemic and the recent floods has also placed a great deal of pressure on Council's resources, particularly staff, and the recommendation is to maintain some stability and re-affirm the current structure as the preferred structure for this term of Council.

If Council is of the opinion that it would prefer an external review, quotations can be obtained from qualified consultants and reported back to Council for approval, along with confirming the funding source for the consultancy.

### RECOMMENDATION

That Council re-affirms the organisation structure and senior staff positions are as follows:

#### Structure



## **9.14 Organisation Structure - Re-determination**

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### **Senior Staff**

- General Manager
- Director – Planning and Environmental Health
- Director – Civil Services
- Director – Corporate and Community

### **Attachment(s)**

Nil

## 9.15 Delivery Program and Operational Plan - 30 June 2022 Review

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### 9.15 Delivery Program and Operational Plan - 30 June 2022 Review

**Section** Governance

**Objective** To provide the final quarterly review on the implementation of the 2021/22 to 2024/25 Delivery Program and 2021/22 Operational Plan.

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#### **Background**

Section 404 (5) of the Local Government Act states as follows:

#### ***Delivery Program***

*"The general manager must ensure that regular progress reports are provided to the council reporting as to its progress with respect to the principal activities detailed in its delivery program. Progress reports must be provided at least every 6 months".*

The Delivery Program (DP) (four-year focus) and the Operational Plan (OP) (one-year focus based on the priorities identified in the Delivery Program), are the two key documents outlining the Council's adopted priorities. Council currently combines the two documents to save on duplication with the combined document referred to as the DPOP in Council reports.

The DPOP forms part of the Office of Local Government's Integrated Planning and Reporting Framework (IP&R), which has the objective of trying to bring together a council's numerous plans to better "understand how they interact and inform each another, and to get the maximum benefit from their efforts by planning holistically for the future" (OLG IP&R guidelines page 4).

Further information on IP&R is available as per the following link:

<https://www.olg.nsw.gov.au/councils/integrated-planning-and-reporting/>

Even though only six-monthly reports are required, the preferred approach is to provide quarterly reports to ensure the information is timely.

This report represents the fourth and final review of the 2021/22 to 2024/25 Delivery Program and the 2021/22 Operational Plan, with the information based on the complete 2021/22 financial year. The review is included as a separate attachment.

The attachment provides an overview of all the actions and indicators included in the DPOP, with comments provided by the Director and / or Section Manager.

The 2021/22 DPOP is available on Council's website and the Councillor Pulse software.

#### **Key Issues**

- Compare results against adopted goals and priorities



**Discussion**

The DPOP is the key corporate document that outlines Council's goals and priorities, with a four-year forecast for the Delivery Program and a one-year action and indicator list for the Operational Plan.

The attachment provides an update on all the adopted actions and indicators in the DPOP for 2021/22. The attachment has two main sections:

- Program Actions – Outlines the status of all the adopted actions in the Operational Plan
- Service Indicators – Measures actual results as compared to the adopted indicators in the Operational Plan.

All items are marked with a green (on track for this financial year) amber (behind schedule or trending below target / benchmark) or red (off track or well below target / benchmark) traffic light.

There are 101 program actions listed in the Operational Plan and the following two tables provide an overview of the status of the actions on a number and percentage basis.

**Program Actions Summary – Number (#)**

<b>Division / Status</b>	<b>C&amp;C</b>	<b>Civil</b>	<b>PEH</b>	<b>Total</b>
Green	18	25	48	91
Amber	1	4	3	8
Red	0	0	2	2
<b>Total</b>	<b>19</b>	<b>29</b>	<b>53</b>	<b>101</b>

**Program Actions Summary – Percentage (%)**

<b>Division / Status</b>	<b>C&amp;C</b>	<b>Civil</b>	<b>PEH</b>	<b>Total</b>
Green	95	86	91	90
Amber	5	14	6	8
Red	0	0	4	2
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

The majority of actions have been completed or are on track where they are being completed across financial years. Items of note in the attachment include:

- Develop and sell Wollongbar Residential Land Holding (page 2) – The subdivision works are complete, and Council will now need to determine whether it wishes to proceed with a development on part of the site, to provide a more diverse range of housing, or sell all, or part of, the subdivision.

Council has resolved to undertake a feasibility assessment for a residential development and a Commercial Services Committee meeting has been scheduled for 8 August 2022 to review that report. The expression of interest for the Child Care Centre site has also closed and the outcomes from that process are scheduled to be reported to Council during August.

- Provide road maintenance intervention actions in accordance with response targets (page 7) - There were 5,424 pothole defects repaired during the quarter, which is approximately 2,500 more than the long-term average of 2,900 potholes per quarter.

This highlights the impact the floods have had on Council's road infrastructure.

- Deliver the Ballina SES Headquarters premises (page 11) – Council has now confirmed the preferred location, allowing this project to move to the design and approval stage.
- Deliver the Lennox Head Rural Fire Service (RFS) Shed at Byron Bay Road (page 11) – Planning consent has still not been obtained for the construction of this shed at Byron Bay Road. Council direction may be needed on this project in the near future to determine the preferred pathway forward.
- Implement the Sport and Recreation Facilities Plan (page 15) – In respect to this Plan, Council resolved to examine opportunities for Council facilities to be considered as part of the 2032 Brisbane Olympics.

The experience from the Gold Coast Commonwealth Games in 2018 is that the primary opportunities for associated sporting activity in our region come from pre-Olympic competition elements (e.g. training camps).

Ballina Shire is well placed in terms of proximity to Brisbane to host sporting teams for pre-Olympics preparation and training.

Through existing facilities and the broader infrastructure, the Shire is equipped to support athletes in a number of sports including field hockey, basketball, rowing, football, mountain biking, road cycling, sailing, surfing, swimming, table tennis, triathlon, volleyball and water polo.

Given the suite of sports that can be catered for using existing facilities and that the use of these facilities for high level competition is consistent with the Sport and Recreation Plan, no changes to Council's current sport and recreation planning is recommended, at this time.

Closer to the games, Council (in conjunction with NORJO) will need to more actively promote the region for pre competition activities and from a pre and post Olympics tourism perspective.

- Investigate smart parking technology to improve parking efficiency (page 16) - Council staff have been investigating options to improve timed car parking surveillance and enforcement.

Options have been considered for their viability and suitability taking into account our parking practices, which is to provide consistent, active, fair and safe access to parking spaces in the shire.

Generally, resources are concentrated on the busy town and village centre areas.

In considering the use of licence plate recognition (LPR), and a camera vehicle and other smart technology such as sensor parking, Council needs to decide what advantages these options have over traditional monitoring.

For example, is Council's aim to obtain more income, or to provide fairer access to timed parking spaces?

Current experience by parking officers is that timed parking spaces turnover to the extent that our aim of providing fair access to timed parking spaces is achieved with current methods.

Having an active on ground and in the field presence, ensures proactive and self-regulation throughout the day.

Often with the LPR, the operator of the moving surveillance vehicle cannot detect offences, other than staying overtime.

Using a camera car to detect offences in a relatively small parking precinct, and detection of abuse by a small number of alleged repeat offenders, would not be the most efficient use of Council resources.

Points to consider with LPR camera surveillance include;

- Camera vehicle is suitable only for monitoring timed parking. It is not suitable for monitoring other parking matters such as Disabled, Intersections, Loading Zones, Yellow lines etc. These offences require on the spot photographic evidence and contemporaneous notes to establish the required proof.
- Anonymous enforcement does not satisfy Council's responsibility to educate the public, other than by enforcement action.
- Contactless method of enforcement has the potential to produce a higher rate of customer complaints and court challenges as the normal checks cannot be carried out prior to issuing an infringement. For example, is the vehicle displaying a disabled parking permit? Is it broken down?
- If it is intended to issue PINs as an on-the-spot deterrent, the operator of the LPR camera vehicle would need to find a legal parking spot and return to the offending vehicle to issue the PIN. This is time consuming.
- Councils with much larger enforcement areas use the camera car to monitor hundreds and maybe thousands of timed parking spaces. This relates mainly to cities and large regional centres, with parking issues, unique to the area (transport/medical hubs and large commercial precincts).
- Given the need for on ground patrols, the use of a camera vehicle creates an inefficient use of resources. The area patrolled in the vehicle would also need to be patrolled on foot to pick up misuse of disabled spaces, loading zones, bus zones, taxi zones etc.

- Ballina Shire has timed parking zones that do not require intense enforcement. For example, there are many streets in the Ballina CBD where parking spaces very rarely become fully occupied, and there is ample availability of timed parking.

Sensor parking as a surveillance measure to improve parking enforcement is preferred as it is best suited to Council's current and future needs.

Sensor parking supports 'smart city' strategies and provides comprehensive reporting on parking occupancy, utilisation, compliance, non-compliance and turn over.

This allows Council to more accurately measure on street and off-street parking patterns to inform intelligence to develop future parking strategies.

Staff with sensor parking have more accurate evidence for issuing infringement notices and this can reduce in the field abuse and assault, as having real time information provides clearer evidence for enforcement and this improves fairness for all.

Sensor parking provides for targeted enforcement activity. This means staff can be directed towards people who have overstayed to take the necessary action. Improving time management allows greater coverage of parking areas and improved efficiency and surveillance by officers.

Sensors can also be integrated into Council's system and online services and provide people with real time parking information and to indicate where parking spaces are available and hence reduce traffic delays and congestion in areas.

This can also assist in limiting parking pressures, in particular areas, as it shows people the available parking across the whole precinct.

Having this electronic data also supports Council in legal cases when infringement notices are court elected, as the accurate information supports a successful court outcome and potentially reduces legal costs.

Staff are pursuing grant opportunities to finance the installation of parking sensor as the upfront cost can be in the hundreds of thousands of dollars.

- Implement Lake Ainsworth Coastal Management Plan (page 19) – The implementation of the actions in this plan is being delayed due to the high-water level.

Despite these delays a number of other related matters have been actioned as per the following summary.

With respect to nighttime use of the Lake foreshore, the key issues have been centred around broken bottles, waste and disruptive behaviour.

Council has had a mobile camera installed at Lake Ainsworth for some time now and this has proven useful in managing behaviour. However, it is important to recognise that cameras, whether fixed or otherwise, do not necessarily equate to easy identification of offender.

In terms of waste management, the preferred approach for Lake Ainsworth remains as having a limited number of bins, to minimise their presence in the parkland from an amenity perspective, and to encourage users to take their rubbish with them.

For broken bottles, a vacuum tool has been purchased to assist with the cleanup of areas where this occurs. Notably, broken bottles in public reserves is a broader issue beyond the Lake Ainsworth foreshore. Whilst the tool is helpful, again this is not a perfect solution to address what is a function of poor behaviour.

The approach going forward is to continue to use mobile cameras in various locations, including Lake Ainsworth.

The mobile cameras have the advantage of allowing Council to deploy the equipment to hot spots, without incurring significant costs, and maintenance liability for permanent camera installations.

In addition to this Council officers met with representatives of Reflections Holiday Parks in June 2022. As part of that meeting, staff raised a variety of planning and operational matters relating to each of the Reflections Parks in the Shire (Ballina Central, Shaws Bay and Lake Ainsworth).

Car parking at Lake Ainsworth was specifically identified as a key consideration. This follows on from previous discussions staff have had with Reflections about options for additional car parking and caravan park user parking management at Lake Ainsworth.

Reflections does not currently have a plan for the provision of additional car parking within the public domain at Lake Ainsworth. However, Council staff have proposed working collaboratively with Reflections on master planning for the caravan park, and its surrounds, in order to address public domain interface issues associated with the caravan park and broader reserve use.

Council is currently awaiting a follow up response from Reflections on the potential for a master planning process.

The difficulty for Council in the Lake Ainsworth area is the multiple management responsibilities across different agencies, including Crown Lands and Reflections, as well as Council. This places significant limitations on the options available to Council to provide more car parking adjacent to Lake Ainsworth.

- Implement Cultural Plan (page 19) – Linked to this plan and consistent with Council resolutions, staff have been investigating options to provide for improved recognition of surfing culture associated with Lennox Point. Options include signage and other physical infrastructure works through to the use of more subtle tools, such as QR codes and web-based information.

In response to the particular points forming part of the Council resolution on this matter, the use of QR codes mounted on existing infrastructure is the preferred approach and results in minimal cost and disturbance. This could then lead interested parties to access web-based content.

The cultural ways stage one project includes web-based content accessible by use of QR codes and is an example of the type of approach suggested.

With respect to the potential to expand the surfing reserve to include the South Wall, this is an issue for members of the community to initiate, rather than Council.

Surfing reserves are a positive recognition of surfing and the associated natural environment. However, these reserves do not significantly influence Council's land management responsibilities along the coastline.

Should the surfing community decide to nominate additional areas in the Shire for reserve recognition, it is suggested that Council should consider this on a case-by-case basis relative to the characteristics of the location and our land management responsibilities.

The advancement of the QR codes and web-based information is not currently planned within the 2022/23 work program given the range of other projects currently tasked to staff.

Progress of this project will be managed, as resources allow, as a sense of place project under the Ballina Shire Cultural Plan.

It can also be considered as part of upgrade works to the car park at Lennox Point, when those works progress, with Council recently resolving to seek a further report on the works planned for that location.

The initial proposed approach to advance this, at present, is to put a call out for information and based on the response, establish a project plan and timeframe (noting this will likely include consultation with Aboriginal stakeholders).

Based on experience with the Cultural Ways project, which has been grant funded, this will typically take approximately six months in consultation and resources. Ideally this work needs to be included in a future Delivery Program and resourced.

Grant opportunities will also be pursued where available.

Council also resolved to investigate the installation of North Wall Memorial Plaques, with staff liaising with Transport for NSW (TfNSW) and Richmond Valley Council on the options available.

The North Wall (rocks and blocks) are managed by TfNSW (Marine Infrastructure Delivery Office), and NSW Crown Lands is the landowner.

In summary Council does not have jurisdiction to enable the use of the wall for memorial plaque placement.

The use of the wall as a focal point for memorials, is also not recommended, as this is likely to change the character of the North Wall walk and could lead to safety issues.

## 9.15 Delivery Program and Operational Plan - 30 June 2022 Review

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Any proposal for monuments on North Wall would require TfNSW consent, and a separate licence issued by Crown Lands to undertake the activity on an individual basis.

Consistent with the management approach undertaken by Richmond Valley Council, staff will direct any requests for monuments to TfNSW.

- Implement Disability Inclusion Action Plan (page 20) – A review of this plan is now complete and scheduled for reporting to Council within the next few months.

Council has also resolved to provide improved beach access for persons with a disability at Lighthouse Beach, Ballina. A detailed assessment of options has been completed based on three different designs.

Feedback has been sought from the Ballina Lighthouse and Lismore Surf Life Saving Club, with the outcome being that there are some differences of view about the most suitable option.

Further consideration of the preferred approach, in consultation with the Surf Club, will form part of the implementation of the new Action Plan.

- Develop and implement Memorandum of Understanding (MoU) with Jali Aboriginal Land Council (LALC) (page 20) – The implementation of a number of resolutions in respect to Aboriginal cultural heritage, such as place naming, Australia Day and cultural facilities has been delayed as the priority for Jali LALC in recent months has been the rehoming of residents who lost their homes in the March 2022 flood, and the rebuilding of Cabbage Tree Island.

The 2022/23 Delivery Program and Operational Plan includes the preparation of a Partnership Agreement with Jali LALC as an action.

The various resolutions of Council relating to cultural heritage are being attended to within the context of the partnership agreement action.

Importantly, some aspects of these resolutions will incorporate wider consultation with Aboriginal stakeholders in addition to the Jali LALC.

- Prepare management plan for Cawarra Park (page 21) – The draft master plan for Cawarra has been prepared and placed on exhibition, with that exhibition period now closed. It will now be a matter for Council to determine the preferred provision of facilities, when the draft is reported back to Council, along with the submissions.
- Review planning framework for Lennox Head (page 22) – The initial consultation for this project is tracking well with a business breakfast completed and a community reference group established.

Car Parking has been one of the key discussion points with Council having resolutions to examine improved parking options such as park and ride.

The options analysis will form part of this planning framework review.

## 9.15 Delivery Program and Operational Plan - 30 June 2022 Review

- Implement Ballina Shire Koala Management Strategy (page 24) – A very successful field day for farmers was held in May and the Department of Planning and Environment are now actively involved in undertaking Koala health and habitat assessments in the Indigenous Protected Area.
- Examine planning options to expedite the delivery of commercial and retail shops in the Ballina Heights Estate (page 24) – A Voluntary Planning Agreement (VPA) has now been negotiated with the proponent and a final draft is being prepared. The agreed VPA will be included as part of the documentation submitted as part of the Planning Proposal lodgement, which will occur in the first quarter of 2022/23.
- Determine future of Tuckombil Quarry (page 25) – Council has now resolved to prepare a planning proposal to rezone the site to accommodate film, arts, high technology, recreational and community uses, with that work underway.

In respect to Service Delivery there are a total of 93 indicators identified in the Operational Plan and the following two tables provide an overview of how the indicators are tracking against the benchmark, again on a number and percentage basis.

### Service Indicators Summary - Number #

Division / Status	C&C	Civil	PEH	Total
Green	24	15	16	55
Amber	17	7	7	31
Red	2	1	4	7
<b>Total</b>	<b>43</b>	<b>23</b>	<b>27</b>	<b>93</b>

### Service Delivery Indicators Summary - Percentage (%)

Division / Status	C&C	Civil	PEH	Total
Green	56	65	59	59
Amber	40	30	26	33
Red	5	4	15	8
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

The primary purpose of each indicator is to provide a guide as to how a service may be tracking compared to previous years, or against a preferred benchmark, with a number of indicators beyond the control of Council.

A number of the indicators have been heavily impacted by the COVID-19 pandemic restrictions and the floods. This is particularly so for services based on usage levels, such as the Flat Rock tent park, the ferry and community facilities such as the libraries, swimming pools, gallery, cultural centres and the Ballina Indoor Sports Centre.

Items of interest in the attachment include:

- Number of passengers for Airport (page 27) – The annualised figure remains above 500,000, which reflects the large number of flights during December 2021 and January 2022 following a very quiet period from July to October.

Flights are now steadily returning to pre-pandemic levels.



- Operating revenue for Tent Park (page 27) – Income for the Flat Rock Tent Park was well below the 2017/18 and 2018/19 figures, with the poor weather and floods impacting heavily on visitation.
- Communications and Customer Service (pages 28-30) – Usage and visitation to many of these facilities was well under historical trends reflecting the pandemic restrictions, floods and facilities being used as evacuation centres.

Utilisation has steadily increased during the fourth quarter and the aim is to get back to pre-pandemic levels as quickly as possible.

- Increase renewable energy generated on Council sites (kW pa) (page 31) – This figure is now 956 kW following installations at the Ballina Airport and works underway at the Alstonville and Wardell Wastewater Treatment Plants.
- Minimise operating deficit for Burns Point Ferry (page 34) – After working hard over many years to get the ferry deficit down to around \$200,000 to \$300,000, dependent on the timing of the slip, the deficit for this service has now significantly increased. The closure of 4WD access to South Ballina has contributed to this, as has the on-going poor weather conditions with consistent rain for a number of months.
- Development Services (page 39) – Recently there has been some improvement in processing times, with Council securing additional resources from the Department of Planning and Environment and Port Stephens Council. External consultants are also being engaged to assist with processing applications, where available.

### **Delivery Program Strategy / Operational Plan Activity**

This report provides a status report on all the adopted activities in the 2021/22 Operational Plan.

### **Community Consultation Policy**

This report provides the community with information on how Council is performing in respect to the adopted Delivery Program and Operational Plan.

### **Financial / Risk Considerations**

The Delivery Program and Operational Plan identify the allocation of Council's resources and finances.

### **Options**

The report is for noting with the information highlighting the many activities undertaken by Council.

## **9.15 Delivery Program and Operational Plan - 30 June 2022 Review**

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The first six months of 2021/22 were significantly impacted by State Government COVID lockdowns and the second six months has now seen devastating floods.

This has been an extremely difficult year on many fronts, and it is pleasing to see that a number of the actions are still being progressed, where not impacted by these events.

On the other hand, a number of indicators for services, such as community facilities are well below historical figures for 2021/22 and the aim is for 2022/23 to see a return to more typical results.

### **RECOMMENDATION**

That Council notes the contents of the quarterly review on the implementation of the Delivery Program and Operational Plan for 2021/22 to 2024/25.

### **Attachment(s)**

1. Delivery Program and Operational Plan - 2021 to 2024 - 30 June 2022 Review [⇨](#)

## 9.16 Capital Expenditure - 30 June 2022 Review

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### 9.16 Capital Expenditure - 30 June 2022 Review

**Section** Governance

**Objective** To provide the quarterly review on the implementation of the 2021/22 capital expenditure program.

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#### **Background**

Council has a significant capital expenditure program included in the annual Operational Plan. Due to the magnitude of the program it is important that updates are provided on a regular basis.

Current practice is to provide a quarterly status report on the major projects. The status report provides details on key milestones, along with a comparison between budget and actual expenditure.

This is the final report for 2021/22 and outlines the works program completed for the year.

#### **Key Issues**

- Status of works

#### **Discussion**

To assist in monitoring the delivery of the capital works program the attachments to this report provide information on the following items for the major capital projects:

- Total Project Value – As projects can be delivered over a number of financial years, this column identifies the total project value. This may include expenditure from previous financial years or estimated expenditure for future years.
- Original 2021/22 Estimate - Represents the original 2021/22 estimate as per the adopted Operational Plan.
- Carry Forwards - Includes budgets carried forward from the previous financial year, approved by Council at the August 2021 Ordinary meeting.
- Approved Variations – Other variations approved by Council, either through a Quarterly Budget Review, or a separate report on a project.
- New Variations – Additional variations recommended as part of this report.
- 2021/22 Estimate - Sum of the original estimate plus all the variations.
- Expended This Year - Expenditure to 30 June 2022 on a cash basis. This figure excludes commitments and accruals.
- % Expended - Percentage of budget expended to 30 June 2022 based on the cash expenditure figures.
- Milestone Dates - Target dates for the major milestones such as completion of design and / or planning approval, as well as construction commencement and completion dates.
- Status – Provides space for any additional comments.

## 9.16 Capital Expenditure - 30 June 2022 Review

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The attachments are split into the areas undertaking the works: i.e. Planning and Environmental Health Division (Open Spaces, Strategic Planning, Public and Environmental Health), Corporate and Community Division (Commercial Services, Facilities Management) and Civil Services Division (Asset Management, Emergency Services, Resource Recovery, Water and Wastewater and Engineering Works).

Points of interest include.

### ***Open Spaces (attachment one)***

Wollongbar District Park – Open and operational after many years of planning.

Pop Denison, Ballina – Works well advanced and close to being fully operational.

Ross Park, Lenox Head – As per Pop Denison.

These two projects will significantly improve the level of playground infrastructure in Ballina and Lennox Head.

Lennox Headland, Fencing and Safety – These works support the Coastal Walk infrastructure and implement actions identified by the NSW Coroner to improve the safety measures in place. Due to difficulties in obtaining contractors, the works will now take place in the first half of 2022/23.

### ***Sports Fields (attachment one)***

Kingsford Smith – Redevelopment – This project is advancing with \$3.5m to be expended in 2022/23. This project is fully grant funded.

### ***Strategic Planning (attachment one)***

Community Gallery – Works completed.

### ***Public and Environmental Health (attachment one)***

Lake Ainsworth Coastal Management Plan – With the Lake currently flooded a substantial amount of the forecast expenditure has previously been transferred to 2022/23.

### ***Commercial Services (attachment two)***

Airport - Runway Strengthening – Tender report scheduled for August 2022 Ordinary meeting.

Airport Terminal Expansion – Passenger Screening – Project largely complete.

Airport – Car Park, Solar and Boom Gates – Project largely complete.

Southern Cross Industrial Estate – Boeing Avenue – This expenditure is over budget as developer contributions were paid to Council, by Council, prior to 30 June 2022. This saved expenditure on the project as the contributions have increased from 1 July 2022.

## 9.16 Capital Expenditure - 30 June 2022 Review

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Wollongbar Urban Expansion Area – Stage 3 – Largely complete and now awaiting Council direction on the preferred sale / development strategy.

Shelly Beach Cafe – Stormwater / Car Park – Carpark resealing works scheduled for 2022/23.

### ***Facilities Management (attachment two)***

Plant and Fleet – Budget expended, which is a good outcome considering the extended delays in delivery times for plant and equipment.

### ***Asset Management and Emergency Services (attachment three)***

Lennox Head Rural Fire Service Shed – Planning consent for this project is still being sought. If consent is not obtained in the near future, direction will be needed from Council on the preferred course of action.

Alstonville Rural Fire Service – Entrance – This project is scheduled for the first part of 2022/23.

### ***Water and Wastewater Operations (attachments four and five)***

Water and Wastewater Operations – Total of \$3.6m expended, with 77% of the Water program completed and 59% of the Wastewater program completed.

### ***Engineering Works (attachment six)***

#### *Roads and Bridges*

Airport Boulevard – Completed and operational.

Lennox Head Village Renewal – \$2.5m of the budget expended, with the project behind schedule due to wet weather and flood impacts.

Angels Beach Drive / Bangalow Road – Lane Extensions – Project should be fully operational by the end of July 2022.

#### *Ancillary Transport Services – Footpaths, Car Parks*

A number of footpath projects have been completed and the Serpentine and Rocky Point Road car parking sealing projects are also largely complete.

#### *Stormwater*

Numerous projects completed with expenditure of over \$1.3m, which is higher than historical figures.

#### *Summary*

Expenditure, as at 30 June 2022, totalled just over \$40m, which is a major increase on the expenditure of approximately \$29m for 2020/21. The following table provides a summary of the expenditure as per the Attachments to this report.

**Capital Works Summary by Section and Division  
30 June 2022 (\$'000)**

<b>Section Analysis</b>	<b>Budget (\$)</b>	<b>Expended (\$)</b>	<b>% Expended</b>
Open Spaces	4,334,000	4,008,400	92
Strategic Planning	2,400	10,900	454
Public and Environmental Health	171,000	139,500	82
Commercial Services	9,268,000	11,419,800	123
Facilities Management	3,141,000	2,504,700	80
Asset Mgmt and Emergency Services	52,000	35,400	68
Resource Recovery	509,300	439,000	86
Water Operations	2,206,800	1,693,800	77
Wastewater Operations	3,159,000	1,876,700	59
Engineering Works	22,310,300	17,918,800	80
<b>Total</b>	<b>45,153,800</b>	<b>40,047,000</b>	<b>89</b>
<b>Division Results</b>			
Planning and Environmental Health	4,507,400	4,158,800	92
Civil Services	28,237,400	21,963,700	78
Corporate and Community	12,409,000	13,924,500	112
<b>Total</b>	<b>45,153,800</b>	<b>40,047,000</b>	<b>89</b>

Considering the impact of the pandemic and flooding, expenditure of over \$40m represents a significant amount of work completed for the year.

**Delivery Program Strategy / Operational Plan Activity**

The Operational Plan includes a number of references to infrastructure delivery particularly:

*EL3.3i - Monitor capital works to ensure they are completed on time and within budget*

**Community Consultation Policy**

This report is presented for public information. Many of the projects reflect feedback from community engagements.

**Financial / Risk Considerations**

The report provides financial information on the capital expenditure program. All of the projects carry a degree of risk, with risk management forming a major component of any construction works.

Any funding to be carried forward to 2022/23, will form part of the works carried forward report to the August 2022 Ordinary meeting.

**Options**

This report provides an update on the capital expenditure program and represents the final report for 2021/22. The recommendation is for noting.

**RECOMMENDATION**

That Council notes the contents of the Capital Expenditure Review report for 2021/22.

**Attachment(s)**

1. Capital Expenditure - Planning and Environmental Health Division [⇒](#)
2. Capital Expenditure - Corporate and Community Division [⇒](#)
3. Capital Expenditure - Asset Management and Emergency Services and Resource Recovery [⇒](#)
4. Capital Expenditure - Water Operations [⇒](#)
5. Capital Expenditure - Wastewater Operations [⇒](#)
6. Capital Expenditure - Engineering Works [⇒](#)

## **10.1 Street Lighting - LED Bulk Replacement Program**

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### **10. Civil Services Division Reports**

#### **10.1 Street Lighting - LED Bulk Replacement Program**

**Section** Project Management Office

**Objective** To consider a proposal from Essential Energy for the upgrade of Type V street light fittings to LED fittings.

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#### **Background**

Street lighting across NSW is moving towards LED technology and this is programmed to occur over several years for local and main roads.

Lighting categories are defined in AS/NZS 1158.0 and are broadly described as follows:

- Category P lighting is applicable to roads and other outdoor public areas on which the visual requirements of pedestrians are dominant, e.g. local roads, outdoor shopping precincts.
- Category V lighting is applicable to roads on which the visual requirements of motorists are dominant, e.g. traffic routes.

The replacement program in Ballina Shire commenced in 2018 with the upgrade of approximately 2,310 Type P streetlights.

Essential Energy has recently written to Council seeking a new partnership to continue the program, upgrading eligible Type V streetlighting to LED technology.

The number of Type V light fittings to be replaced under this new program would be approximately 1,070.

The purpose of this report is to outline the proposal and seek direction from Council.

#### **Key Issues**

- Reduced energy consumption and CO2 emissions
- Reduced energy costs
- Funding

#### **Discussion**

To finalise planning, Essential Energy is seeking Council's preferred approach towards funding the program.

Council has the option to fully fund the installation (Option 1) or to have Essential Energy fund the installation with cost recovery through regulated tariffs (Option 2).



## 10.1 Street Lighting - LED Bulk Replacement Program

The following table provides cost estimates for both funding options:

	Cost of Upgrade	Residual Value	Total Cost Payable to EE	Estimated ESC Savings	Net CAPEX to Council	Essential Energy's Contribution	SLUOS Saving	Estimated energy cost savings	Annual Saving
Option 1	\$ 1,004,169.34	\$32,662.75	\$877,611.96	\$99,335.90	\$778,276.06	\$ 159,220.14	\$ 43,632.88	\$94,832.33	\$138,465.21
Option 2	\$ 1,004,169.34	\$32,662.75	\$ 32,662.75	\$99,335.90	\$ (66,673.15)	\$ 1,004,169.34	\$ (73,455.35)	\$94,832.33	\$ 21,376.98

### Option 1 - Council Funded

With this option the upfront cost to Council, after applying Essential Energy discounts and a 2% contingency, is \$895,165. This is the purchase order amount payable to Essential Energy should Council decide to fund the project.

Essential Energy's discount for this proposal is \$159,220, which includes a T2 balance discount and bulk lamp replacement discount.

The 2% contingency covers additional work that may be required beyond simple luminaire replacement, for example, should supporting structures need modification.

Energy Saving Certificates (ESC) are conservatively estimated at \$99,335, which is the ESC saving that Council will accrue as the project progresses; one ESC represents one notional Megawatt hour (MWh) of energy saved.

This ESC saving in effect reduces the Capex cost to Council to \$778,276 (i.e. = total cost payable – estimated ESC saving).

Estimated savings in annual operating costs will be \$138,465 (= energy cost saving + Street Light Use of System (SLUOS) saving).

SLUOS is a tariff that reflects the cost of street light maintenance, which will be reduced as a result of the upgrade.

### Option 2 - Essential Energy Funded

With this option Essential Energy's will fund the full \$1,004,169 cost of the upgrade. There will be no upfront cost to Council.

Cost recovery by Essential Energy will be through an increase of \$73,455 in the current SLUOS tariff for an initial 10-year period.

As with Option 1, the ESC saving accrued to Council as the project progresses will be \$99,335.

The resultant net capex benefit to Council is \$66,673 (i.e. = estimated ESC saving – residual value owed to Essential Energy).

Estimated savings in annual operating costs will be at a reduced amount of \$21,377 for the initial ten-year period (= energy cost saving – increase in SLUOS tariff).

It may become necessary to exclude some assets from the upgrade program whilst an engineering solution is identified. Essential Energy will investigate and negotiate these directly with Council before works commence.

### **Delivery Program Strategy / Operational Plan Activity**

This program provides Council with an opportunity to reduce energy consumption and CO<sup>2</sup> emissions, both of which are directions outlined in our Community Strategic Plan and Delivery Program “to reduce our resource usage through innovation”.

### **Community Consultation Policy**

Other Local Government Areas also partnering with Essential Energy in implementing this LED street lighting upgrade program include: Lismore City Council, Coffs Harbour City Council, and Nambucca Shire Council.

### **Financial / Risk Considerations**

If Option 1 is chosen, the upfront cost to Council of fully funding the bulk replacement of the Type V street lighting with LEDs (i.e. Option 1) would be \$895,165.

The difficulty is that Council does not have funds of this magnitude set aside for immediate use.

It would, however, be feasible to borrow, as an internal loan, from the water and/or wastewater reserves which are substantial.

As these funds are restricted in their use, any internal borrowing may require the approval of the Minister for Local Government through the Office of Local Government.

Council has followed a similar process for an earlier upgrade of street lighting in 2019.

The internal repayments on that loan are approximately \$90,000 per annum with the loan to be repaid in full by June 2028.

Option 2 proposed by Essential Energy is that they would fund the installation, with cost recovery through regulated tariffs.

### **Options**

Council has the option to proceed with the partnership with Essential Energy in the bulk street lighting upgrade program by selecting one of the two funding options.

Option 1 is to fully fund the project through an internal loan from the water and wastewater funds.

Based on the reduced capital cost of \$895,165, and assuming the savings identified are correct, at \$138,465 per annum, the internal loan principal could be paid back in approximately seven years, based on an internal interest rate

## **10.1 Street Lighting - LED Bulk Replacement Program**

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of 3% (which is higher than the interest rate currently being generated on water and wastewater investments).

One of the difficulties with this type of modelling is that the \$138,465 saving per annum, is based on current pricing. Typically, Essential Energy will subsequently increase prices each year, resulting in the actual dollar saving being less than the figure modelled, therefore the net dollar saving is actually less each year.

However, this does still mean Council is making a financial saving, particularly in “real terms”, along with obtaining significant environmental benefits. Without the change to LED technology, once future price rises are factored in, the cost to Council will be far greater if the existing bulbs are not replaced.

Option 2 is where Essential Energy funds the project, with cost recovery through regulated tariffs.

Council also has the option not to proceed with the program at this time.

With significant energy consumption savings and reductions in CO<sup>2</sup> emissions, it is preferable to proceed with the bulk upgrade of these street lights.

Option 1 is preferred over option 2 due to the relatively quick payback period.

The proposed upgrade is scheduled to commence in September 2022.

### **RECOMMENDATIONS**

1. That Council accepts Essential Energy’s offer for the bulk replacement of street lighting with LED fittings, in accordance with Option 1 as detailed in the above report.
2. That the upfront cost for point one of approximately \$895,165 is to be funded from an internal loan through a transfer from the water and/or wastewater reserves, with the General Manager authorised to make this funding determination based on advice from the Office of Local Government.
3. If approved by the Office of Local Government, the internal loan is to be repaid through savings achieved in the annual street lighting budget.

### **Attachment(s)**

Nil

## **11.1 Notice of Motion - Electric Vehicle (EV) Charging Station Grants**

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### **11. Notices of Motion**

#### **11.1 Notice of Motion - Electric Vehicle (EV) Charging Station Grants**

**Councillor**

Cr Jeff Johnson

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I move

1. That Council submit an application to the NSW EV Destination Charging Grant Program to provide for the installation of EV charging stations at eligible Council locations.
2. That Council continue to investigate EV options when purchasing new vehicles as part of Council's ongoing fleet renewal program.

#### **Councillor Comments**

The NSW Government has recently announced a \$20 million grant for EV Chargers to be rolled out across regional NSW. Council should take this opportunity to investigate the suitability of various Council owned public carparks across the Shire, with the intention of submitting a grant funding application.

Applications for Round 1 funding close on 23 September 2022.

As part of the recent Ballina Gateway Airport upgrade, a charging station was installed in the staff carpark that is capable of charging two cars simultaneously.

With the long-term carpark recently having a 100kW solar system installed there are opportunities to provide additional EV charging stations that can be charged directly from the solar array.

Funding of up to \$40,000 per site is available. The EV destination charging grants can be used for the purchase and installation of select electric vehicle (EV) chargers as well, as software, to tap into the smart capabilities of each charger.

While the current EV uptake in Australia has been slow compared to many other countries, that situation will soon change with State and Federal Governments looking to provide extra incentives, particularly for companies with fleet vehicles, which account for approximately 50% of all new vehicle sales.

The 2021 United Nations Climate Change Conference (COP26) endorsed The Glasgow Accord on Zero Emissions Vehicles. It was one of the major policy initiatives to come out of COP26.

It unites governments, auto manufacturers, and fleet vehicle owners to phase out ICE (Internal Combustion Engines) vehicles by 2035

As a result, the EU and the US have already passed laws for a complete ban on all new internal-combustion engine powered vehicles by 2035. The UK has banned the sale of new petrol and diesel cars and vans from 2030.

## 11.1 Notice of Motion - Electric Vehicle (EV) Charging Station Grants

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Council has committed to being carbon neutral as an organisation by 2030.

As a leading force for change in our community, having EV charging stations in Council owned parking areas will demonstrate leadership and provide an extra incentive for locals and visitors to not only purchase electric vehicles, but to shop in Ballina, providing an economic driver for our local businesses.

The NSW Minister for Regional Transport and Roads Sam Farraway has also announced that a series of EV tourist drives would be developed across NSW to promote EV travel to regional NSW following the rollout of the EV chargers.

It's important that Council takes part in this program and is listed as one of the destinations as part of this new tourist drive initiative.

### **Staff Comments**

A link to the guidelines for the grant program is as follows:

[GOVP1768 DPE EV DESTINATION CHARGING GRANTS FA ACCESSIBLE FLAT \(nsw.gov.au\)](https://www.nsw.gov.au/transport/road-transport/ev-destination-charging-grants)

As per the guidelines, Council is eligible to apply for the grants, with potential sites including certain car parks and the visitor centre.

Prior to applying for the grants, Council will need to ensure any preferred site has electrical capacity and space for the service.

The program will fund 75% of the cost of an eligible EV charger, 75% of the installation cost and 50% towards an eligible EV charge software subscription for two years.

### **COUNCILLOR RECOMMENDATIONS**

1. That Council submit an application to the NSW EV Destination Charging Grant Program to provide for the installation of EV charging stations at eligible Council locations.
2. That Council continue to investigate EV options when purchasing new vehicles as part of Council's ongoing fleet renewal program.

### **Attachment(s)**

Nil

## 11.2 Notice of Motion - Ballina Jetboat Rescue

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### 11.2 Notice of Motion - Ballina Jetboat Rescue

**Councillor**

Cr Eoin Johnston

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I move

That Council write to Surf Life Saving NSW and Surf Life Saving Far North Coast requesting a review of the decision to cease the operations of the Ballina Jetboat Surf Rescue by 2024.

#### **Councillor Comments**

Surf Life Saving NSW has determined that their involvement in supporting the three remaining Jetboat Surf Rescue operations across NSW is to be wound up by late 2024. There is a tentative arrangement to merge the Ballina service into the umbrella of Ballina Marine Rescue.

Marine Rescue does a valuable and creditable job in recording movements and coordinating rescues over the Ballina Bar and the open water. However, their capacity to perform rescues in open water at all hours of the day is limited in challenging surf conditions.

On the other hand, the crews of the Jetboat have a meritorious record of saving lives and property in the bar and the open ocean over a period of fifty years. Despite the changing nature of the bar and, at times, dangerous conditions, the numbers of vessels crossing the river mouth is increasing and will continue to do so due to the growing popularity of the region.

Ballina Shire Council has contributed to the funding of the operation over many years and, to my knowledge, it has never baulked at the Jetboat's request for assistance. The service has also benefited from generous sponsorship from local business and suppliers.

It is acknowledged that there may have been some shortcomings with the local administration over recent times and the State body clearly has concerns over certain compliance issues.

In my view, these issues could be addressed by appropriate direction and training and should not be the catalyst for winding up the Ballina Jetboat Rescue.

#### **COUNCILLOR RECOMMENDATION**

That Council write to Surf Life Saving NSW and Surf Life Saving Far North Coast requesting a review of the decision to cease the operations of the Ballina Jetboat Surf Rescue by 2024.

#### **Attachment(s)**

Nil

12. Advisory Committee Minutes

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**12. Advisory Committee Minutes**

Nil Items

## 13.1 Mayoral Meetings

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

#### 13.1 Mayoral Meetings

**Councillor** Sharon Cadwallader

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Activities I have attended, or propose to attend, as at the time of writing this report, since the June 2022 Ordinary meeting are as follows:

<u>Date</u>	<u>Function</u>
24/6/22	Chamber of Commerce International Womens Day Lunch
24/6/22	Welcome event at SCU for Japanese Ambassador to Australia Shinto Yamagami
24/6/22	Xavier Catholic College Skennars Head - "Back to the 80's Play"
26/6/22	RFS Medal Ceremony Presentation
27/6/22	NRMA & Byron Bay Wildlife Hospital/Sanctuary Launch
28/6/22	Meeting with Council staff and Byron Studios
28/6/22	Rotary Satellite Lifestyle Club of Ballina – Changeover Dinner
29/6/22	NRRA From Risk to Resilience Summit, Sydney
30/6/22	NRRA From Risk to Resilience Summit, Sydney
30/6/22	Ballina Lions Club Changeover Dinner
1/7/22	Meeting with Council staff and Justine Elliot re Airport matters, Tuckombil Quarry & Alstonville Cultural Centre
1/7/22	Cr Briefing - Reconnecting Regional Communities - Community Event Funding Program
2/7/22	Far North Coast Surf Life Saving Presentation
2/7/22	Meeting regarding outdoor dining East Ballina
4/7/22	Friends of the Libraries' 40 <sup>th</sup> anniversary
4/7/22	NAIDOC Week Celebration Walk
4/7/22	Cr Briefing – Airport Operations
5/7/22	Meeting with constituent various flood related matters
5/7/22	North Coast Briefing – via zoom
6/7/22	Meeting with Council staff, NSW and local SES re new SES Building
7/7/22	Meeting with Council staff and Stephan Holle re Airport noise
7/7/22	Northern Rivers Community Gallery Exhibition Launch
8/7/22	ACCA Committee Meeting - via Zoom
9/7/22	Skullcandy Oz Grom Open function
11/7/22	Australian Coastal Councils Association – via zoom
11/7/22	Visit to Wardell businesses & Wardell Core
11/7/22	Meeting Phil Harte Ballina - Seafood Festival 8/9 <sup>th</sup> September
11/7/22	Council's Donations Working Party meeting
12/7/22	Meeting with Council staff and David Rutter re surf schools, shark bite kits
12/7/22	Meeting with Council staff NRRA & CSIRO re Northern Rivers Resilience Initiative
12/7/22	A Ward Committee
12/7/22	North Coast Briefing – via zoom
14/7/22	Meeting re support for the sugar cane industry
14/7/22	C Ward Committee
18/7/22	B Ward Committee
19/7/22	Ballina Hospital Auxiliary AGM and 85 <sup>th</sup> Birthday celebration



### **13.1 Mayoral Meetings**

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19/7/22	General Manager's Performance Review
19/7/22	North Coast Briefing – via zoom
20/7/22	Rous County Council field trip & workshop
21/7/22	Meeting with Council staff and Lennox Head retailers re Lennox Head Village Vision works
22/7/22	Meeting re connecting Ballina with the Rail Trail
23/7/22	Launch of Lennox Head Heritage Committee photo tour book – Summer & Saltwater
24/7/22	Open Day Ballina Community Gardens
25/7/22	Business Paper Review session
26/7/22	Ballina Shire Economic Activation Group meeting
26/7/22	North Coast Briefing – via zoom
27/7/22	Ballina Chamber of Commerce AGM
28/7/22	Ordinary meeting
28/7/22	Meeting Minister Kevin Anderson
28/7/22	North Coast Tourism Awards

#### **RECOMMENDATION**

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

#### **Attachment(s)**

Nil

## 13.2 General Manager - Performance Review

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### 13.2 General Manager - Performance Review

**Councillor**

Sharon Cadwallader

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#### **Background**

The General Manager's Performance Review Committee (PRC) comprises the Mayor, Deputy Mayor, Cr Bruem and Cr Ramsey, as resolved by Council.

The PRC met with the General Manager on Tuesday 19 July 2022 to perform the twelve-monthly performance review for the 2021/22 financial year. This report confirms that a confidential report has been included later in this agenda in respect to this review.

#### **Key Issues**

- Compliance with the General Manager's contract conditions

#### **Discussion**

Council is legally obliged to fulfil its contractual obligations with the General Manager. This includes a 12 monthly appraisal. Council has a number of options in managing the appraisal process. Some councils use the whole council to conduct the appraisal while other councils vary this from the Mayor only to any sub-component of the elected council. The Council and / or General Manager also have the option of utilising an external consultant to assist. A consultant from LGNSW assisted with this review.

The current Council process involves a small sub-committee (i.e. Mayor, Deputy Mayor and two Councillors) with all the Councillors then having an opportunity to comment when the review is presented to Council.

#### **Community Consultation Policy**

The performance review has been listed as confidential as it involves personnel matters.

#### **Options**

This report is for noting with the confidential report providing details of the review. Council can also review the membership of the PRC, as part of this report, to share the experience of this process for future reviews.

#### **RECOMMENDATION**

That Council notes the contents of this summary report for the General Manager – Performance Review.

#### **Attachment(s)**

Nil

**14. Confidential Session**

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

14.1 Filling of Land, Cumbalum - Compliance Action (Confidential)

Refer to Item 8.5 of this agenda.

14.2 General Manager - Performance Review (Confidential)

Refer to Item 13.2 of this agenda.

**RECOMMENDATION**

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

**14.1 Filling of Land, Cumbalum - Compliance Action (Confidential)**

**Reason for Confidentiality**

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

- g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as some information contained in this report could prejudice any potential legal proceedings.

**14.2 General Manager - Performance Review (Confidential)**

**Reason for Confidentiality**

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

- a) personnel matters concerning particular individuals (other than councillors)

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the content relates to personal matters regarding the employee's performance.