

# Agenda

## *Ordinary Meeting*

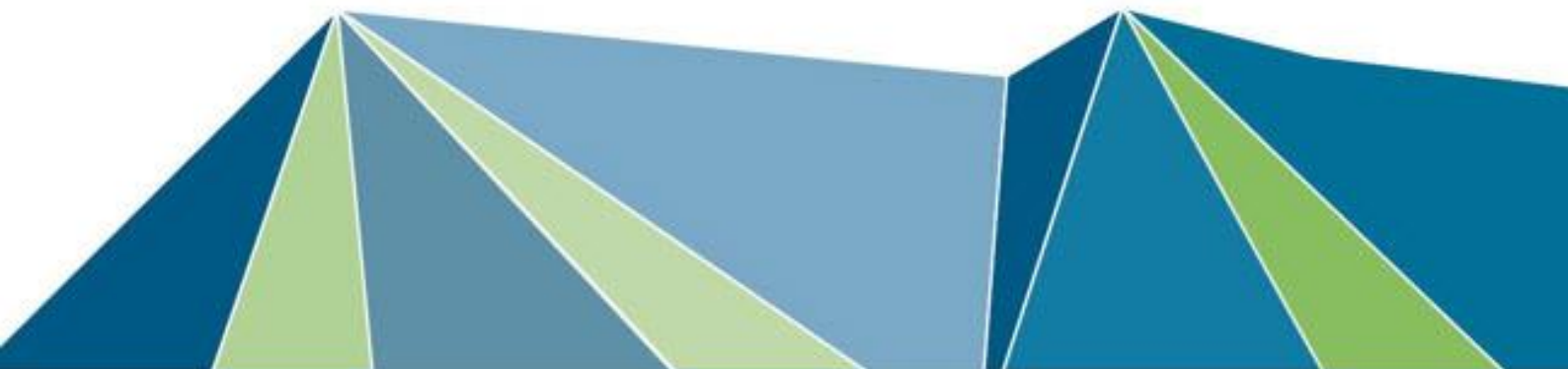
22 June 2023

An Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street, Ballina on **22 June 2023 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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  7. Mayoral Minutes
- 

**1. Australian National Anthem**

The National Anthem will be played.

**2. Acknowledgement of Country**

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

**3. Apologies**

**4. Confirmation of Minutes**

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 25 May 2023 were distributed with the business paper.

**RECOMMENDATION**

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 25 May 2023.

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

**6. Deputations**

**7. Mayoral Minutes**

Nil Items

**8. Planning and Environmental Health Division Reports**

**8.1 DA 2021/807 - 59 Main Street, Alstonville - VPA**

**Section** Development Services

**Objective** To seek direction from Council in relation to a draft Voluntary Planning Agreement (VPA) that seeks to address a shortfall of car parking relating to DA 2021/807

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**Background**

Council considered a proposed Voluntary Planning Agreement (VPA) at the February 2023 Ordinary meeting relating to DA 2021/807. The DA proposes a change of use from a residential dwelling to a health services facility – medical centre at Lot 1 Sec 1 DP 45366, No. 59 Main Street, Alstonville. Council resolved as follows:

- 1. That Council endorses the finalisation of the Voluntary Planning Agreement relating to DA 2021/807, as per Attachment 2 to this report, for public exhibition for a period of 28 days.*
- 2. If no submissions are received in relation to the Voluntary Planning Agreement, that Council authorises the General Manager to execute the agreement and attach the Council Seal in association with the determination of DA 2021/807 (in the event that the DA progresses to determination by way of the granting of consent).*
- 3. If submissions are received in relation to the Voluntary Planning Agreement, that Council receive a further report on the agreement.*
- 4. That Council consider inclusion in the PAMP of a footpath on the western side of The Avenue, Alstonville, as well as a pedestrian crossing, as part*

The Council report relating to Item 8.2 of the 23 February 2023 Council Ordinary Meeting can be found at [Agenda of Ordinary Meeting of Ballina Shire Council - Thursday, 23 February 2023 \(nsw.gov.au\)](#)

Council staff proceeded to place the VPA on public exhibition between 15 March 2023 and 14 April 2023.

During that time, one submission was received in relation to the VPA.

The VPA is provided at Attachment 1.

The purpose of this report is to present the VPA to Council and seek direction on the agreement in relation to DA 2021/807.

**Key Issues**

- Voluntary Planning Agreement provisions
- Car parking on site and along The Avenue Alstonville
- Neighbourhood interest

**Discussion**

The key purpose of the VPA negotiations, from Council's perspective, has been to ensure the development does not create an unreasonable impact on car parking demand within the surrounding locality and that an overall public benefit is achieved.

In considering the elements of the VPA, Division 7.1 Subdivision 2 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) requires there to be a public benefit associated with a VPA.

The draft VPA has been prepared consistent with this requirement.

There are two key elements that form part of the VPA identified below:

1. Monetary Contributions

The proponent is to provide monetary contributions calculated in accordance with the Ballina Shire Car Parking Contributions Plan 2014 (the Contributions Plan) for the shortfall of three car parking spaces.

Condition Rate x car parking spaces not provided = Monetary Contribution

$\$17,060 \times 3.000 = \$51,180.00$

In time this figure may change as the Contributions Plan provides for the indexing of contribution amounts and are also subject to amendment.

2. Line Marking Contribution

The proponent is to provide line marking along The Avenue in accordance with the Line Marking Plan set out in Schedule 3 of the VPA (Attachment 1).

This will formalise car parking along the street and help prevent patrons of the nearby medical centre parking across existing vehicle crossovers/ driveways onto The Avenue.

At the 23 February 2023 Ordinary meeting Council endorsed the finalisation of the VPA relating to DA 2021/807 for public exhibition for a period of 28 days.

Public Exhibition

The VPA was publicly exhibited between 15 March 2023 and 14 April 2023 in accordance with Council's Community Participation Plan, the requirements of Section 7.5 of the EP&A Act and Section 204 of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regs).

During this time, one submission was received in relation to the VPA and provided under Attachment 2.

The key issues raised within this submission have been summarised below with commentary response to each issue.

- **Concerns raised that the locality is a high traffic area**

The proposed development is a permissible land use (via Section 2.60 of the SEPP Transport and Infrastructure 2021) and the VPA relates to the car parking shortfall as part of the proposed development under DA 2021/807.

The provision of additional car parking spaces on site is not anticipated to rectify the existing broader traffic concerns in the locality.

The surrounding locality is within the Alstonville Village Centre and consequently, traffic during peak times is anticipated. Whilst the intersection of The Avenue and Main St is busy during peak periods (i.e., school drop off and pick up times), there is no evidence of excessive queuing or reported incidents.

The incremental increase in traffic at the intersection due to the development is considered to be minor and would not adversely affect circulating traffic in the Alstonville Village Centre.

- **Concerns raised that there is limited car parking in the locality**

The proposed development results in the shortfall of three car parking spaces. The VPA provides a pathway for the proponent to pay monetary contributions and provide line marking for on-street car parking along The Avenue.

This is in lieu of providing the three car parking spaces on the development site, required in accordance with the Ballina Shire Development Control Plan 2012.

Given the link between the proposed development and the existing Alstonville Medical Centre at 61 Main Street, the five car parking spaces proposed as part of the development will provide an improved outcome for this facility.

The proposed development is opposite the Alstonville Village Centre (zoned E1 – Local Centre) whereby there is a mechanism to pay monetary contributions under the Contributions Plan for a shortfall of car parking spaces.

Furthermore, the car parking rate within the E1 zone (on the opposite side of The Avenue) would result in the proposed development having a shortfall of one car parking space (if the development site was located in that zone).

The terms of the VPA have been considered with this in mind.

The Avenue provides car parking spaces along the street.



The provision of line marking along The Avenue is considered to provide an improved outcome for the local residents providing a more efficient and effective use of the space and reducing the likelihood of parking across multiple car parking spaces or driveways/ crossovers.

- **Concerns raised regarding the safety of the proposed car parking area**

The terms of the VPA do not create any new or compounding safety concerns from a traffic management or parking perspective.

In relation to the proposed development:

- The 6.2m wide access driveway is proposed on the southern part of the lot, therefore being setback from the intersection of The Avenue and Main Street.
- The site proposes 2.6m wide parking bays as per the relevant Australian Standard (AS2890.1) requirements.
- The sight distance is appropriate to the existing road system for vehicles entering and exiting the subject premises.
- The proposed driveway will be constructed in accordance with Council's standard driveway design requirements.

The design of the proposal is appropriate. Conditions can be imposed on any subsequent consent requiring compliance with relevant standards.

- **Concerns raised regarding noise and odour from delivery vehicles and additional vehicle assess from The Avenue**

The proposed medical centre is permissible within the R2 zone (via Section 2.60 of the SEPP Transport and Infrastructure 2021).

The VPA does not have any implications for additional noise and odour in the area. The VPA will provide for more formalised car parking within the Alstonville locality.

Conditions can be imposed on any subsequent consent in relation to restricting the time of deliveries to reduce any potential noise impacts.

- **Concerns raised regarding loss of privacy**

The proposed development is unlikely to impose additional privacy concerns to the surrounding properties. The proposed development involves minor works in relation to the alterations and additions to the existing building only.

No additional windows or outdoor areas are proposed that would cause additional overlooking or privacy impacts to the neighbouring properties or those located on the south-eastern side of The Avenue.

No changes to the VPA are recommended in relation to the matters raised in the submission.

Restriction on Title and Caveat

Due to the nature of the agreement being a one-off payment of monetary contributions and one-off delivery of the line marking along The Avenue, it is not considered necessary to register the VPA on the title of the subject land.

It is recommended that conditions be imposed on any subsequent development consent for the proposed development requiring the applicant's contributions to be complete and paid prior to the issue of an Occupation Certificate.

It is noted that the developer is the landowner (Alstonville Property Pty Ltd) and they are a party to the VPA which is consistent with the VPA policy.

It is also standard practice, in the drafting of VPAs, for a 'Restriction on Dealings' clause to be included which requires that if is to be sold the existing owner is obligated to ensure that the new owner becomes a party to the agreement.

This Restriction on Dealings has been included under Clause 12.2 of the VPA (Attachment 1).

Additionally, the VPA has a clause within the agreement (Clause 12.1) providing rights for Council to obtain a caveatable interest in the land.

**Financial / Risk Considerations**

There is no financial risk to Council associated with the entering into the agreement in that if the development were to not occur, the site would continue to operate in accordance with the existing use as a single dwelling on the subject land.

**Options**

*Option 1 – Council could resolve to endorse the VPA as provided as Attachment 1 and authorise the General Manager to execute the agreement and attach the Council Seal in association with the determination of DA 2021/807 (in the event that the DA progresses to determination by way of granting consent).*

*Option 2 – Council could resolve to decline to further progress to VPA resulting in assessment of the development application based on the car parking shortfall.*

*Option 3 – Council could resolve to seek additional information or briefing on the matter.*

Option 1 is the recommended approach.

The recommendation is that the VPA is endorsed for agreement in order to progress the assessment of DA 2021/807, based on the contributions addressing the car parking shortfall and the line marking of on street car parking spaces.

## **8.1 DA 2021/807 - 59 Main Street, Alstonville - VPA**

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Under option 1 it is intended that the development application (DA 2021/807) will be determined under delegated authority following the completion of the VPA. This will include the imposition of conditions of consent relating to the VPA.

### **RECOMMENDATIONS**

1. That Council endorses the finalisation of the Voluntary Planning Agreement relating to DA 2021/807 (as per Attachment 1 to this report).
2. That Council authorises the General Manager to execute the agreement and attach the Council Seal to the Voluntary Planning Agreement in association with the determination of DA 2021/807 (in the event that the DA progresses to determination by way of the granting of consent).

### **Attachment(s)**

1. DA 2021/807 - Voluntary Planning Agreement (signed by proponent) [⇒](#)
2. DA 2021/807 - Submission against VPA (Stone) [⇒](#)

### 8.2 Planning Proposal - Burns Point Ferry Road - Finalisation

<b>Section</b>	Strategic Planning
<b>Objective</b>	To present the outcomes of the public exhibition of the draft Planning Proposal to introduce new C Zones into Ballina Local Environmental Plan 2012 and rezone land at Burns Point Ferry Road to C2 Environmental Conservation

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#### **Background**

At the 27 October 2022 Ordinary meeting, Council considered a report on the proposed rezoning of land at Burns Point Ferry Road, known as Lot 1 DP 124173, and resolved as follows:

1. *That Council endorses, for Gateway determination, the amendments to Ballina Local Environmental Plan 2012 outlined in the planning proposal contained in Attachment 1 (BSCPP 22/007).*
2. *That Council submits the planning proposal contained in Attachment 1 to the NSW Department of Planning and Environment for review and Gateway determination.*
3. *That upon an affirmative Gateway determination being received from the Department, the procedural steps associated with progression of the planning proposal, including public exhibition, be undertaken.*
4. *That Council receive a further report on the proposal following the completion of the public exhibition of the planning proposal.*

Following this resolution, the draft Planning Proposal was lodged with the Department of Planning and Environment (DPE).

A Gateway determination was issued by DPE on 15 December 2022, authorising the public exhibition of the Planning Proposal. The Gateway contained conditions, including a requirement to:

*retain the existing R2 Low Density Residential zone and minimum lot size for the area approved for trial fill pads under DA 2019/233, as the primary use of the land is not for environmental management or conservation, unless landowner agreement for the proposed change can be obtained*

This condition relates to two small areas within the site – shown as the dark squares in Figure 1. These areas were approved by Council in 2019 for the purpose of testing the compaction of existing soil at the site under filled conditions.

Council's approval of these pads included a note stating that approval of the test pads could in no way be considered as an endorsement of any development or use of the site.

Each of the approved pad locations was approximately 760m<sup>2</sup> in area.

Fill pads were subsequently constructed on the site, but not in the approved locations.

## 8.2 Planning Proposal - Burns Point Ferry Road - Finalisation

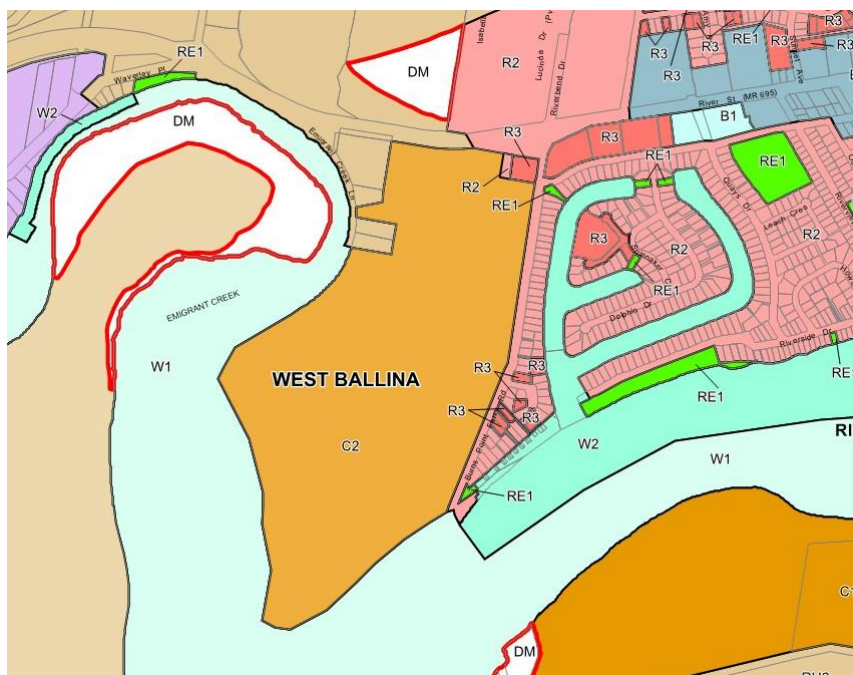
DPE's view, as expressed in the Gateway condition, was that approval and placement of the pads constitute a 'primary use' associated with residential development, hence their requirement that the zoning of the two 760m<sup>2</sup> approved pad locations should retain the existing zoning of R2 Low Density Residential.

**Figure 1 Approved Test Pad Locations**



An alternate proposition was put to the landowner, whereby the area of the two pads would be combined, and the existing R2 Low Density Residential zoning would be retained over an equivalent area in the north-east corner of the site, directly adjacent to a property zoned R3 Medium Density Residential, as shown in Figure 2.

**Figure 2 Alternate Zoning Proposal**



## **8.2 Planning Proposal - Burns Point Ferry Road - Finalisation**

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While maintaining their objection to the rezoning of the land, the landowners agreed to allowing the Planning Proposal to proceed based on the alternate proposal.

The amended Planning Proposal was subsequently provided to DPE, who issued an updated Gateway determination in March 2023.

The amended Planning Proposal is contained at Attachment 1, with the original and amended Gateway at Appendix 4 of the Planning Proposal.

The appendices to the planning proposal have been separately provided to Councillors digitally.

The proposal was subsequently exhibited for public comment, and referrals sent to various State Government Agencies for their comment. The landowner was advised of the exhibition and invited to make a submission.

42 submissions were received in support of the proposed rezoning. The landowner provided a detailed submission opposing the rezoning, and one submission opposed the C2 Environmental Conservation zone, suggesting instead that the site should be zoned to create a maintained nature park.

This report provides an overview of the submissions received and seeks direction on the finalisation of the LEP amendment.

### **Key Issues**

- Protection of high biodiversity values within the site
- Flooding

### **Discussion**

The northern part of Lot 1 DP 124173 is currently zoned R2 Low Density Residential, and the southern part is zoned RU2 Rural Landscape (Figure 3).

In September 2011, as part of the development of Ballina Local Environmental Plan (BLEP) 2012, Council proposed a zoning of E2 Environmental Conservation over the whole of the site.

Because of the wider North Coast E Zone Review, the site became a 'deferred matter' upon the gazettal of BLEP 2012 in March of that year.

Based on a subsequent landowner-initiated rezoning application, the site was zoned in 2019 to its current zoning, with R2 Low Density Residential over the northern portion and RU2 Rural Landscape across the remainder of the site (Figure 3).

Development application 2020/192 was subsequently lodged, seeking approval for a 230-site manufactured home estate within the R2 zoned part of the land, with associated filling of the land, civil and landscaping works.

The application was lodged in June 2020 and a 'deemed refusal' appeal was lodged in the Land & Environment Court in September 2020.

## 8.2 Planning Proposal - Burns Point Ferry Road - Finalisation

The Court Proceedings were finalised in 2021. In November 2021 the Chief Judge of the Court refused the development application on the basis of the biodiversity values over the land.

**Figure 3 Lot 1 DP 124173 Burns Point Ferry Road – Location and Zoning**



Based on the judgement, and in accordance with a resolution made by Council at the July 2022 Ordinary meeting, a draft Planning Proposal was prepared, to apply a C2 Environmental Conservation Zone to all of Lot 1 DP 124173.

Because BLEP 2012 does not currently include the C2 Environmental Conservation zone, the Planning Proposal also intends to introduce a zoning table for this C2 zone, and a zoning table for the C3 Environmental Management zone.

The draft Planning Proposal was reported to Council on 27 October 2022, where Council resolved to request a Gateway determination.



## 8.2 Planning Proposal - Burns Point Ferry Road - Finalisation

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As indicated, the DPE issued a Gateway determination conditioned to retain the current R2 Low Density Residential Zone over the two areas approved for the placement of trial fill pads.

The Planning Proposal was amended to retain a small area of R2 zoning in the north-eastern corner of the site, with the remainder to be zoned C2 Environmental Conservation.

DPE issued an amended Gateway determination based on the amended proposal, and added a new condition:

*“The planning proposal is to be amended prior to public exhibition to include a savings provision which identifies that a development application made on the land but not finally determined before the commencement of the LEP amendment must be finally determined as if the plan has not commenced.”*

The original and amended Gateway determinations are contained in Appendix 4 of the amended Planning Proposal at Attachment 1.

The condition reflects the fact that the landowners had submitted a new Development Application – DA 2022/721 – for a manufactured home estate development on the site.

Based on this condition, the Planning Proposal was further amended to include an amendment to Clause 1.8A of Ballina LEP 2014 as follows (additions in **red** text):

### **1.8A Savings provision relating to development applications**

- (1) *If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.*

*Note—*

*However, under Division 3.5 of the Act, a development application may be made for consent to carry out development that may only be carried out if the environmental planning instrument applying to the relevant development is appropriately amended or if a new instrument, including an appropriate principal environmental planning instrument, is made, and the consent authority may consider the application. The Division requires public notice of the development application and the draft environmental planning instrument allowing the development at the same time, or as closely together as is practicable.*

- (2) *A development application made but not finally determined before the commencement of Ballina Local Environmental Plan 2012 (Amendment No 52) must be determined as if that Plan had not commenced.*

This proposal was subsequently publicly exhibited (exhibited copy in Attachment 1) from 27 March to 12 May 2023.

In response, Council received 44 submissions. 42 of these submissions expressed support for the proposed rezoning.

All submissions of support cited the environmental and ecological values of the site and the risks of flooding, particularly following the experience of the February / March 2022 floods.



## 8.2 Planning Proposal - Burns Point Ferry Road - Finalisation

Several submissions expressed the view that a C2 zoning would be compatible with the zoning and uses of adjoining properties. Potential impacts of site development on river health and on the visual amenity of the locality were also expressed as reasons for support.

One submission objected to the proposed C2 Environmental Conservation zone, suggesting instead that the land be zoned to provide a maintained nature park.

Copies of the public submissions are included as Attachment 2.

A detailed submission opposing the Planning Proposal was provided by RPS Group on behalf of the landowner.

A copy of that submission, and its supporting reports, is included as Attachment 3.

The submission states that the current owner of the site does not provide any kind of agreement to the proposed rezoning of the land to C2 Environmental Conservation zone.

The key grounds for objection are summarised in the table below and detailed in the submission in Attachment 3.

**Table 1: Landowner Objections**

<b>Objection</b>	<b>Staff Comment</b>
<i>The Planning Proposal does not meet all the criteria stipulated in the Northern Council's E Zone Review to warrant rezoning of the entire site to C2 Environmental Conservation.</i>	<p>The criteria for application of a C zone are addressed in Table 1 of the Planning Proposal (Attachment 1).</p> <p>A key criterion is the presence of Endangered Ecological Communities.</p> <p>In his judgement regarding the previous Land and Environment Court case, the Chief Judge, after reviewing all the ecological evidence, stated:</p> <p><i>"The upshot is that the whole of the northern part of the site zoned R2 is comprised of three endangered ecological communities...."</i></p> <p>In their submission to the draft Planning Proposal, the Biodiversity and Conservation Division of DPE agree the site contains biodiversity values that meet the criteria for application of a C2 zone, and the site is not suitable for urban development (see Table 2).</p>
<i>The whole site is not being used primarily for environmental conservation purposes. It can be agreed that the southern part of the site is being used for conservation purposes, however the northern portion of the site, which is consistently being managed through slashing and includes two trial fill pads, cannot be perceived as being used for conservation purposes.</i>	<p>Slashing has been undertaken in the northern part of the site. With the presence of EECs in this part of the site, it is the view of technical officers that ongoing slashing has not been authorised under the terms of the <i>Biodiversity Conservation Act 2016</i>.</p> <p>A such, the slashing cannot be a determining factor for the purposes of determining 'primary land use'.</p>

## 8.2 Planning Proposal - Burns Point Ferry Road - Finalisation

Objection	Staff Comment
<p><i>It is acknowledged in the court case and joint ecological reports that there were disputes between the ecological findings as well as incomplete data, insufficient information and facts that were assumed and not proven. It is understood that Ballina Shire Council has proceeded with the Planning Proposal to rezone the site to a C2 Environmental Conservation zone, despite the lack of evidence to support the rezoning and with no further ecological studies to substantiate the claims.</i></p>	<p>In considering the evidence presented in the Court, the Chief Judge noted the disagreement between ecological experts as to the plant community types in the northern area.</p> <p>He noted, however, that both vegetation types preferred by the respective experts were part of an endangered ecological community, and therefore the disagreement did not matter.</p> <p>Given the extensive and detailed nature of ecological evidence considered by the Court, Council remains of the view that the Chief Judge's findings provide a sound basis for the proposed zoning.</p>
<p><i>There is a current development application over the subject site that is under assessment by Ballina Shire Council (reference no.: 2022/721/1) which should form an integral part of the consideration for the objection to the rezoning of the site. The current development proposal is for 148 Independent Living Units for a land lease Seniors Housing community. The new application has addressed the key concerns raised in the court case for the previous refusal. The new development footprint is considerably smaller than the previous proposal with approximately 42% less fill required to be brought to site. Since the first proposal, further studies have been commissioned from an ecological expert (Cumberland Ecology) that show 17.5% of the site is clear of native forest vegetation and consists largely of weedy native grasslands/reedlands and can be sustainably developed. The existing Biobanking Area has also been upgraded to a Stewardship program which means 82.5% of the site can be managed and enhanced in perpetuity.</i></p>	<p>Given the extensive and detailed nature of ecological evidence considered by the Court, Council remains of the view that the Chief Judge's findings provide a sound basis for the proposed zoning.</p> <p>It is also noted that DPE's Gateway condition requires a 'savings provision' that will allow the current development application to be considered on its merits, regardless of the progress of the proposed rezoning.</p>
<p><i>Since the previous refusal for the Manufactured Home Estate, a full and complete ecological study has been undertaken by Cumberland Ecology. Cumberland Ecology are experts in their field and have diligently undertaken a full 12-month study across the entire site with the results informing a Vegetation Management Plan (VMP) and Biodiversity Development Assessment Report (BDAR). These findings are complete and up to date, with the reporting finalised in March 2023. It is requested that Council and the State take full consideration of the new VMP and BDAR reports and that these reports are provided to the Biodiversity Conservation Department</i></p>	<p>As indicated above, DPE's Gateway condition requires a 'savings provision' that will allow the current development application to be considered on its merits, regardless of the progress of the proposed rezoning.</p>

## 8.2 Planning Proposal - Burns Point Ferry Road - Finalisation

<b>Objection</b>	<b>Staff Comment</b>
<i>(BCD) to review as part of their assessment of this Planning Proposal.</i>	
<i>It is considered that the areas of the site in the southern portion that have high biodiversity value would be better conserved under the existing and proposed additional Stewardship agreements, which include active rehabilitation of the site and removal of weeds with the support of a dedicated fund and management plan for rehabilitation of the land. In comparison, a change to the C2 Environmental Conservation zone would provide no management plan or dedicated funding source to ensure active rehabilitation of the land. Rezoning the land to C2, would also allow for potentially harmful activities to occur on the site such as dwelling houses, extensive agriculture, and roads, which are all uses that would be permitted with consent under the C2 zone.</i>	<p>The range and types of land uses permitted under a C2 Environmental Conservation zone are significantly more limited than those available under the current zoning of the land.</p> <p>A C2 zoning over the whole of the site could also allow the landowners, should they choose, to pursue the whole of the land as a Stewardship Site and “sell” resulting credits.</p>

No change to the planning proposal is recommended in response to the submission made by the landowner.

State Agencies were also consulted regarding the proposal.

The following table summarises the comments received from the agencies (full responses in Attachment 4).

**Table 2: State Agency Comments**

<b>Agency</b>	<b>Comments</b>
Biodiversity and Conservation	<p>Agree the site contains biodiversity values that meet the criteria for application of a C2 zone, and the site is not suitable for urban development.</p> <p>Support the rezoning of the land.</p> <p>Do not support the savings provision required by Condition 1 of the Gateway determination.</p>
Department of Primary Industries – Agriculture	<p>The proposal is not likely to have an adverse impact on any agricultural land use or agricultural production and therefore NSW DPI has no objection or additional requirements for this proposal.</p>
Department of Primary Industries – Fisheries	<p>DPI Fisheries has no objection to the proposal given it will provide additional protection to important key fish habitat located at and adjacent to the site.</p>
NSW SES	<p>The NSW SES welcome the decision to apply C zone to this site as it will reduce exposure and improve resilience to catastrophic risk from floods, storms, and tsunamis.</p> <p>SES note that an assessment of flood risk will be required for the reduced range of development options allowable under a C zone, even for a single dwelling, and note that such assessment would need to consider safe evacuation in the event of a Probable Maximum Flood (PMF).</p>

## 8.2 Planning Proposal - Burns Point Ferry Road - Finalisation

<b>Agency</b>	<b>Comments</b>
NSW Rural Fire Service	No concerns regarding bush fire.
Heritage NSW	<p>Recommend that a comprehensive Aboriginal Cultural Heritage Assessment report is needed and should inform this planning proposal.</p> <p>In this case, the Planning Proposal will restrict, rather than facilitate, future development options. On that basis, it is considered that such a report is not warranted at this rezoning stage.</p> <p>The limited range of land uses that are permissible in the C2 Environmental Protection zone require Development Consent, and a comprehensive Cultural Heritage assessment can be required for any future DA.</p>

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

Introducing C Zones into BLEP 2012, and applying a C2 Environmental Conservation zone to the property at Burns Point Ferry Road 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 Engagement Strategy**

Public consultation was undertaken in accordance with DPE's Gateway determination and Council's Community Participation Plan. This report summarises the results of that engagement.

### **Financial / Risk Considerations**

The Planning Proposal and LEP amendment can be processed within existing resources. The Court judgement and associated Joint Expert Reports are sufficient to provide background and justification for a proposed rezoning of the property.

An LEP amendment to replace an urban zone with a conservation zoning does not create a financial compensation liability under the NSW planning system.

### **Options**

*Option 1 – Council resolve to finalise the planning proposal as outlined in this report*

The planning proposal will introduce C Zones into BLEP 2012 and apply a C2 Environmental Conservation Zone to land at Lot 1 DP 124713, Burns Point Ferry Road.

## 8.2 Planning Proposal - Burns Point Ferry Road - Finalisation

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The zoning is consistent with the findings of the Land and Environment Court judgement, which demonstrates that the site has significant biodiversity values and is not suitable for urban development.

42 public submissions have been received expressing support for the proposed rezoning. State Agencies have also supported the proposal or otherwise not raised issues or concerns.

A detailed submission in opposition to the LEP amendment was provided on behalf of the landowners.

That submission does not raise any issues that alter the recommendation to apply a C2 Environmental Conservation zoning over the land.

This option is recommended.

### *Option 2 – Defer or amend the planning proposal*

This option is not recommended given that the findings of the Court, based on considerable detailed expert evidence, has highlighted important biodiversity values are present on the site.

Deferral of the proposal pending determination of the new development application is not necessary as DPE's Gateway condition requires a 'savings provision' that will allow the current development application to be considered on its merits, regardless of the progress of the proposed rezoning.

### *Option 3 – Cease further work on the planning proposal*

The findings of the Court indicate that the current zoning of the site is not suitable. Given the extent of EECs across the property, the existing zoning of R2 and RU2 would allow a range of development options that are at odds with the significant biodiversity values present on the land, as identified through the Land and Environment Court proceedings.

This option is not recommended.

## **RECOMMENDATIONS**

1. That Council endorses the amendment to introduce Conservation Zones into Ballina Local Environmental Plan 2012 and rezone land at Burns Point Ferry Road to C2 Environmental Conservation, as outlined in Planning Proposal BSCPP 22/007 (Attachment 1).
2. That Council submits planning proposal BSCPP 22/007 to the Department of Planning and Environment for finalisation.

## **Attachment(s)**

1. BSCPP 22/007 - Burns Point Ferry Road - Planning Proposal (Exhibition) [⇒](#)
2. BSCPP 22/007 - Public Submissions - Burns Point Ferry Road [⇒](#)
3. BSCPP 22/007 - Submission from Gemlife Ballina - Burns Point Ferry Road [⇒](#)
4. BSCPP 22/007 - Agency Submissions - Burns Point Ferry Road [⇒](#)



### **8.3 Planning Proposal and VPA - Ballina Heights Commercial Centre**

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### **8.3 Planning Proposal and VPA - Ballina Heights Commercial Centre**

<b>Section</b>	Strategic Planning
<b>Objective</b>	To seek direction on the finalisation of a planning proposal and associated voluntary planning agreement (VPA) for the relocation of the Ballina Heights Commercial Centre following public exhibition.

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#### **Background**

Council considered a report at the 24 November 2022 Ordinary meeting which dealt with a planning proposal, and associated voluntary planning agreement (VPA), to relocate the Ballina Heights Commercial Centre and resolved as follows:

- 1. That Council endorses the finalisation of the Voluntary Planning Agreement on the basis of Attachment 3 to this report, and subject to final legal advice for the purposes of proceeding to Gateway determination and public exhibition of the planning proposal.*
- 2. That subject to Vixsun agreeing to the Voluntary Planning Agreement, the Planning Proposal, provided as Attachment 2 to this report, to amend the Ballina Local Environmental Plan 2012, be referred to the Department of Planning and Environment for Gateway Determination.*
- 3. That Council advise the Department of Planning and Environment that Council wishes to exercise its delegation functions with respect to the planning proposal.*
- 4. That subject to Council receiving an affirmative Gateway Determination, the planning proposal and voluntary planning agreement be placed on public exhibition in accordance with Council's standard procedures.*
- 5. That the Council receive a further report on this matter following the conclusion of the public exhibition.*
- 6. That Council advise the Ballina Heights developers that Council requires the Registration of the Voluntary Planning Agreement to occur prior to the finalisation of the planning proposal as per Council's Voluntary Planning Agreements Policy.*

In accordance with the above resolution the VPA was finalised for public exhibition (i.e. to the point where it is ready for execution by Council).

The Planning Proposal was also referred to the Department of Planning and Environment (DPE) for a Gateway determination.

The DPE issued a Gateway determination on 17 March 2023 which allowed the planning proposal to proceed to public exhibition. Following consultation with Government Agencies, as specified in the Gateway determination, the planning proposal and the associated VPA were placed on public exhibition from 21 April 2023 until 22 May 2023.

The exhibited Planning Proposal is provided as Attachment 1 to this report.

This report seeks direction on the finalisation of the planning proposal and the associated VPA.



## 8.3 Planning Proposal and VPA - Ballina Heights Commercial Centre

### Key Issues

- Consideration of submissions
- Finalisation of planning proposal and VPA

### Discussion

#### *Planning Proposal*

The planning proposal seeks to relocate part of the site for the Ballina Heights Commercial Centre from the existing commercial site on Ballina Heights Drive, to a proposed commercial site located on the corner of Power Drive and Ballina Heights Drive. This is in accordance with Council's resolution of 24 March 2022:

*That Council prepare a planning proposal to amend the Ballina Local Environmental Plan 2012 to apply the B2 Neighbourhood Commercial zone to part of Lot 66 D 1276775 and apply the R3 Medium Density Residential zone to part of Lot 497 of DP 1261230 as well as associated adjustments to related planning provisions, as outlined in this report.*

Following the implementation of the State Environmental Planning Policy Amendment (Land Use Zones) (No 2) 2022 on 26 April 2023 the B2 Local Centre zone was changed to an E1 Local Centre zone. This change was reflected in the exhibited planning proposal.

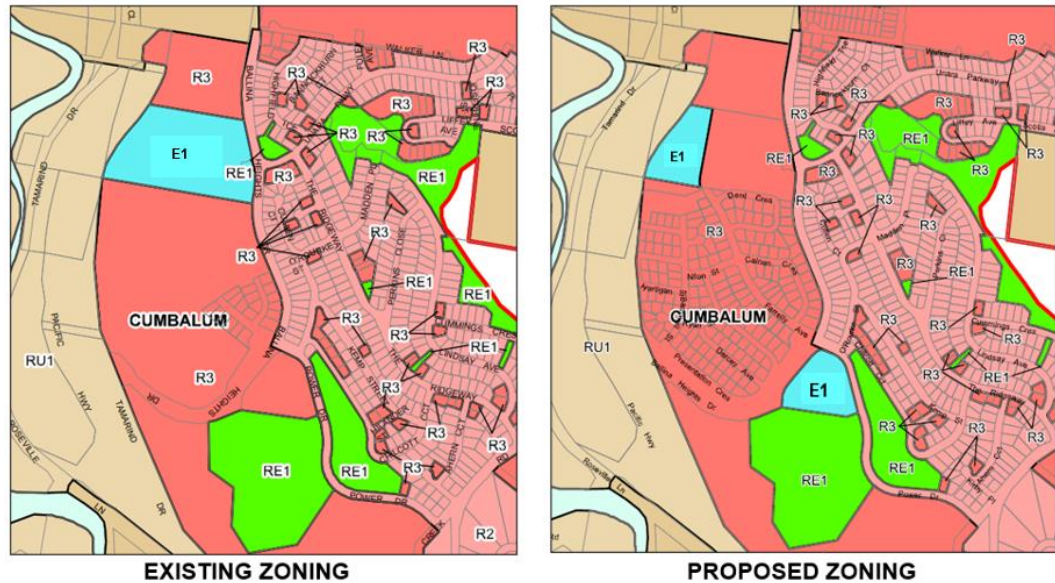
The location of the existing and proposed local centre sites are shown outlined in red on the map below (existing site is the northern most red outlined property and the proposed site is the southernmost red outlined property).



The proposed zoning outcomes associated with the planning proposal are shown in the map below.



## 8.3 Planning Proposal and VPA - Ballina Heights Commercial Centre



A number of consequential changes to the minimum lot size, building height and floor space ratio standards are also required as a consequence of the proposed zone changes. These matters are detailed in the exhibited Planning Proposal contained in Attachment 1.

### *Gateway Determination*

The Gateway determination which allowed the planning proposal to proceed to public exhibition, and authorised the Council to exercise the functions of the local plan-making authority is subject to the following conditions:

- a) The planning proposal authority has satisfied all the conditions of the Gateway determination
- b) The planning proposal is consistent with applicable directions of the Minister under section 9.1 of the EP&A Act or the Secretary has agreed that any inconsistencies are justified and
- c) There are no outstanding written objections from public authorities.

The Gateway conditions required Council to obtain the agreement of the Secretary to comply with the requirements of the Minister, under section 9.1 of the EP&A Act, regarding a noncompliance with Direction 4.3 Planning for Bushfire Protection. In this respect the NSW Rural Fire Service has raised no concerns or issues to the planning proposal related to bush fire. This being the case the agreement of the Secretary was obtained on 23 May 2023.

Following the Secretary's agreement being received the conditions of the Gateway determination have all been satisfied and Council is now able to proceed to finalise the planning proposal.

### *Comments from Government Agencies*

The Gateway determination required consultation with:

- Transport for NSW
- NSW Rural Fire Service
- The Civil Aviation Authority

### **8.3 Planning Proposal and VPA - Ballina Heights Commercial Centre**

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There were no issues or objections raised by the above agencies.

Responses received are contained within Attachment 2.

#### *Voluntary Planning Agreement (VPA)*

The VPA as previously endorsed by Council at its meeting on 24 November 2022, and now executed by Vixsun Pty Ltd and the Trustees of The Roman Catholic Church for the Diocese of Lismore (TRCCDL), is contained in Attachment 3.

The objective of the VPA is to facilitate the timely development of a commercial centre for the Ballina Heights Estate and to facilitate the provision of affordable rental housing.

The key VPA provisions come into effect upon Ballina LEP 2012 being amended to rezone part of the existing commercial site, located on Part Lot 497 DP 1261230 from B2 Local Centre (now E1 Local Centre) to R3 Medium Density, and the proposed commercial site, located on part of Lot 66 DP1276775 (now part Lot 667 DP 1280013), being rezoned from R3 Medium Density to B2 Local Centre (now E1 Local Centre).

Once the rezoning has been finalised the following will be required to occur:

- No subdivision certificate in respect to the rezoned land on the existing commercial site will be sought until such time as a neighbourhood commercial centre, with a minimum gross floor area of 1000m<sup>2</sup>, has been approved, substantially commenced and an occupation certificate issued.
- TRCCDL agree to either dedicate to Council 1500m<sup>2</sup> of land for the purpose of affordable rental housing or build a minimum of 5 dwellings for affordable rental housing purposes. Such housing being required to be built within 5 years from the date the LEP amendment is made.
- The VPA to be registered on the land comprising the existing commercial site.

Since the finalisation of the VPA, and its execution by the landowners, the description of the zone has changed from B2 to E1.

Additionally, the site of the proposed commercial centre is now located within part Lot 667 DP 1280013. Previously it was located within part Lot 66 DP1276775.

These changes are minor and were referred to the Solicitor who drafted the VPA. Advice has been received that states that as the VPA has been executed prior to the coming into effect of the zoning change and the change to the Lot/DP, it is not necessary that a new VPA be executed.

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

Advancing the delivery of the commercial area in the Ballina Heights locality is a specific action for the 2022/23 year under the current Operational Plan and Delivery Program (action PE 1.2b – Support the delivery of commercial and retail shops in the Ballina Heights Estate).

### Community Engagement Strategy

The planning proposal and associated VPA were publicly exhibited in accordance with the provisions of the Environmental Planning and Assessment Act. The Gateway determination required a minimum 20-day exhibition period for the planning proposal.

The public exhibition period for a planning agreement is a minimum of 28 days. Consequently, the VPA and planning proposal were exhibited from 21 April 2023 to 22 May 2023 to comply with this requirement. The exhibition process involved documents being displayed on the Ballina Shire Your Say engagement website and in the public notices section of Council's website.

In addition, letters were forwarded to 72 nearby property owners inviting comments.

In response, 20 submissions have been received through the Ballina Shire Your Say engagement website.

An additional submission from the proponents of the planning proposal was also received. This raises some technical concerns relating to the ability to subdivide the site of the existing commercial zone (Lot 497 DP 1261230) from the remainder of the lot.

Public submissions are contained within Attachment 4.

The proponent's submission is contained within Attachment 5.

#### *Consideration of Public submissions*

There were 17 public submissions which indicated support and three submissions which did not support the proposal.

A summary of the key issues raised in submissions together with related staff comments are contained in the following table.

<b>Issue Raised in Public Submission</b>	<b>Staff Comments</b>
Current commercial site perfectly located, easily accessible, away from main road and safe to walk for children.	<p>The existing commercial site is well located in terms of encouraging walkability and being more central to a bigger proportion of the population catchment of Ballina Heights and Banyan Hill Estates, there are several factors that make the proposed site more feasible to develop in a commercial and economic sense for the developer.</p> <p>Part of the existing commercial site has a significant slope. Due to this factor, it is more difficult and expensive to develop than the proposed flat site.</p> <p>The existing site also has a land area approximately three times larger than the proposed centre. This far exceeded the area required to support a shopping centre to serve the population of Ballina Heights / Cumbalum.</p>

### 8.3 Planning Proposal and VPA - Ballina Heights Commercial Centre

Issue Raised in Public Submission	Staff Comments
	<p>It is partly due to the above factors that a developer could not be found to provide shopping facilities on the existing zoned site. It is noted that the existing site is located at the intersection of Ballina Heights Drive and Unara Parkway approximately 500 metres to the north of the proposed site. Whilst the existing site is more central to the Ballina Heights / Cumbalum and Banyan Hills estates neither site raises adverse accessibility or traffic safety concerns.</p> <p>Given the urgent demand for neighbourhood shopping centre facilities for Cumbalum, and the landowners' desires to relocate the commercial precinct based on its commercial viability and development costs, proceeding with the finalisation of the planning proposal at the proposed site is the timeliest way of providing a commercial centre to the locality.</p>
Substantially built requirements for the proposed commercial centre is wishy washy.	This concern relates to provisions of the VPA. The VPA requires that no subdivision certificate be signed for the rezoned residential land (part of the existing E1 Local Centre zoned area) until a neighbourhood commercial centre, with a minimum gross floor areas of 1000m <sup>2</sup> , has been approved, substantially commenced and an occupation certificate issued. These provisions are clear and adequately reflect Council's concerns relating to the building of the proposed centre.
New commercial site significantly smaller will not be big enough to provide for the significant growth longer term.	<p>The proposed site is significantly smaller than the existing site. The adequacy of commercial floor space able to be provided on this site has been examined on Council's behalf by consultants Hill PDA.</p> <p>The consultants concluded that a centre having a shop front space in the range 2 – 3,000m<sup>2</sup> would be required to service the area's population to 2036. They concluded that a site having an area of 1.7ha would be sufficient for this purpose.</p> <p>They also concluded that the proposed location for the centre is an improvement having regard to its proximity to the on/off ramps to the Pacific Motorway.</p>
Fig trees in the zone change area should be preserved.	These trees are located on the existing zoned commercial site. The significance of the trees will be subject to assessment as part of any subdivision proposal for the subject land.
Resident bought property thinking land opposite would be residential not commercial. Site location means everyone will be driving to it not walking. Concerned about property values.	This concern is noted. It is sometimes the case that land zones are subject to change especially in new urban areas. No evidence has been submitted that property values will be adversely impacted by the proposed commercial centre.

## 8.3 Planning Proposal and VPA - Ballina Heights Commercial Centre

### Consideration of Proponent's Submission

Planners North request council to amend the exhibited planning proposal to enable the subdivision of Lot 497 DP 1261230. The proposed subdivision would excise that part of the site currently zoned E1 Local Centre under the provisions of Ballina LEP 2012, from the remainder of the lot zoned part 2(b) Village Area, part 1(d) Rural (Urban Investigation), and part 7(l) Environmental Protection (Habitat), under the provisions of Ballina LEP 1987.

Following a pre-DA meeting with council staff advice was provided to the proponents that states:

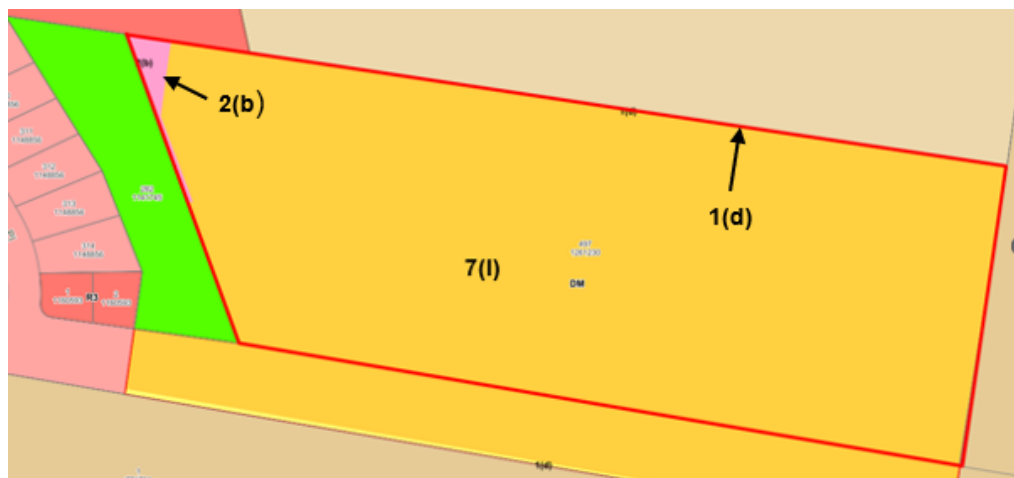
*As the site contains zoning under the BLEP 1987, Clauses 11 and 11B of the BLEP 1987 are applicable to the proposed subdivision. It is understood that the applicant intends for the eastern portion of the lot to be excised from the western portion of the lot, but the proposed subdivision of these two portions of the existing lot would not satisfy the provisions of Clauses 11 and 11B.*

*It is recommended that this matter be further investigated by the proponent, as there is no existing planning mechanism to facilitate excision of this land. The proposal for a residential subdivision on the western portion of the allotment could not proceed without this matter being resolved.*

The location, and zoning of the eastern section, of Lot 497 DP 1261230 is shown on the diagrams below.



Location Diagram



Zoning Diagram (eastern section Lot 497)

### 8.3 Planning Proposal and VPA - Ballina Heights Commercial Centre

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Lot 497 has a total area of 12.33ha with the western commercial end having an approximate area of 7ha and the eastern end having an area of approximately 5.3ha.

The 1(d) zone affects a sliver of land approximately 100mm wide running parallel to the northern boundary of part Lot 497. The 2(b) zone occupies an area of approximately 512m<sup>2</sup>.

The difficulty for the proponent in terms of subdividing Lot 497 relates to the minimum lot size applicable to subdivisions within the 1(d) and 7(l) zones.

The minimum lot size for subdivision in these zones is 40ha. Ballina LEP 1987 does contain a number of exceptions to the lot size subdivision standard within clauses 11 and 11(b).

It is considered that none of the listed exceptions relate to the circumstances applicable in this case.

Discussion of the issues involved with an officer of the Department of Planning and Environment has resulted in the development of the following strategy to resolve the future proposed subdivision issue:

- Council vary the planning proposal to address the subdivision issue. Section 3.35 of the EP&A Act enables the planning proposal authority (council) to vary a planning proposal as a consequence of its consideration of any submission or report during community consultation or for any other reason.
- A revised planning proposal be forwarded to the Minister with a request that further community consultation not be required.
- Council seek to insert a new clause within Ballina LEP 1987 that addresses the subdivision issues.

A special clause has been drafted as detailed below and is proposed to be inserted in an amended post exhibition planning proposal. The clause will still need to be reviewed by Parliamentary Counsel to ensure it effectively resolves the subdivision concerns discussed above.

#### *33B Subdivision of Land at Cumbalum*

- (1) *This clause applies to Lot 497 DP 1261230 as shown by heavy black edging and lettering on the map marked "Ballina Local Environmental Plan 1987 (Amendment No 117)" deposited in the office of the council.*
- (2) *Despite any other provision of this plan, the council may consent to the subdivision of the land to which this clause applies, where all land within Zone No.'s 2(b), 1(d) and 7(l) is contained in one single allotment and the consent authority is satisfied the resulting lot will be created as a result of a subdivision of land for urban purposes involving land in a residential or business or industrial zone, and the resulting lot is suitable for environmental protection or environmental management.*
- (3) *In this clause, residential or business zone means Zone R2, R3, or E1 under Ballina Local Environment Plan 2012.*

### Financial / Risk Considerations

The matters set out in this report have legal implications with respect to land uses for which development consent may be sought on the land as set out in the body of this report.

The costs associated with the processing of this planning proposal and associated VPA have been required to be paid by the proponents in accordance with council's fees and charges. On this basis, processing the planning proposal and VPA has been accommodated within existing resources.

The developer may also have options to seek a review of the Council's planning proposal decision through the Department of Planning and Environment.

### Options

*Option 1 – Council resolve to finalise the planning proposal and associated VPA and as outlined in this report.*

Under this option the planning proposal to amend the zoning arrangement over the land would not be finalised until the VPA has been registered on title as per the agreement and Council's policy.

This option is recommended on the basis that the VPA provides the most suitable means to secure the outcomes sought by the proponent and the Council, per the November 2022 resolution, as set out in the body of this report.

Following the finalisation of the VPA by Council's solicitors, the documents were provided to the proponents in January 2023. Subsequently the VPA documents were executed by Vixsun Pty Ltd and the Trustees of The Roman Catholic Church for the Diocese of Lismore. It now remains for Council to resolve that the VPA documents be duly executed under seal and returned to the proponents to be registered.

Under this option, should the proponent's advise Council that they wish to withdraw from the VPA and the planning proposal, at any point prior to the finalisation of the planning proposal, this matter would be reported to the Council for further consideration.

This option will also result in the planning proposal being amended prior to finalisation to reference a proposed new clause within Ballina LEP 1987 that addresses the subdivision issue, and the Minister's consent being sought to this change without further community consultation.

*Option 2 – Council could resolve to decline the planning proposal request and take no further action in respect to entering into a VPA.*

This option is not recommended on the basis that the outcomes negotiated, with respect to the VPA and planning proposal, provides the most appropriate mechanism for delivering the outcomes sought by the Council and the landowners.



#### RECOMMENDATIONS

1. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP21/002 – Ballina Heights Neighbourhood Commercial Centre, under delegated plan making authority once the executed planning agreement is registered on the title of Lot 497 DP1261230.
2. The finalisation of the planning proposal is to include an amendment so that it incorporates a special clause with the objective of permitting the subdivision of Lot 497 DP1261230 as discussed in this report.
3. The Minister be requested to endorse the revised planning proposal and determine that further community consultation is not required.
4. That Council authorises the use of the Common Seal to execute the Voluntary Planning Agreement associated with Planning Proposal BSCPP 21/002.

#### Attachment(s)

1. BSCPP 21/002 - Exhibited Planning Proposal [⇨](#)
2. BSCPP 21/002 - Agency Responses [⇨](#)
3. BSCPP 21/002 - Voluntary Planning Agreement [⇨](#)
4. BSCPP 21/002 - Public Submissions [⇨](#)
5. BSCPP 21/002 - Proponent Submission - Subdivision Issue [⇨](#)



## 8.4 Planning Proposal - Ballina LEP 2012 General Amendments

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### 8.4 Planning Proposal - Ballina LEP 2012 General Amendments

<b>Section</b>	Strategic Planning
<b>Objective</b>	To inform the Council of the outcomes of the public exhibition of Planning Proposal 22/004 relating to general housekeeping amendments to the Ballina Local Environmental Plan 2012 and to seek direction on the finalisation of this LEP amendment.

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#### **Background**

As part of a periodic review of the Ballina Local Environmental Plan 2012 (the LEP), staff have identified improvements to ensure the efficient operation of the LEP.

This matter was reported to the October 2022 Ordinary meeting and Council resolved as follows:

- 1. That Council endorses, for Gateway determination, the amendments to Ballina Local Environmental Plan 2012 outlined in the planning proposal contained in Attachment 1 (BSCPP 22/004).*
- 2. That Council submits the planning proposal contained in Attachment 1 to the NSW Department of Planning and Environment for review and Gateway determination.*
- 3. That upon an affirmative Gateway determination being received from the Department of Planning and Environment the procedural steps associated with progression of the planning proposal, including public exhibition, be undertaken.*
- 4. That the Department of Planning and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.*
- 5. That Council receive a further report on the proposal following the completion of the public exhibition of the planning proposal.*

The planning proposal has been publicly exhibited following the receipt of an affirmative Gateway determination.

The purpose of this report is to seek direction on the finalisation of the planning proposal following consultation and public exhibition.

Attachment 1 contains a copy of the exhibited planning proposal.

#### **Key Issues**

- Efficient functioning and operation of the Ballina LEP 2012
- Outcomes of the public exhibition and consultation process
- Finalisation of the LEP amendment

### Discussion

Table 1 provides a summary of the proposed amendments to the LEP that are recommended. Further details regarding the amendments are contained in the planning proposal in Attachment 1.

**Table 1: Summary of proposed LEP amendments**

Item	Location	Affects	Details
1	Ascot Road, Ballina	Map: HOB_006	Amend Height of Building (HOB) standard from 8.5m to 10m for lots on northern and southern side of Ascot Road, Ballina to provide consistency with the 10m HOB standard that applies to the adjacent Southern Cross Industrial Estate.
2	Airspace operations (Shire wide provisions)	Clause 7.5	Amend wording of clause to remove the requirement for consultation with the relevant airport authority in relation to proposed residential development and make consultation discretionary for this form of development.  The aim is to reduce the administrative requirement associated with dwellings and other forms of residential development in planned residential areas.

The planning proposal was referred to the NSW Department of Planning and Environment (DPE) for Gateway determination on 2 November 2022.

A Gateway determination allowing the planning proposal to proceed to public exhibition was issued on 25 November 2022. A copy of the Gateway determination is included in Appendix 4 to the planning proposal provided, which is included as Attachment 1 to this report.

The DPE approved an alteration to the Gateway determination on 30 May 2023. The alteration extended the period in which the LEP is required to be completed from 6 to 9 months or by 25 August 2023. The Gateway determination required that Council amend the planning proposal prior to consultation to include a map of the land affected by Clause 7.5 Airspace operations of Ballina LEP 2012 and to refer to the draft North Coast Regional Plan 2041.

The Gateway determination also required consultation with the following authorities:

- Ballina-Byron Gateway Airport
- Civil Aviation Safety Authority (CASA)
- Air Services Australia (ASA) and
- NSW Rural Fire Service.

Further details are provided under the consultation section of this report.

## 8.4 Planning Proposal - Ballina LEP 2012 General Amendments

In addition to this, the agreement of the Department's Secretary is required in respect to compliance with section 9.1 Ministerial Directions 4.3 Planning for Bushfire Protection and 5.3 Development Near Regulated Airports and Defence Airfields. The Secretary's agreement is required to be obtained prior to the LEP amendment being made.

### Delivery Program Strategy / Operational Plan Activity

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

- HE3.1 – Implement plans that balance the built environment with the natural environment.
- HE3.1j – Maintain Local Environmental Plan (LEP).

### Community Engagement Strategy

The planning proposal was publicly exhibited from 12 December 2022 to 27 January 2023. Notification included the planning proposal being displayed on Council's website and at the Customer Service Centre.

Seven landowners of the affected properties in Ascot Road, Ballina were advised of the planning proposal and public exhibition via letter.

In response to the public exhibition no written submissions were received.

Consultation was undertaken with the relevant airport authorities and the NSW Rural Fire Service (NSW RFS) as required by the Gateway determination. A summary of responses is provided in Table 2 below. Copies of consultation responses are provided in Attachment 2.

**Table 2: Summary of government agency consultation**

Government Agency	Comments
1. Ballina-Byron Gateway Airport	<p>Ascot Road Height Limit</p> <p>Raise no objection to the increased height limit from 8.5 to 10 metres.</p> <p>Clause 7.5 – Airspace operations clause amendments.</p> <p>Advise that this is a proposed amendment to the LEP removing the requirement for consultation with the airport authority in relation to proposed residential development that will potentially infringe the airport's Obstacle Limitation Surface.</p> <p>BBGA initially did not support this proposed amendment as it is felt this is not consistent with the requirements outlined in Part 139 of the Civil Aviation Safety Authority's Manual of Standards in that an aerodrome operator must report to CASA, in writing, any infringement, or potential infringement, of the Obstacle Limitation Surface. Refer Section 7.18 Part 139 of the Manual of Standards.</p>

## 8.4 Planning Proposal - Ballina LEP 2012 General Amendments

Government Agency	Comments
	Note it has subsequently been agreed that the concerns raised by BBGA can be suitably managed.
2. Civil Aviation Safety Authority (CASA)	CASA advised that it has no objection to the amendments to the standard height limit from 8.5m to 10m for the area defined in the document or the amendments to clause 7.5 regarding consultation for developments in this area, as proposed.
3. Air Services Australia (ASA)	ASA advised they do not have any specific comments to make on any aspect of this proposal. All subsequent developments proposed to be built as part of this project, or cranes required, may require separate assessment. Noting the proximity to Ballina Airport, ASA recommends any future proposals be submitted to the airport in the first instance for them to conduct their own assessment. The airport will then refer the proposal to ASA if required.
4. NSW Rural Fire Service	Advises that it has considered the information submitted and subsequently raise no concerns or issues in relation to bush fire.

### Discussion - Ballina-Byron Gateway Airport (BBGA) Concerns

Clause 7.5 of Ballina LEP 2012 is reproduced below with proposed amendments shown by the red text:

#### 7.5 Airspace operations

- (1) *The objectives of this clause are as follows—*
  - a) *to provide for the effective and ongoing operation of the Ballina Byron Gateway Airport by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport,*
  - b) *to protect the community from undue risk from that operation.*
- (2) *If a development application is received and the consent authority is satisfied that the proposed development (other than residential accommodation) will penetrate the Limitation or Operations Surface, the consent authority must not grant development consent unless it has consulted with the relevant Commonwealth body about the application.*
- (2A) *If a development application is received for residential accommodation and the consent authority is satisfied that the proposed development will penetrate the Limitation or Operations Surface, the consent authority must consider any comments that have been provided in relation to the development by the relevant Commonwealth body.*
- (3) *The consent authority may grant development consent for the development if the relevant Commonwealth body advises that—*

## 8.4 Planning Proposal - Ballina LEP 2012 General Amendments

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- (a) *the development will penetrate the Limitation or Operations Surface but it has no objection to its construction, or*
- (b) *the development will not penetrate the Limitation or Operations Surface.*
- (4) *The consent authority must not grant development consent for the development if the relevant Commonwealth body advises that the development will penetrate the Limitation or Operations Surface and should not be constructed.*
- (5) *In this clause—*

**Limitation or Operations Surface** means the Obstacle Limitation Surface or the Procedures for Air Navigation Services Operations Surface as shown on the Obstacle Limitation Surface Map or the Procedures for Air Navigation Services Operations Surface Map for the Ballina Byron Gateway Airport.

**relevant Commonwealth body** means the body, under Commonwealth legislation, that is responsible for development approvals for development that penetrates the Limitation or Operations Surface for the Ballina Byron Gateway Airport.

BBGA has a statutory responsibility under the Civil Aviation Safety Authority's Manual of Standards (clause 7.18) as follows:

### **7.18 Procedures for aerodrome operators to deal with obstacles in the OLS**

- (1) *An aerodrome operator must:*
  - (a) *monitor the OLS for the aerodrome; and*
  - (b) *report to CASA, in writing, any infringement, or potential infringement, of the OLS.*

It is understood that BBGA monitors the OLS through receiving consultation advice from Council regarding proposed development. The concern initially expressed is that should the advice no longer be received then it will become more difficult to monitor the OLS.

There are alternatives available to BBGA through which it may continue to monitor the OLS. One alternative is to regularly review the list of DAs submitted via DAs online.

Another alternative is for Council to continue to advise BBGA of DAs submitted within the OLS, but not seek a response.

Following further discussion between planning and BBGA staff, it has been agreed that the BBGA can meet its requirements if the LEP amendment proceeds.

The difficulty with not making a change to the requirements of the clause is that the consultation is an absolute under the current wording.

In most cases (e.g. dwelling houses in planned residential areas) this consultation typically adds no value to the planning assessment process and usually results in at least several weeks of additional assessment time for residential development, whilst assessment staff await a response from the BBGA.

It also creates a resource demand on the BBGA.

## **8.4 Planning Proposal - Ballina LEP 2012 General Amendments**

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The aim of the clause is to make consultation discretionary based on the type of development (e.g. typical residential housing in new release areas would not usually be referred under this approach because it does not result in outcomes different to what is already occurring in areas such as Banyan Hill or Epiq).

However, atypical matters, such as tall infrastructure like reservoirs and buildings with variances to the height standard, are the types of things envisaged to be referred for comment under the proposed clause.

This approach can be implemented under the proposed alteration to the LEP provision as the intended clause requires consideration of any comments provided but does not obligate the assessment process to wait for a BBGA response.

### **Financial / Risk Considerations**

The work program associated with LEP amendment requests and planning proposals is being undertaken within existing resources.

In accordance with the Gateway determination, Council has been authorised to exercise local plan-making authority functions in relation to the planning proposal. A completion time of 25 August 2023 is applicable to the making of the LEP.

Given that the original completion date of 25 May 2023 was unable to be achieved any further delays may result in the LEP not being able to be made.

There are no significant risks identified with the finalisation of this planning proposal.

It is recommended that Council now progress the planning proposal to finalisation.

### **Options**

#### *Option 1 – Finalise the Planning Proposal*

This is the recommended option.

Finalisation of the planning proposal would include the preparation of the Height of Building map with respect to lots within Ascot Road, Ballina to effect the change proposed in the planning proposal (Attachment 1).

The planning proposal would also be updated to incorporate the outcomes of the public exhibition and agency consultation undertaken.

The exhibition and consultation processes have not identified any substantial issue that would warrant further delays to, or discontinuation of the planning proposal. The concerns expressed by BBGA can be suitably managed.

As indicated previously, it is also recommended that Council exercise its local plan making authority functions granted by the Department of Planning and Environment and proceed to finalise the planning proposal.

## **8.4 Planning Proposal - Ballina LEP 2012 General Amendments**

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### *Option 2 – Discontinue the Planning Proposal*

This option would involve the discontinuation of the subject amendments, with no further action to be taken.

The purpose of the subject planning proposal is to implement amendments to improve the function, content, and consistency of the Ballina LEP 2012. The amendments seek to ensure the Ballina LEP 2012 functions efficiently and that its provisions are up to date. Consequently, this option is not recommended.

### **RECOMMENDATIONS**

1. That Council endorses the proposed amendments to the Ballina Local Environmental Plan 2012 as outlined in the planning proposal (BSCPP 22/004 Ballina LEP 2012 General Amendments) contained in Attachment 1.
2. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP 22/004 under delegated plan making authority.

### **Attachment(s)**

1. BSCPP 22/004 - General Amendments 2022 - Planning Proposal (V2 Exhibition) [⇒](#)
2. Agency Submissions [⇒](#)

## 8.5 LEP Amendments and Planning Proposals - Status

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### 8.5 LEP Amendments and Planning Proposals - Status

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

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#### Background

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

#### Key Issues

- Status of rezoning and LEP amendment requests.

#### Discussion

##### *LEP Amendment Requests and Planning Proposals Status*

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

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

**Table 1: Status of LEP amendment requests and planning proposals**

Item	Name and Status	Summary and Notes	Completion Due
21/002	Ballina Heights Neighbourhood Commercial Centre (Stage 6)	Proposal to amend the Ballina LEP 2012 to relocate the commercial zone within the estate. The proposal will also zone an area of currently commercial zoned land (in excess of forecast need) for residential purposes and facilitate the provision of affordable housing.  Exhibition of the Planning Proposal and VPA concluded on 22 May 2023.  The Planning Proposal and VPA are the subject of a separate report elsewhere in this business paper.	08/09/2023



## 8.5 LEP Amendments and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
21/004	Conservation Zones Review (Deferred Matter Integration into BLEP 2012) (Stage 6)	Proposal to integrate certain deferred matters into the BLEP 2012. Proposal also seeks to amend clause 41 of the BLEP 1987 to limit the temporary use of land to a maximum of 14 days per annum. Public exhibition concluded on 17 March 2023. Assessment of submissions received is currently underway. The Department of Planning and Environment has funded Gyde Consulting to undertake the assessment of submissions following initial preliminary assessment by Council staff. It is anticipated the matter will be reported to Council in quarter two of next financial year.	15/12/2023
22/004	General Amendment (Stage 6)	Proposal to make minor amendments to the BLEP 2012 to improve the efficient operation of the plan. Public exhibition and agency consultation has now concluded. This matter is the subject of a separate report elsewhere in this business paper.	25/08/2023
22/005	Southern Cross Industrial Estate Expansion (Stage 2)	Proposal by Ballina Shire Council for the rezoning of land adjacent to the existing Southern Cross Industrial Estate from its current rural zoning to enable a mixture of industrial and employment-type land uses. Updated technical studies, including detailed biodiversity assessments, are underway to support a planning proposal. Staff are awaiting responses from two adjoining property owners (to the east of the site) who have been invited to have their properties included in the rezoning process.	#
22/006	Tuckombil Quarry High Technology (Stage 1)	Proposal to amend the BLEP 1987 to include a definition of 'high technology industry' to support a proposal to lease the site for use by a local film production company. Technical studies are underway to support a planning proposal.	#
22/007	Burns Point Ferry Road (Stage 6)	Proposal to amend the BLEP 2012 in relation to Lot 1 DP 124173, 550-578 River Street, West Ballina to apply a non-urban zone (C2 Environmental Conservation) to the land, other than a small area located in the northeast corner, which would remain R2 Low Density Residential zone. The planning proposal was publicly exhibited during April and May (concluding on 12 May 2023). This matter is the subject of a separate report elsewhere in this business paper.	15/08/2023
22/008	Johnstone Land (Stage 1)	Proposal to rezone land in the Banyan Hills Estate (known as the Johnstone Land) from rural to residential (R2) and associated adjustments to the minimum lot size. Proponent has been advised that additional information is required and Council is awaiting a response.	#

## 8.5 LEP Amendments and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
22/009	Banyan Hills Estate Zoning Anomalies (Stage 1)	Proposal to adjust various zone boundaries within the Banyan Hills Estate to accurately reflect the current cadastre and subdivision plan. Detail of the proposed mapping currently under review.	#
22/010	Wollongbar Dual Occupancy (Stage 5)	Proposal to amend the Additional Permitted Uses schedule in BLEP 2012 to permit attached dual occupancy development in R2 zone in Wollongbar on lots >900m <sup>2</sup> . At its Ordinary meeting held 23 February 2023, Council resolved to endorse the scoping proposal for submission to the Department of Planning and Environment. The Department of Planning and Environment issued a Gateway determination on 19 May 2023. Consultation with the NSW Rural Fire Service is currently being undertaken. Once a response is received the planning proposal will progress to public exhibition.	19/11/2023
22/011	Strategic Urban Growth Area (SUGA) Map Amendments (Stage 7)	Proposal to update of BLEP 2012 SUGA maps in accordance with previous Council resolutions. Council considered the outcomes of the public exhibition at its May 2023 meeting and resolved to finalise the planning proposal and implement the changes to BLEP 2012 SUGA maps. Steps to finalise the LEP amendment underway.	30/06/2023
22/013	Sheather Land (Stage 1)	Proposal to rezone land on western edge of Banyan Hill Estate to enable residential subdivision. Assessment of the proposal has commenced. The proponent has been advised that there are several matters that require further investigation and assessment prior to the planning proposal being able to be further considered. Council is awaiting a response.	#
<p><b>LEP Amendment Request/Planning Proposal Processing Stages</b></p> <ol style="list-style-type: none"> <li>Initial Concept - Proponent submits initial amendment concept for review and reporting to the Council.</li> <li>Planning Proposal - Preparation of a planning proposal for the Council's consideration (if the initial concept is supported by the Council).</li> <li>Gateway Determination - DPE determination as to whether the planning proposal may proceed (if the Council resolves to submit the planning proposal for determination).</li> <li>Study Preparation - Relevant technical information to enable complete assessment compiled and considered. This step may also involve pre-exhibition public authority consultation.</li> <li>Community Consultation - Planning proposal and associated technical assessment material exhibited for public comment.</li> <li>Public Hearing - Public Hearing held, where required.</li> <li>Submissions Assessment and Council Decision - Reporting of community consultation outcomes and Council decision regarding finalisation of the planning proposal.</li> <li>Finalisation - DPE finalisation (or Council finalisation under delegation) of the LEP amendment based on the planning proposal. Note: the Minister for Planning and Public Spaces may finalise, alter or terminate the amendment.</li> </ol> <p># Denotes proposal number and due date subject to Gateway determination. The completion due date is a date determined by the Department of Planning, Industry and Environment.</p>			

## **8.5 LEP Amendments and Planning Proposals - Status**

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

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

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

### **Community Consultation Policy**

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

### **Financial / Risk Considerations**

The work program associated with LEP amendment requests and planning proposals is being undertaken within existing resources.

Fees are applied in accordance with Council's adopted fees and charges in relation to external requests for amendments to the LEP and processing of subsequent planning proposals.

### **Options**

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

### **RECOMMENDATION**

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

### **Attachment(s)**

Nil

## 8.6 Ballina Shire Biodiversity Strategy - Finalisation

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### 8.6 Ballina Shire Biodiversity Strategy - Finalisation

<b>Section</b>	Strategic Planning
<b>Objective</b>	To provide Council with the outcomes of the public exhibition of the draft Ballina Shire Biodiversity Strategy and to present a revised Ballina Shire Biodiversity Strategy for adoption.

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#### **Background**

At the 24 November 2022 Ordinary meeting, Council considered the draft Ballina Shire Biodiversity Strategy and resolved as follows:

*That Council approves the public exhibition of the draft Ballina Shire Biodiversity Strategy, for a period of at least three months, with the strategy to be supported by existing resources and a reassessment of the priority actions within.*

The draft Strategy was placed on public exhibition for a period of three months from 17 December 2022 to 17 March 2023.

The Ballina Shire Biodiversity Strategy ('the Strategy') seeks to promote understanding of the biodiversity values of Ballina Shire and set out actions that contribute to conserving and enhancing biodiversity for future generations.

By way of broad context, Ballina Shire contains a variety of significant biodiversity assets including threatened ecological communities (i.e Big Scrub Rainforest, Wetlands), a nationally significant koala population and various threatened flora (i.e Coastal Fontainea, Davidson's Plum) and fauna species (i.e. Long-nosed Potoroo, Albert's Lyrebird) that are protected under State and Commonwealth conservation instruments.

With respect to habitat, Ballina Shire has the least amount of native vegetation cover in the North Coast region, at 20%. In comparison Byron and Tweed Local Government Areas (LGAs) have 37% and 50% cover, respectively.

The biodiversity characteristics and values associated with Ballina Shire are core underpinning factors for the vision and direction of the Strategy.

The environment is one of the main reasons why people like living in Ballina Shire as evident in the results of the last two Community Satisfaction Surveys undertaken by Council for 2020 and 2022.

In these surveys, the community rates the natural environment as the most significantly valued aspect of living in the Shire.

During consultation for the *Ballina Shire Community Strategic Plan 2022 – 2032* (CSP), around half of respondents noted that the best thing about living in Ballina Shire is the beautiful environment, the relaxed lifestyle and access to open spaces and recreation.

Quotes from CSP consultation are as follows:

- "Environmental protection and rural landscape protection should be high."

## 8.6 Ballina Shire Biodiversity Strategy - Finalisation

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- “Healthier rivers and creeks.”
- “Preserve and protect the environment.”
- “A healthy environment with lots of outdoor spaces and facilities that encourage health, well-being and social connectedness.”

As a result of the strong recurring theme from community engagement regarding the health and preservation of our natural environment, one of the four directions in the CSP is Healthy Environment (HE).

In recognition of the strong community values and concerns around the natural environment, Action HE3.2i of Council’s *Delivery Program and Operational Plan 2022 – 2026* lists the preparation of a Biodiversity Strategy as an item for completion in 2022/23.

This report outlines the outcomes of the public exhibition of the draft Strategy and seeks adoption by Council.

### Key Issues

- Interrelationship in submissions between Council’s Conservation Zones (C Zones) review and the Biodiversity Strategy
- Community seeking increased involvement from Council to protect and enhance biodiversity
- Funding the implementation of the Strategy
- Transparency regarding implementation of the Strategy

### Discussion

#### *Summary of public exhibition*

The draft Strategy was placed on public exhibition for a period of three months from 17 December 2022 to 17 March 2023.

Attachment 1 contains the *Public Exhibition Summary Report*, which summarises the outcomes of the public exhibition period (this includes the written submissions).

All feedback received during the public exhibition period was considered and a series of changes to the draft Biodiversity Strategy are recommended. A list of significant changes made to the Strategy, in response to the public exhibition feedback, is contained in Attachment 2.

Attachment 3 contains the final draft Biodiversity Strategy, inclusive of changes resulting from the feedback.

To promote the public exhibition of the draft Strategy, staff undertook public engagement activities including:

- Publishing a project specific webpage from which the draft Strategy could be downloaded
- Online feedback form / survey accessed via the webpage
- Five social media ‘posts’ via Council social media platforms

## 8.6 Ballina Shire Biodiversity Strategy - Finalisation

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- Three community information and market stalls held at Ballina, Lennox Head and Alstonville
- Presentation at a Lennox Head Residents Association meeting
- Meetings with representatives from Jali Local Aboriginal Land Council
- Contacting key stakeholders (Government and non-Government stakeholders) to inform them of public exhibition of the draft Strategy.

132 responses were received during the exhibition period across all engagement activities.

Responses were received via the online survey (60), written submission (12) and verbal responses from participants attending the community information and market stalls (60).

Key findings of the *Public Exhibition Summary Report* (Attachment 1) are as follows:

### Online Feedback Form/Survey responses

- A total of 60 online survey responses were received and a further 213 people downloaded the draft Biodiversity Strategy document
- 14 online survey respondents (23% of all online respondents) cited Council's C Zones review as the main reason they were unsupportive of the Biodiversity Strategy
- 93% of respondents live in Ballina Shire
- 53% of respondents indicated that they are in support of the overall aims and objectives of the Biodiversity Strategy
- 27% of respondents are 'unsure' if they are supportive of the Biodiversity Strategy, and a further 20% answered 'no', indicating they are not in support of the Biodiversity Strategy
  - It should be noted that 36% of these respondents who answered 'unsure' or 'no' cited Council's conservation zones review (C Zone review) as the main reason they unsure or do not support the Biodiversity Strategy
- 95% of respondents are 'very concerned' or 'concerned' about biodiversity issues in Ballina Shire
- 98% of respondents believe it is either 'important' or 'somewhat important' for Council to support community groups and private landholders undertaking conservation work on private land
- 75% of respondents would be willing to contribute financially to support the implementation of actions listed in the Biodiversity Strategy
  - 72% of the respondents willing to contribute financially would be willing to contribute greater than \$10 each year.
  - 43% of respondents willing to contribute financially would be willing to contribute greater than \$50 each year

## **8.6 Ballina Shire Biodiversity Strategy - Finalisation**

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- 25% of respondents would not be willing to contribute financially to support the implementation of actions listed in the Biodiversity Strategy.

### Community information and market stalls

The average number of respondents engaged at each of the information stalls was approximately 20.

Feedback from the respondents varied although common themes and issues raised across all three stalls included;

- Confusion between the C Zones review and the Biodiversity Strategy – often confused as the same process
- Planting of more shade trees and regeneration of natural ecosystems (i.e. Big Scrub Rainforest)
- Maintaining the green space around Alstonville and Wollongbar
- Management of feral animals and weed species
- Ensuring Council will appropriately resource and implement the Biodiversity Strategy
- Promote community awareness and pride in local biodiversity and celebrate the environmental champions in Ballina Shire
- Providing habitat for native wildlife
- Having natural bushland areas also for recreation is a priority.

### Written Submissions

12 written submissions were received during the exhibition period.

11 written submissions were generally in support of the Strategy and respondents included:

- North Coast Local Land Services
- Friends of the Koala Inc
- Biodiversity and Conservation Division of the NSW Department of Planning and Environment
- Northern Rivers Wildlife Hospital
- Lennox Head Residents Association
- Five members of the public.

One written response from a local resident was not in support of the Strategy and cited concerns about Council's C Zones review process and the link to the Biodiversity Strategy.

### Key Public Exhibition Outcomes

A summary of the main issues raised during community consultation is contained below.

See Attachment 1 for a full summary of feedback received during the public exhibition period.

Key messages expressed by the community and made evident via responses during the public exhibition included:

1. Confusion between the C Zones review and the Biodiversity Strategy – often confused as the same process.
  - 14 (23%) online survey respondents and one written submission response cited Council’s C Zones review as the main reason they were unsupportive of the Biodiversity Strategy. The C Zones review was noted as an issue across all public engagement activities.
2. Increased involvement from Council to:
  - Regenerate natural ecosystems
  - Increase environmental education, community awareness and pride in local biodiversity and celebrate the environmental champions in Ballina Shire
  - Support rural landholders and community groups to protect and enhance biodiversity assets in Ballina Shire
  - Implement on ground actions working in partnership with public and private stakeholders
  - Provide clear environmental protection principles and develop stronger regulatory processes to protect biodiversity.
3. The Strategy must be adequately resourced via a stable long-term funding source to achieve the desired outcomes.
4. Council should monitor implementation of the Strategy, and make adaptive changes where required. Council should also remain transparent with the community, regarding funding and implementation of the Strategy.

### Conservation Zones Review and the Biodiversity Strategy

Across several engagement activities (online survey, community information market stalls and written submissions), there were a number of respondents who cited Council’s C Zone review as the main reason they were unsure about or do not support the Biodiversity Strategy.

The C Zones review focuses on amending the Ballina Local Environmental Plan (LEP) 2012 to include certain land previously deferred from the Ballina LEP 2012 by applying appropriate zones.

The Biodiversity Strategy is not directly linked to the C Zones review process.

The C Zones review was initiated separately to the Biodiversity Strategy preparation process in response to prior resolutions of Council regarding its Standard Instrument LEP and Northern Councils Environmental Conservation Zones Review undertaken by the State Government.

The last six weeks of the public exhibition period for the draft Biodiversity Strategy coincided with the public exhibition period of the C Zones review planning proposal during February and March 2023.



## 8.6 Ballina Shire Biodiversity Strategy - Finalisation

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This is likely to have been a significant factor contributing to the number of responses received, which raised matters relevant to the C Zones review.

The Biodiversity Strategy lists actions that contribute to conserving and enhancing biodiversity in Ballina Shire for future generations.

No actions within the Strategy are linked directly to the C Zones review.

Below is a response from an online survey participant, which is considered representative of the many respondents who addressed the C Zones review and the Biodiversity Strategy:

*"I do not support a Biodiversity Strategy that allows Council to force Conservation Zonings onto any rural lands without compensation for loss of valuation and no compensation for additional management costs for completing on-ground works."*

This response suggests that the online survey participant believes the Biodiversity Strategy will allow Council to force Conservation Zonings onto any rural lands. This is not the case.

Any rezoning of land must go through an LEP amendment process whereby a draft planning proposal is considered by Council and the Department of Planning and Environment before it is able to be placed on public exhibition for the consideration and feedback of the community.

The consultation feedback is then considered and reported to Council before Council decides whether to finalise the proposed LEP amendment.

One written response cited Action 1.1.6 (see below) as the link between the C Zone review and the Biodiversity Strategy.

*Action 1.1.6 - Review land use zones to reflect longer term conservation value of land required to implement habitat and vegetation restoration works through the development assessment process.*

This action is related to the development application process. The aim is to ensure where vegetation restoration works are required or have been undertaken as part of the conditions of consent\_(by Council or other proponents as relevant) that these lands are protected via the most appropriate conservation land use zone.

In response to Question 2 (*Are you supportive of the Ballina Shire Biodiversity Strategy?*), 53% of respondents indicated that they are in support of the overall aims and objectives of the Biodiversity Strategy, with 27% remaining neutral and 20% not supportive.

The concurrence of the C Zone Review and Biodiversity Strategy exhibitions has likely impacted the results for this question.

36% of respondents who were either neutral or not supportive of the Biodiversity Strategy cited Council's Conservation Zones review process (C Zone review) as their main concern.

## 8.6 Ballina Shire Biodiversity Strategy - Finalisation

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More broadly, 14 respondents who participated in the online survey continually cited Council's C Zones review as the main reason they were unsupportive of the Biodiversity Strategy.

This accounts for almost one quarter (23%) of all online survey participants.

Despite this, with regard to support for the Strategy, several other responses to questions within the online feedback form/survey suggest that the community is looking for leadership from Council in biodiversity.

For example:

- 95% of respondents are 'very concerned' or 'concerned' about biodiversity issues in Ballina Shire
- 98% of respondents believe it is either 'important' or 'somewhat important' for Council to support community groups and private landholders undertaking conservation work on private land
- 75% of respondents would be willing to contribute financially to support the implementation of actions listed in the Biodiversity Strategy.

### Involvement from Council in Protecting and Enhancing Biodiversity.

The Strategy will become the overarching document guiding the protection and enhancement of biodiversity in Ballina Shire.

This Strategy is being prepared because of Action HE3.2i of Council's *Delivery Program and Operational Plan 2022 – 2026*, which lists the preparation of a Biodiversity Strategy as an item for completion in the 2022/23 period.

Responses received during the public exhibition period have further supported recurring community feedback that the environment is one of the most highly valued features of the shire.

The feedback received indicates that there is significant community concern (95% of respondents are 'very concerned' or 'concerned' about biodiversity issues in Ballina Shire) about the health of natural ecosystems in Ballina Shire.

Many respondents noted they would like to see Council implement systems which aim to:

- Regenerate and protect natural ecosystems.
  - Refer to Action 1.1.2, Action 1.1.6, Action 1.2.7, Action 2.2.1, Action 3.2.1, Action 3.2.2 – *this list is not exhaustive.*
- Promote community awareness and pride in local biodiversity.
  - Refer to Action 4.1.4, Action 4.2.4, Action 4.4.1, Action 4.4.2 – *this list is not exhaustive.*
- Support rural landholders and community groups to protect and enhance biodiversity.
  - Refer to, Action 3.2.2, Action 4.3.1, Action 4.3.2, Action 4.3.3 – *this list is not exhaustive.*

## 8.6 Ballina Shire Biodiversity Strategy - Finalisation

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Actions contained within the Biodiversity Strategy (relevant examples provided above) will significantly contribute to many of the concerns highlighted by respondents during the public exhibition period.

### Implementation of the Strategy and Financial Considerations

The need to identify sources of funding to implement the Strategy was raised often in comments received during public exhibition.

A question was included in the online survey which asked survey participants *“How much would you be willing to contribute each year to support implementation of actions listed in the Biodiversity Strategy?”*.

Results are as follows;

- 75% of respondents would be willing to contribute financially.
- 25% of respondents would not be willing to contribute financially.

A funding source will be critical to ensure Council has adequate resources to implement the Strategy in full over the coming years.

The main forms of funding used by other councils to implement their biodiversity strategies include:

1. Special Rate Variations (SRV) [*Environmental Levy*]
2. Grant Funding
3. Redirection / Utilisation of funds from existing Council budgets (General Fund).

Subject to further investigation, another potential funding source which may be used by Council to implement the Biodiversity Strategy could be a voluntary environmental levy.

Each funding avenue comes with benefits and limitations. These four potential funding sources are discussed below under ‘Financial / Risk Considerations’.

### Transparency in Implementation of the Strategy.

During the public exhibition phase, many respondents noted the following;

- It is important that Council continually monitor implementation of the Strategy – to ensure aims and objectives will be achieved, and the community is receiving value for money.
- Any funds raised with a potential levy would be held and accounted for separately from Council’s general revenue.

The Strategy has clear linkages with key corporate documents. As the Strategy is implemented, the relevant actions will be reported on for the relevant financial year as part of the Integrated Planning and Reporting framework.

It would also be beneficial for Council to publish a brief annual report on how and where actions within the Strategy are being implemented. This could be done in a manner similar to the reporting for the Healthy Waterways Program.

## 8.6 Ballina Shire Biodiversity Strategy - Finalisation

Figure 1 contains a snapshot from the [Sunshine Coast Council - Environment Levy Annual Report](#).

This report contains simple and concise information for the community to learn about how their contributions are assisting to improve biodiversity in the LGA.



Figure 1. [Sunshine Coast Council - Environment Levy Annual Report](#).

### Delivery Program Strategy / Operational Plan Activity

Action HE3.2i of Council's Delivery Program and Operational Plan 2022 – 2026 lists the preparation of a Biodiversity Strategy as an item for completion in 2022/23.

### Community Engagement Strategy

The draft Strategy was placed on public exhibition for a period of three months from 17 December 2022 to 17 March 2023. The community engagement approach taken for this project is consistent with Council's Community Consultation Policy and Community Engagement Strategy.

### Financial / Risk Considerations

Four options to resource and implement the Ballina Shire Biodiversity Strategy are outlined. These options include:

1. Special Rate Variation (SRV) or Environmental Levy.
2. Grant Funding.

## 8.6 Ballina Shire Biodiversity Strategy - Finalisation

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3. Redirection / Utilisation of funds from existing Council budgets (General Fund).
4. Voluntary Environmental Levy.

### 1. Special Rate Variation (SRV) / Environmental Levy

A Special Rate Variation (SRV) [*also known as an Environmental Levy in certain LGAs*] allows a council to increase its general income above the rate peg, under the provisions of the *Local Government Act 1993* (NSW).

An SRV can be applied temporarily (i.e., just for a year or set time frame) or it can be permanent (i.e. applied in perpetuity).

As reported to the November 2022 Ordinary meeting, there are many local examples (Byron Shire Council, Lismore City Council and Coffs Harbour City Council) where a SRV / Environmental Levy has been introduced, and positive outcomes for biodiversity have been achieved.

More broadly, the following councils have also introduced an SRV/ Environmental Levy:

- Wingecarribee Shire Council
- Manly Council
- Sunshine Coast Council
- Noosa Shire Council
- Logan City Council
- Brisbane City Council
- Redland Bay Council.

[Sunshine Coast Council](#), [Noosa Shire Council](#), [Coffs Harbour City Council](#) and [Logan City Council](#) have policies which outline how their respective environmental levies operate and how it can be spent.

Sunshine Coast Council and Noosa Shire Council note the following in the policy: "*all revenue raised through [the Environmental Levy] is to be accounted for separately from Council's general revenue and shall not at any time be available for expenditure as general revenue*".

The estimated average 2023/24 annual rate for the three different categories of rated property in Ballina Shire is as follows:

Residential	\$1,214
Business	\$4,008
Farmland	\$1,892

Three SRV scenarios are provided below showing the additional charge to the estimated average annual 2023/24 rates under a 1.0%, 1.5% and 2.0% SRV.

## 8.6 Ballina Shire Biodiversity Strategy - Finalisation

Rating Category	SRV of 1.0% Average Rates 2023/24	Additional charge to average 2023/24 rate at SRV of 1.0%	SRV of 1.5% Average Rates 2023/24	Additional charge to average 2023/24 rate at SRV of 1.5%	SRV of 2.0% Average Rates 2023/24	Additional charge to average 2023/24 rate at SRV of 2.0%
Residential	\$1,225	\$11	\$1,231	\$17	\$1,237	\$23
Business	\$4,047	\$39	\$4,066	\$58	\$4,086	\$78
Farmland	\$1,910	\$18	\$1,919	\$27	\$1,928	\$36

The additional total estimated annual income provided for the 2023/24 financial year under the different SRV scenarios is as follows:

1.0%	\$273,000
1.5%	\$409,000
2.0%	\$546,000

Council confirmed that this approach is not preferred in its consideration of the draft Biodiversity Strategy in November 2022 (resolution reproduced at the beginning of this report).

It is important to note that Council's Healthy Waterways Program, which was funded from a special rate variation, has been very successful in leveraging grant funds and achieving outcomes to improve our waterways.

### 2. Grant Funding

Grant funding is a valuable income source to deliver actions in the biodiversity strategy. This type of funding can be drawn on in conjunction with Council derived funds to enhance program delivery (e.g. expand the scope or methodology for initiatives, bring actions forward).

However, grant funding does not provide a reliable, long-term funding source and most grants are distributed on a competitive basis.

Significant reliance on grant funding, without a recurring funding base, makes delivery of strategy outcomes lumpy and unpredictable.

A steady resourcing base allows clear long-term planning for action delivery as part of the Delivery Program and Operational Plan. It also underpins leveraging for securing of grant funds.

### 3. Funds from Existing Budgets (General Fund)

Given the amount needed to implement key actions within the Biodiversity Strategy, and Council's forecasted operating deficit for the 2023/24 financial year, it is challenging to fund the rapid delivery of the Biodiversity Strategy.

There are various options to create a recurrent funding stream under the existing general fund allocation. For example, a series of budgets from other programs could reduce by relatively small amounts, or funds from a larger program, could be reduced and applied to the delivery of the Strategy.

To ensure there is some level of funding for this Strategy, the draft long term financial plan, included later in this agenda, includes the following funding stream for this strategy, as part of the Strategic Planning program.

## 8.6 Ballina Shire Biodiversity Strategy - Finalisation

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Year	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33
Strategy	50,000	75,000	100,000	125,000	150,000	175,000	200,000	225,000	250,000	275,000

Some existing budgets have been consolidated and the funding then incremented above CPI, over a ten-year period, to build an effective operating budget. Under this approach, the implementation of the Strategy will be proportionate to the recurrent funding allocated and any grant funds secured.

#### 4. Voluntary Environmental Levy

This approach essentially involves ratepayers (and perhaps other members of the community) making voluntary contributions towards funding of the delivery of biodiversity strategy outcomes. Based on background research for this report, this suggestion does not appear to have been implemented by any council in NSW (or Australia for that matter).

However, as an example of a similar concept to this proposal which is currently operating in NSW is the 'Voluntary School Contribution' scheme overseen by the NSW Department of Education. Under this scheme a school may request voluntary contributions from parents / caregivers to enhance educational programs.

Whilst the concept of a Voluntary Environmental Levy may be an innovative funding option, it presents a larger financial risk to Council. The risk being that the amount of revenue raised each year is likely to be variable and Council may experience budget shortfalls relative to community expectations.

There is also a cost to administer and account for the receipt and expenditure of such funding that may not be worthwhile relative to the contributions made.

### Options

*Option 1 - Council may adopt the Ballina Shire Biodiversity Strategy as presented in Attachment 3.*

Under this option Council acknowledges the public exhibition feedback received and Council adopts the Ballina Shire Biodiversity Strategy (as presented in Attachment 3 of this report, or with other amendments as specified by Council). This is the recommended option, with resourcing financed from existing budgets and incremental increases.

*Option 2 – Council may decide to not adopt the Ballina Shire Biodiversity Strategy*

Council may decide to abandon further consideration and not adopt the Strategy. This is not recommended given the community desire to have a strategy and actions implemented to protect and improve biodiversity and the environment of the Shire, as evidenced by community feedback.

**RECOMMENDATION**

That Council adopts the Ballina Shire Biodiversity Strategy, as per Attachment 3 to this report.

**Attachment(s)**

1. Public Exhibition Summary Report [⇒](#)
2. Table of Recommended Strategy Changes from Exhibition Feedback [⇒](#)
3. Ballina Shire Biodiversity Strategy (Amended Post Exhibition) (Under separate cover) [⇒](#)



## 8.7 Sport Courts - Provision

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### 8.7 Sport Courts - Provision

**Section** Open Spaces

**Objective** To report on options to provide for outdoor sports courts at various locations throughout the shire.

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#### **Background**

At the 24 November 2022 Ordinary meeting, Council resolved as follows:

*To receive a receive a report on options to deliver a series half-court basketball / handball / multi-purpose sport courts / outdoor beach volleyball courts throughout the shire to provide low maintenance, free, facilities to encourage higher active outdoor participation by children, youth, and adults.*

*The report is to examine the merits of the following sites, as a guide:*

- *Fitzroy Park, Wardell*
- *Williams Reserve, Lennox Head*
- *Caloola Road, Lennox Head (EPIQ Estate)*
- *Spoonbill Reserve, Skennars Head*
- *Ballina Heights Sports Fields*
- *Lumley Park, Alstonville*
- *Chickiba Reserve, Ballina*
- *Kingsford Smith Reserve, Ballina*

A Councillor briefing was held 12 April 2023 to consider the opportunities and constraints of the identified sites and the potential approach to delivery of multi-purpose type courts.

The purpose of this report is to confirm Council's position on the preferred approach to provision of sports courts in various locations.

#### **Key Issues**

- Provision of facilities and variety in sporting infrastructure
- Community Leasing

#### **Discussion**

Consideration of identified sites was based on the provision of a half or full site basketball court.

This allowed a preliminary basis for court size to be assessed on each reserve, which could facilitate basketball, Multi-Use Game Area (MUGA) courts or other identified courts consistent with the Notice of Motion, noting key demand and requests are consistent for basketball facilities.

Potential sites for provision of these type of courts are discussed as follows.

## **8.7 Sport Courts - Provision**

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### **Ballina Heights Sports Fields**

The sports fields have dedicated parking, strong visual surveillance and ample space have been identified at a few locations for the provision of courts and supporting infrastructure.

Council has received community requests for the provision of basketball courts at this location and this is a priority site for facility installation. Reference to these requests is included in the Delivery Program and Operational Plan report later in this agenda.

Recommended Action: Council proceed with the installation of a full-size basketball court. Funding has been allocated to the Ballina Heights Sports Fields in 2023/24 following the deferral of the Meldrum Park playground works.

The capital works program in the Delivery Program and Operational Plan report provides funding for Ballina Heights Sports Fields in 2023/24 and Meldrum Park in 2024/25.

### **Fitzroy Park, Wardell**

The opportunities for the provision of courts are limited by space constraints of the park, with the playground, internal road, existing vegetation, and existing tennis courts restricting opportunities. The site also has a proximity to neighboring properties.

Requests from the community identified the potential for the utilisation of space occupied by tennis, with options including the removal of one or both tennis courts, to enable the provisions of other recreational activities including basketball or a small skate park.

Preliminary investigations identified that this space could be considered for other use, with limited membership and concern regarding the operation of the tennis courts, including exclusive occupation of community land without a licence.

Consistent with Council's Community Leasing Policy, a lease was proposed to the Wardell Tennis Club following consideration by Council at the May 2021 Ordinary meeting, however this was then rejected by the Club.

Wardell Tennis Club has recently been in contact with Council indicating a renewed interest in obtaining a lease of the tennis courts.

Council has also been successful in obtaining a grant for \$70,000 on behalf of Wardell Tennis Club, to undertake repairs to the tennis facility. This grant was obtained through the Office of Regional NSW.

With the retention of the tennis courts, a full-size court is difficult to achieve on site. There is opportunity to install a basketball hoop on an existing slab, however it is too small to be marked for a compliant half court.

Recommended Action: Undertake repairs on the existing tennis courts with the available grant funding, progress a lease with the Wardell Tennis Club and install a backboard / hoop only on existing slab.

## **8.7 Sport Courts - Provision**

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### **Lumley Park, Alstonville**

Council has an adopted action in the 2022/23 Delivery Program and Operational Plan to undertake a master plan for the site to consider opportunities, including the provision of basketball and youth facilities.

This is consistent with actions identified in the Sport and Recreation Facility Plan (2020) to rationalise tennis operations at Lumley Park, due to the development of the Wollongbar Sports Facility.

Site constraints have impacted on Council's ability to undertake the master plan this year, noting this project has currently been deferred.

Alstonville Tennis Club has since been successful in obtaining grant funding under the NSW Government Stronger Country Communities to convert the courts into a mini tennis / pickleball facility.

The proposed works pre-empt Council's master plan process and are inconsistent with Council's Sport and Recreation Facility Plan.

As with the master plan, site constraints are also delaying the grant from being implemented at this time, however recent meetings with Crown Lands have indicated a pathway for the works is possible.

Given the grant funding and expected challenges with the masterplan, there are limitations on progressing court provisions at this location in the immediate future.

Recommended Action: Continue to assist Alstonville Tennis Club progress works associated with their grant.

### **Williams Reserve, Lennox Head**

Council is currently undertaking the development of the Lennox Head Strategic Plan, which includes consideration of Williams Reserve.

There are preliminary opportunities identified to consider space near the skate park / Lennox Head Community Centre for the provision of a basketball court, or potential expansion of the skate park, however existing site considerations need to be further assessed (sporting, markets, existing plan of management).

Recommended Action: Await the outcomes of the Lennox Head Strategic Plan.

### **Chickiba Reserve, East Ballina**

The southern area of the reserve is identified as having potential for court provision, with parking, available space, and path linkages to the wider community. The identified area is constrained by the proximity to nearby residential areas.

Council has identified the playground as requiring upgrading in 2023/24.

There is an opportunity to further consider the site constraints relating to court facilities by seeking feedback on this location for a basketball court, whilst undertaking community consultation on the new playground.

## **8.7 Sport Courts - Provision**

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Recommended Action: Seek feedback from the community on the potential for a half court at Chickiba Reserve whilst undertaking consultation on new playground.

### **Kingsford Smith Reserve, Ballina**

Following community consultation Council adopted the Kingsford Smith Masterplan in October 2021, which includes the embellishment of Commemoration and Missingham Parks. The provision of a half-court basketball is included in the plan for Missingham Park.

Recommended Action: Continue to seek grant funding and consider additional funding to implement actions identified in the Kingsford Smith masterplan

### **Caloola Reserve, Lennox Head**

The site is predominantly occupied by a large fig tree, however there is sufficient space to install a half-court basketball within the reserve with good surveillance. There are constraints identified with no parking nearby and proximity to houses.

There is a strong demand for basketball in the Lennox Head catchment. Council's Playground Upgrade and Management Plan, also identifies this site for a new playground, consolidating the existing playground at Montwood Drive.

Like Chickiba Reserve, there is an opportunity to further consider the site constraints relating to court facilities in this location by seeking feedback on this location for a basketball court, whilst undertaking community consultation on the new playground

There is limited available space for courts at the nearby Hutley Drive Sports Fields, however the site is better suited with greater surveillance and ample parking. Further detailed design could identify this as a more suitable location for a half court.

Recommended Action: Seek feedback from the community on the potential for a half court at Caloola Park, whilst undertaking consultation on new playground. If this site is found to be unsuitable, further investigate Hutley Drive Sports Fields as a site for court provision.

### **Spoonbill Reserve, Skennars Head**

Spoonbill Reserve is a large greenfield site with potential for the embellishment and provision of a variety of recreation opportunities. Council has included in the draft 2023/24 Delivery Program and Operational Plan an action to undertake a master plan for the site in 2023/24.

Recommended Action: Consider the provision of courts as part of the development of the Spoonbill Reserve master plan.

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

An upgrade of the Swift Street Basketball Courts is included in the draft 2023/24 Delivery Program and Operational Plan. It is recommended that Council proceeds with this project as planned.

## **8.7 Sport Courts - Provision**

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The funding for the Meldrum Park playground works is also now allocated to the construction of a full-size basketball court at the Ballina Heights Sports Fields for 2023/24. It is also recommended that Council install a basketball hoop in association with an existing concrete slab, at Fitzroy Park, from existing operational funding (assuming final site investigations confirm the suitability of the location).

### **Community Engagement Strategy**

The provision of a half-court basketball court at Missingham Park has been publicly exhibited for community feedback and adopted by Council. Some of the recommended actions will also involve additional consultation, or the preparation of further master plans that involve a formal consultation process.

### **Financial / Risk Considerations**

Maintenance of existing and future basketball courts is funded from existing Open Spaces operational budgets. Funding for the provision of additional courts forms part of the preparation of the annual Delivery Program and Operational Plan, with funding in 2023/24 for an upgrade to the Swift Street courts and new courts for the Ballina Heights Sports Fields.

### **Options**

1. Council resolves to endorse the recommended actions in the report with regards to each location identified for the potential provision for sports courts.
2. Council amends the recommended actions identified for the potential provisions of sports courts

Option 1 is recommended approach as this provides a pathway for progressing the delivery of courts in various locations, over time.

### **RECOMMENDATION**

That Council endorses the recommended actions relating to the provision of sporting hard courts set out in this report commencing with:

- Provision of a full-sized basketball court at the Ballina Heights Sports Fields site in 2023/24
- Provision of a basketball hoop in association with an existing concrete slab at Fitzroy Park in Wardell, with funding sourced from the Open Spaces operating budget for 2023/24.

### **Attachment(s)**

Nil

## 8.8 Community Land Licence - Lennox Community Gardens

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### 8.8 Community Land Licence - Lennox Community Gardens

**Section** Open Spaces

**Objective** To consider submissions received on the proposed grant of a Community Land Licence to Lennox Community Gardens Inc and determine whether to grant the licence.

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#### **Background**

At the 23 March 2023 Ordinary meeting, Council resolved as follows:

1. That Council, in accordance with the relevant provisions of the *Local Government Act 1993*, enters the following licence of community land:

<b>Property</b>	<b>Licensee</b>	<b>Tenure</b>
<i>Part of Ocean Breeze Reserve, Ocean Breeze Drive Lennox Head (being part of Lot 31 DP 787876)</i>	<i>Lennox Community Gardens Incorporated</i>	<i>Four-year licence at a licence fee equal to the statutory minimum charged by Crown Lands (currently \$566 per annum plus GST)</i>

2. *That prior to point one being actioned, statutory public notification relating to the proposed licence of community land be undertaken, with a report to be presented to Council if an objection is received to the grant of the proposed licence.*

Statutory public notification has now been conducted.

This report is for Council to consider the submissions received and resolve whether to proceed with the proposed licence.

#### **Key Issues**

- Merits of objections received
- Use of community land

#### **Discussion**

Council received a total of 14 submissions.

Out of the 14 submissions, 12 are in support of the licence.

The submissions in support of the licence outline various community benefits of having a community garden at Ocean Breeze Reserve.

Those submissions in support are included as Attachment 1 to this report.

Two objections to the grant of the licence are included as Attachment 2.

## 8.8 Community Land Licence - Lennox Community Gardens

One objection is on the basis that the garden may damage underlying infrastructure.

The other objection is of a more substantive nature and is from an adjoining property owner.

The core issues raised in the objections and staff response are summarised as follows.

Issue	Staff response
<p><b>Underground infrastructure</b> The garden may cause damage to underlying infrastructure</p>	<p>The layout of the Lennox Community Gardens was originally designed around the location of existing underground infrastructure.</p> <p>The Lennox Community Gardens have been in operation for several years without any evidence of damage to underground infrastructure.</p>
<p><b>Access by the public and lack of communication</b> The use of the area should not be limited to use by members of the community garden It is hard to know who to contact if nearby residents have issues</p>	<p>The gardens are accessible by the public. The gardens are not fenced off from the rest of Ocean Breeze Reserve.</p> <p>This is also communicated to the public on the home page of the Lennox Community Gardens website.</p> <p>The website lists the names of the committee members and includes a contact phone number and email address.</p> <p>Lennox Community Gardens Inc advised that:</p> <ul style="list-style-type: none"> <li>• They are arranging a new metal sign which will list their website and include a QR code that will link to their website</li> <li>• They actively welcome new members. They currently have 57 residents as members, including neighbours of the reserve.</li> </ul> <p>Members get to participate in monthly meetings and collaborative decision making about the gardens.</p>
<p><b>Lack of maintenance</b> Request for better maintenance to enhance visual appeal, particularly along the boundary of nearby homes, and reduce risk of vermin</p>	<p>The objection includes some photographs of vegetation along the boundary between the gardens and an adjoining private driveway, referring to a build-up of plant litter in that location.</p> <p>The plantings between the gardens and the adjoining private driveway were established in response to an objection received prior to the grant of the last licence to Lennox Community Gardens in May 2020; the aim being to ensure there was a visual barrier between the garden and the homes along the adjoining private driveway.</p> <p>Staff inspected the gardens on 4 May 2023 without providing prior notification to Lennox Community Gardens Inc.</p>

## 8.8 Community Land Licence - Lennox Community Gardens

Issue	Staff response
	<p>Staff did not consider there to be a significant build-up of plant litter in the buffer section.</p> <p>The Lennox Community Gardens Inc have advised that:</p> <ul style="list-style-type: none"> <li>they planted sugar cane and arrowroot as the buffer as a temporary measure to screen the gardens from the residents along the private driveway and to protect the fruit trees they planted in that location while they became established.</li> </ul> <p>It was always the intention to remove those plants once the fruit trees were established</p> <ul style="list-style-type: none"> <li>the sugar cane and arrowroot shown in the photographs is to be removed this Spring, as the fruit trees are now established. This will leave behind two rows of fruit trees.</li> </ul> <p>That will be the view from the private driveway, rather than the sugar cane and arrowroot shown in the objection</p> <ul style="list-style-type: none"> <li>plant clippings on the site are taken to the Ballina Waste Management Centre at present.</li> </ul> <p>They are working on their compost bay under the green shade structure referred to in the objection, with the intent that in the future these types of plant clippings will be composted onsite and re-used in the gardens.</p>
<p><b>Extension of licence area</b> Objection to the extension of the licence area into the corner behind the sound wall</p>	<p>The Ocean Breeze Reserve Master Plan showed the driveway entry into the community gardens in a particular location.</p> <p>When the Hutley Drive extension roadworks were finalised, a sound wall was installed that required a change to the location of the driveway entry. That change left a small triangle of land behind the sound wall.</p> <p>Lennox Community Gardens Inc requested to include the referenced triangle of land in their licensed area under the new proposed licence.</p> <p>Inclusion of that triangle of land in their licensed area has benefits, including:</p> <ul style="list-style-type: none"> <li>the Council mowing team will not need to mow that small area</li> <li>the Lennox Community Gardens will plant trees behind the sound wall. The back of the sound wall has been subject to graffiti, and the planting of trees will shield the back of the sound wall and is likely to reduce further graffiti</li> </ul> <p>The proposed area to be added to the licensed area is included as Attachment 3.</p>



## 8.8 Community Land Licence - Lennox Community Gardens

Issue	Staff response
<p><b>Removal of lilly pillies in north-eastern corner</b>            Objection to the removal of four lilly pillies as they create a screen from the gardens and the community gardens can plant in other areas</p>	<p>The four lilly pillies in the north-eastern corner of the reserve were planted by nearby residents within the reserve area without prior Council approval.</p> <p>The approved Ocean Breeze Reserve Master Plan was subject to an extensive public consultation process and that Master Plan showed that the lilly pillies would be removed.</p> <p>Lennox Community Gardens Inc have advised that:</p> <ul style="list-style-type: none"> <li>• the design and layout of the gardens always assumed that the lilly pillies would be removed</li> <li>• the existing lilly pillies shade too much of the orchard area. Fruit trees in the gardens have been lost</li> <li>• the root systems of the lilly pillies take up the moisture in the soil, inhibiting the growth of fruit trees in that area of the gardens</li> <li>• after the lilly pillies are removed, they will be planting more fruit trees</li> <li>• they are also prepared to plant a fruiting hedge along the boundary with the private driveway if requested.</li> </ul>
<p><b>Licence conditions – water tank and green shade structure</b>            Objection to the water tank and green shade structure being installed without calling for public objections</p>	<p>The water tank referred to has been approved by staff consistent with the community garden use. It is appropriate for tank water to be used for the community gardens.</p> <p>The green shade structure referred to in the objection is the covered compost bay. It is located on the opposite side of the licensed area to where the private driveway is. The Ocean Breeze Reserve Master Plan referred to compost areas being located within the gardens.</p> <p>The Lennox Community Gardens Inc advised that:</p> <ul style="list-style-type: none"> <li>• composting is a fundamental activity of a community garden to recycle garden waste into a valuable resource</li> <li>• the decision to cover the compost bay with shade material was to:               <ul style="list-style-type: none"> <li>○ visually conceal the compost from the public view. Green shade material was selected to blend in with surrounding trees</li> <li>○ prevent animals (particularly bush turkeys) from being attracted to the compost and scattering it</li> <li>○ shelter the compost from the elements</li> </ul> </li> </ul> <p>Lennox Community Gardens Inc are prepared to plant a fruiting hedge along the boundary with the private driveway if requested. This would shield the view of the</p>

## 8.8 Community Land Licence - Lennox Community Gardens

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Issue	Staff response
	green shade structure from the residents along the private driveway.

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

The licence arrangements broadly align with Council's Connected Community and Engaged Leadership Community Strategic Plan directions.

More specifically, the provision made for a licence to a community garden association aligns with Delivery Program Strategy CC2.2 - Encourage community interaction, volunteering, and wellbeing.

### **Community Engagement Strategy**

Council has conducted the public notification process required under the Local Government Act for licences of community land.

### **Financial / Risk Considerations**

The proposed licence fee is consistent with Council's Community Property Leasing and Licensing Policy.

### **Options**

Option 1 - That Council enters into the licence to Lennox Community Gardens Inc for a four-year term, at a licence fee equal to the statutory minimum charged by Crown Lands, and that Council authorises the General Manager to affix the Council seal to the licence.

Option 2 - That Council does not enter into the licence.

Option 1 is the recommended approach, particularly as Lennox Community Gardens are responding to several the matters raised in the objections.

### **RECOMMENDATION**

That Council enters into the licence to Lennox Community Gardens Inc for a four-year term, at a licence fee equal to the statutory minimum charged by Crown Lands, and that Council authorises the General Manager to affix the Council seal to the licence.

### **Attachment(s)**

1. Submissions in support of licence ⇨
2. Objections to licence ⇨
3. Additional area proposed to be added to licensed area ⇨

## 8.9 Land Classification and Categorisation - Wollongbar District Park

### 8.9 Land Classification and Categorisation - Wollongbar District Park

<b>Section</b>	Strategic Planning
<b>Objective</b>	To change the classification and category of recently subdivided land (Wollongbar District Park) under the provisions of the Local Government Act 1993.

#### Background

Lot 32 DP 1292552 (Lot 32) was created on 4 April 2023. The parent lots for this subdivision were Lot 6 DP 1161720 and Lots 39 and 45 DP 1242246. These lots were originally classified as operational land within Council's Land Register. Lot 32 retains the operational classification derived from the parent lots.

The plan of subdivision designates Lot 32 as public reserve. It is appropriate that the land is now reclassified as community land and categorised as a Park based on the use of the land.

Lot 32 is shown by the red edge on the locality plan below.



Figure 1 – Locality Plan – Lot 32 DP 1292552, Wollongbar

#### Key Issues

- Classification and categorisation of land under the provisions of the Local Government Act 1993 (LG Act)
- Nature and use of land

### **Discussion**

Lot 32 has an area of 9,892m<sup>2</sup> and is zoned RE1 Public Recreation under the provisions of Ballina LEP 2012.

Development consent was granted in May 2020 for the use of the subject land to establish the Wollongbar District Park, including a skate park. The park was subsequently constructed and opened in February 2022.

At the time of granting consent, the park was located on proposed Lot 32 within an approved subdivision. That subdivision was subsequently registered on 4 April 2023.

Section 33 of the LG Act provides that a council may resolve that public land classified as operational land can be reclassified as community land.

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

Public exhibition has been undertaken and has involved documents being displayed on the Ballina Shire Your Say engagement website and in the public notices section of Council's website.

The exhibition period was from 10 May 2023 until 9 June 2023.

In response, one submission was received via the Your Say engagement website, a copy of which is included as Attachment 1 to this report.

The submission supported the proposed reclassification and expressed surprise that this parcel of land was not classified as community land earlier.

Given that the land is used for a community park, and the required public notification has been completed, it is necessary for Council to confirm whether the land is to be classified as community land.

In accordance with the provisions of Council's Plan of Management for Community Land 2023 the land is required to be categorised in accordance with section 36(4) of the LG Act.

A Park category is the most appropriate having regard for the use of the land.

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

Classification of land is part of Council's public land management functions. In setting a framework for future management of land, classification aligns broadly with Delivery Program Strategy HE3.1 – Implement plans that balance the built environment with the natural environment.

### **Community Engagement Strategy**

Public notification of the proposal to classify the land as community land and categorise its use as a Park has occurred in accordance with the requirements of section 34 of the LG Act.

### Financial / Risk Considerations

The reclassification of Lot 32 as community land and its categorisation as a Park are legal mechanisms under the LG Act that appropriately reflect the lands status as a public reserve and use as a district park.

The proposed reclassification will not result in direct adverse resource or financial implications.

### Options

*Option 1 - Council may decline to resolve to both reclassify the lot as community land and categorise it as a Park.*

This option is not recommended as the current operational classification does not reflect the primary use of the land as a Park. The land is not used for a Council operational purpose such as is the case with the drainage reserve located on the adjoining lot 33.

In this case the land is intended for long term community use as a Park. This being the case applying a community classification to the land and categorising it as a Park is appropriate.

There is no legal requirement to reclassify Lot 32 as community land and categorise it as a Park. If the reclassification does not proceed, Lot 32 could continue to retain its operational classification.

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

Under this option, the proposed reclassification of the lot as community land, and its categorisation as a Park, would take effect immediately upon the resolution of the Council. This is the recommended approach.

Where land is classified as community land, Council is obliged to manage the land for community purposes and make provision for its categorisation and incorporation into a plan of management. Given the use of the land as a district park, classifying the land as community land with a Park categorisation is recommended.

### RECOMMENDATIONS

1. That Council reclassifies the land identified as Lot 32 DP 1292552 (Wollongbar District Park) as community land with a Park categorisation under the provisions of the Local Government Act 1993 and that this classification and categorisation takes effect immediately.
2. That the Land Register be amended to reflect the changed classification and categorisation.

### Attachment(s)

1. Submission - Wollongbar District Park - Classification [⇒](#)

## **8.10 Policy (Review) - Waste Management for Multi-Unit Developments**

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### **8.10 Policy (Review) - Waste Management for Multi-Unit Developments**

**Section** Public and Environmental Health

**Objective** To review the Waste Management for Multi-Unit Developments 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 Waste Management for Multi-Unit Developments Policy.

Council first adopted this policy in 2018.

This policy provides a consistent framework for addressing the management of residual, recycling and organic waste from multi-unit developments.

Waste management arrangements for domestic, commercial, industrial and mixed-use multi-unit developments within Ballina Shire incorporate the following kerbside bin collection services:

- residual waste collection
- co-mingled recycling collection; and
- food and garden organic collection.

The purpose of this report is to seek direction in relation to the outcomes of the review.

#### **Key Issues**

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

#### **Discussion**

The management of residual waste, recycling and organics from multi-unit developments can be challenging, overlooked, or undervalued, particularly where suitable storage and servicing space may be at a premium.

The key challenges include:

- Ensuring waste systems are commensurate to generation types and rates
- Having adequate storage space within each unit/dwelling to separate and store materials in preparation for disposal in the correct bin
- Providing equitable access to waste, recycling and organic bins
- Safe and easy access to waste and resource recovery storage areas

## **8.10 Policy (Review) - Waste Management for Multi-Unit Developments**

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- Safe and easy access to temporary storage areas for bulky materials like whitegoods, mattresses and other oversized waste items
- Having adequate space at the kerbside or onsite to safely present and collect bins
- Provision for sufficient space to allow flexibility throughout the life of a development for any change in use, increase in waste volumes or additional recycling options.

When waste management systems are appropriately designed and managed, occupants are encouraged to recycle, minimise waste to landfill and use facilities correctly.

Conversely, poorly planned and managed waste systems can reduce amenity, place occupants and service providers at risk and encourage behaviour that does not support recycling and waste minimisation. They can also be more expensive to manage. The policy also supports the waste management provisions included in the Ballina Shire Development Control Plan.

This framework provides Council employees, developers and consultants with clear information in relation to servicing and designing waste management facilities.

This review of the policy identified only minor changes as follows:

- Waste terms and references updated to ensure consistency
- Waste servicing details amended to align with current provisions
- Formatting improved to make it easier to read and interpret
- Waste generation rates changed to align with current calculations
- Guidelines and standards updated to reflect current requirements
- Reference to exempt provisions within the *State Environmental Planning Policy (Exempt and Complying Development Codes)* removed as they only apply to dwelling houses.

Additions are marked in yellow while deletions are in red.

Otherwise, the policy is still contemporary and reflects current legislation therefore no further changes are recommended.

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

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

HE2.2 - Use our scarce resources wisely

EL3.3 - Deliver responsive and efficient services

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

HE3.2 - Minimise negative impacts on the natural environment

## **8.10 Policy (Review) - Waste Management for Multi-Unit Developments**

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### **Community Engagement Strategy**

As the changes are only minor it is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment.

If any submissions are received, they can be reported back to Council. There will not be a need for any further report if there is no significant public comment.

### **Financial / Risk Considerations**

Administration and implementation of the policy is undertaken within existing staff resources.

### **Options**

Council may accept or amend the proposed changes to the policy. The changes included are housekeeping and it is recommended that the policy is adopted as presented.

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

### **RECOMMENDATIONS**

1. That Council adopts the amended Waste Management for Multi-Unit Developments Policy, as per Attachment 1 to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received, then no further action is required.

### **Attachment(s)**

1. Policy (Review) - Waste Management for Multi-Unit Developments [⇨](#)



## 9.1 Investment Summary - May 2023

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### 9. Corporate and Community Division Reports

#### 9.1 Investment Summary - May 2023

<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 31 May 2023.

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.

The Responsible Accounting Officer certifies that the investments have been made in accordance with the Act, the Regulations and Council's Investment Policy.

#### **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 current Investment Policy is available on Council's website.

The total balance of investments, as at 31 May 2023, was \$104.3m, compared to a balance of \$107.3m as at 30 April 2023.

Council's investments, as at 31 May 2023, were invested at a weighted average interest rate of 4.508%, which was 0.588% higher than the May average 90 Day Bank Bill Index (BBSW) of 3.921%.

The balance of Council's Commonwealth Bank business account, as at 31 May 2023, was \$19,993,511 which compares to a balance of \$12,705,834 as at 30 April 2023.

## 9.1 Investment Summary - May 2023

Total combined cash and investments, as at 31 May 2023, was \$124,293,511, compared to \$120,005,834 at 30 April 2023.

The net increase of \$4.3m in cash and investments from April to May is the result of the third quarterly instalment of rates being due at the end of May, along with grant funds of \$525,000 received for Sharpes Beach Accessibility Access and an insurance payment towards flood works of \$500,000. This income was offset by payments made to creditors during the month.

TCorp's monthly Economic Commentary report for May 2023 can be viewed using the following link:

[Economic commentary – May 2023 \(nsw.gov.au\)](https://www.nsw.gov.au/economic-commentary)

### *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 2022.

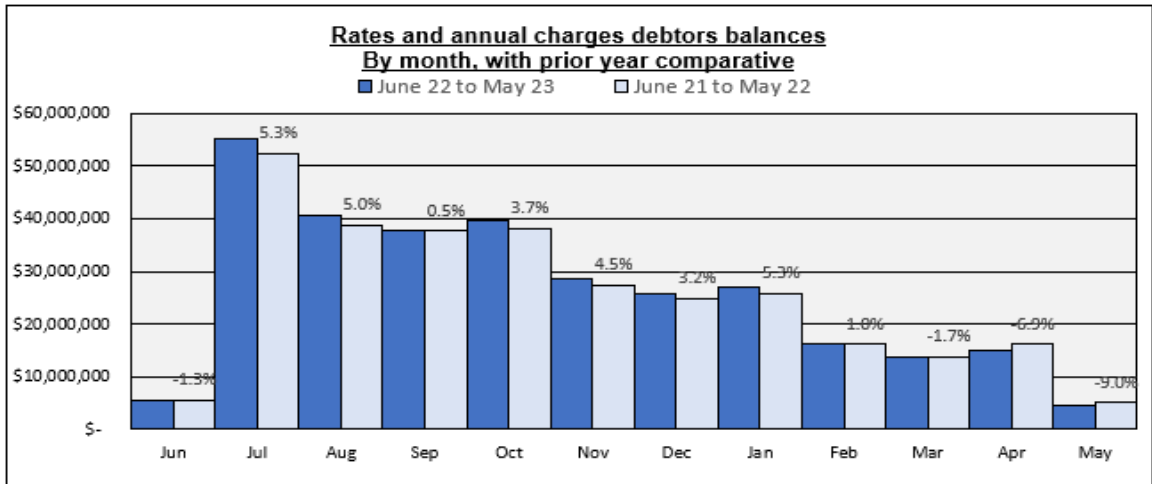
Reserve Name	Restriction	% Portfolio*
Wastewater (incl developer contributions)	External	20.99%
Water (incl developer contributions)	External	18.10%
Section 7.11 Developer Contributions	External	12.85%
Bonds and Deposits	External	6.10%
Specific Purpose Unexpended Grants	External	5.81%
Carry Forward Works	Internal	2.76%
Bypass Maintenance	Internal	3.09%
Management Plans / Studies	Internal	1.48%
Airport	Internal	1.16%
Landfill and Resource Management	Internal	2.24%
Employee Leave Entitlements	Internal	2.56%
Quarries	Internal	0.63%
Property	Internal	4.06%
Plant and Vehicle Replacement	Internal	1.36%
Road Works	Internal	4.79%
Open Spaces	Internal	1.30%
Miscellaneous Internal Reserves	Internal	2.08%
Community Facilities	Internal	0.83%
Financial Assistance Grant in Advance	Internal	3.32%
Unrestricted		4.51%
<b>Total</b>		<b>100.00%</b>

### *Debtors*

The following chart presents the month end balance of rates and annual charges debtors for the 12-month period ended 31 May 2023, and the percentage variance, in comparison to the prior year.

The debtors balance, as at 31 May 2023, was 9.0% lower than the balance as at 31 May 2022.

## 9.1 Investment Summary - May 2023



### A. Investments by Institution

Funds Invested With	Fossil Fuel Free / Green	Rating S&P	30 April \$'000	31 May \$'000	Quota %	% of Total
AMP Bank	No	BBB	5,000	5,000	10%	4.8%
Australian Unity	n/a	BBB+	3,000	3,000	10%	2.9%
Auswide Bank	Yes	BBB	7,000	7,000	10%	6.7%
Bank of Queensland	No	BBB+	7,000	7,000	10%	6.7%
BankVic	Yes	BBB+	7,000	7,000	10%	6.7%
Bendigo & Adelaide Bank	Yes	BBB+	1,000	1,000	10%	1.0%
Beyond Bank	Yes	BBB	2,000	2,000	10%	1.9%
Commonwealth Bank	No	AA-	15,000	15,000	20%	14.4%
Defence Bank Ltd	Yes	BBB	7,000	7,000	10%	6.7%
Great Southern Bank	Yes	BBB	3,000	7,000	10%	6.7%
ME Bank	No	BBB+	7,000	-	10%	-
MyState Bank Ltd	Yes	BBB+	1,000	3,000	10%	2.9%
National Australia Bank	No	AA-	14,000	14,000	20%	13.4%
Newcastle Perm Build Society	Yes	BBB	1,000	1,000	10%	1.0%
Police Bank	Yes	BBB	4,000	4,000	10%	3.8%
Suncorp Limited	Yes	A+	7,300	7,300	20%	7.0%
Westpac Bank Corp	No	AA-	16,000	14,000	20%	13.4%
<b>Total</b>			<b>107,300</b>	<b>104,300</b>		<b>100.0%</b>

Credit Rating Summary	Maximum Allowed		Value 30 April \$'000	Value 31 May \$'000	%	%
	%	Value				
as per the Investment Policy					30 April	31 May
A- or Higher	100%	104,300	52,300	50,300	48.7%	48.2%
BBB	60%	62,580	55,000	54,000	51.3%	51.8%
<b>Total</b>			<b>107,300</b>	<b>104,300</b>	<b>100.0%</b>	<b>100.0%</b>

Liquidity Risk Parameters	Maximum Allowed		Value 30 April \$'000	Value 31 May \$'000	%	%
	%	Value				
as per the Investment Policy					30 April	31 May
Term equal to 1 year or less	100%	104,300	99,000	96,000	92.3%	92.0%
Term > 1 year and < 3 years	40%	41,720	-	-	-	-
Term > 3 years	20%	20,860	8,300	8,300	7.7%	8.0%
<b>Total</b>			<b>107,300</b>	<b>104,300</b>	<b>100.0%</b>	<b>100.0%</b>

**B. Fossil Fuel Free and Green Investments**

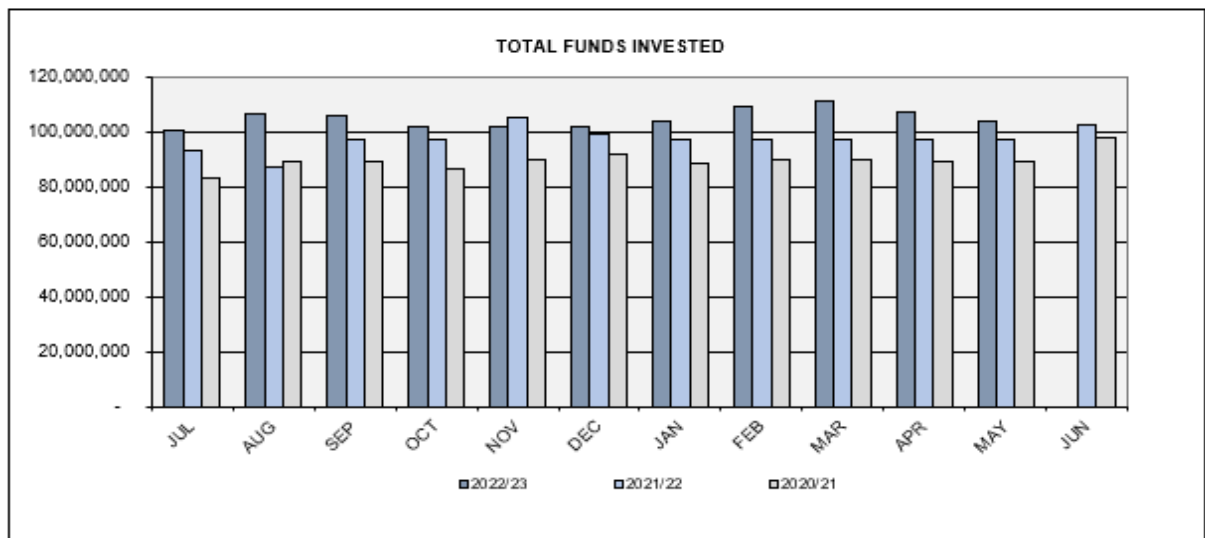
Environmental Classification	30 April		31 May	
	(\$'000)	(%)	(\$'000)	(%)
Fossil Fuel Aligned and Non-Green Investments	64,000	60	55,000	53
Fossil Fuel Free Investments	40,300	37	46,300	44
Green Investments	0	0	0	0
Not Classified	3,000	3	3,000	3
<b>Total</b>	<b>107,300</b>	<b>100</b>	<b>104,300</b>	<b>100</b>

In May 2023, seven investments matured totalling \$14.3m.

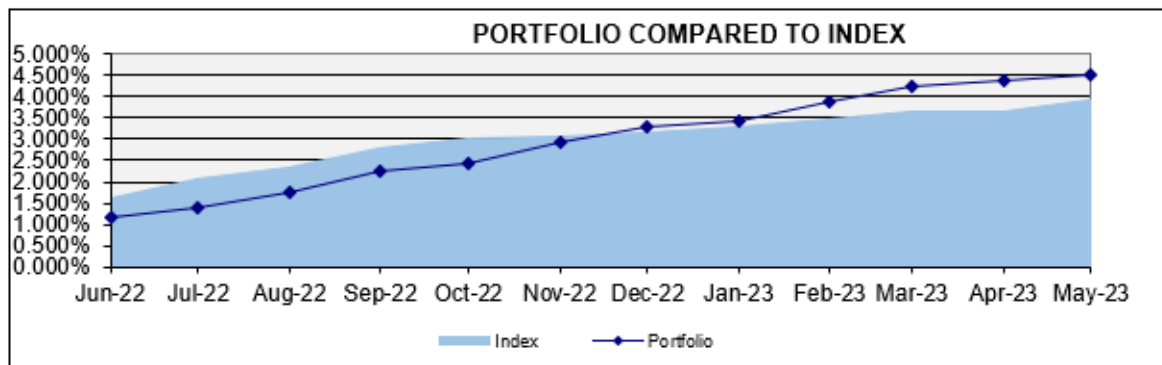
One of the investments was held with a non-fossil fuel aligned institution (\$1.3m).

Six new investments totalling \$11.3m were placed, including four investments totalling \$7.3m with non-fossil fuel aligned institutions.

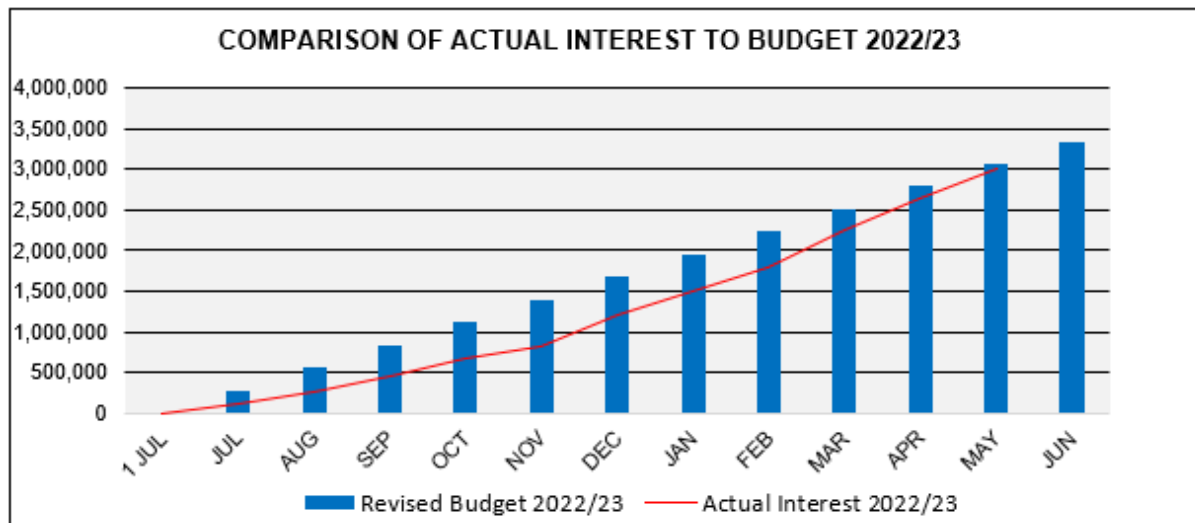
**C. Monthly Comparison of Total Funds Invested**



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



E. Progressive Total of Interest Earned to Budget



Actual interest is trending on target based on the revised budget adopted in the March quarterly budget review.

F. Investments held as of 30 April 2023 and 31 May 2023

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	30 April \$'000	31 May \$'000
30/07/18	Westpac Banking Corporation	FRN	4.61%	31/07/23	1,000	1,000
31/07/18	Westpac Banking Corporation	FRN	4.61%	02/08/23	1,000	1,000
11/01/19	Commonwealth Bank of Australia	FRN	4.61%	11/01/24	1,000	1,000
08/02/19	Westpac Banking Corporation	FRN	4.93%	06/02/24	2,000	2,000
24/02/21	Suncorp-Metway Limited	FRN	3.55%	24/02/26	1,300	1,300
04/03/21	Newcastle Permanent Bld Society	FRN	3.70%	04/03/26	1,000	1,000
18/06/21	Bendigo & Adelaide Bank	FRN	4.34%	18/06/26	1,000	1,000
18/05/22	ME Bank	TD	3.10%	17/05/23	3,000	-
23/05/22	ME Bank	TD	3.20%	18/05/23	2,000	-
30/05/22	ME Bank	TD	3.20%	24/05/23	2,000	-
07/06/22	Suncorp-Metway Limited	TD	3.17%	06/06/23	2,000	2,000
16/08/22	Commonwealth Bank of Australia	TD	3.98%	15/08/23	4,000	4,000
18/08/22	Westpac Banking Corporation	TD	3.96%	15/08/23	1,000	1,000
29/08/22	Commonwealth Bank of Australia	TD	4.17%	29/08/23	3,000	3,000
01/09/22	Westpac Banking Corporation	TD	4.17%	29/08/23	2,000	2,000
01/09/22	Bank of Queensland	TD	4.15%	29/08/23	1,000	1,000
06/09/22	Bank of Queensland	TD	4.15%	05/09/23	4,000	4,000
27/09/22	MyState Bank Ltd	TD	4.60%	26/09/23	1,000	1,000
13/10/22	Police Bank Ltd	TD	4.40%	10/10/23	2,000	2,000
19/10/22	AMP Bank	TD	4.65%	17/10/23	2,000	2,000
25/10/22	Suncorp-Metway Limited	TD	4.60%	24/10/23	2,000	2,000
02/11/22	Beyond Bank	TD	4.55%	01/11/23	2,000	2,000
08/11/22	AMP Bank	TD	4.80%	07/11/23	3,000	3,000
09/11/22	Defence Bank Ltd	TD	4.60%	08/11/23	2,000	2,000
09/11/22	Australian Unity Bank	TD	4.60%	09/11/23	1,000	1,000
22/11/22	Police Bank Ltd	TD	4.40%	21/11/23	2,000	2,000
29/11/22	Defence Bank Ltd	TD	4.50%	28/11/23	1,000	1,000

## 9.1 Investment Summary - May 2023

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	30 April \$'000	31 May \$'000
29/11/22	Australian Unity Bank	TD	4.50%	28/11/23	2,000	2,000
30/11/22	Auswide Bank	TD	4.55%	29/11/23	1,000	1,000
02/12/22	Westpac Banking Corporation	TD	3.15%	31/05/23	2,000	-
07/12/22	BankVic	TD	4.60%	05/12/23	2,000	2,000
09/12/22	BankVic	TD	4.62%	06/12/23	2,000	2,000
13/12/22	Suncorp-Metway Limited	TD	4.36%	12/12/23	1,000	1,000
10/01/23	BankVic	TD	4.65%	09/01/24	1,000	1,000
18/01/23	Westpac Banking Corporation	TD	4.56%	17/01/24	2,000	2,000
24/01/23	BankVic	TD	4.50%	23/01/24	2,000	2,000
25/01/23	Auswide Bank	TD	4.60%	18/01/24	2,000	2,000
31/01/23	Great Southern Bank	TD	4.69%	25/01/24	3,000	3,000
10/02/23	Westpac Banking Corporation	TD	4.84%	07/02/24	3,000	3,000
15/02/23	National Australia Bank	TD	4.90%	13/02/24	4,000	4,000
16/02/23	Westpac Banking Corporation	TD	3.95%	14/08/23	2,000	-
20/02/23	National Australia Bank	TD	4.89%	15/02/24	7,000	7,000
20/02/23	Commonwealth Bank of Australia	TD	4.91%	19/02/24	7,000	7,000
21/02/23	Defence Bank Ltd	TD	4.95%	28/02/24	1,000	1,000
28/02/23	Defence Bank Ltd	TD	5.00%	05/03/24	1,000	1,000
01/03/23	Defence Bank Ltd	TD	5.00%	12/03/24	2,000	2,000
01/03/23	National Australia Bank	TD	5.00%	12/03/24	3,000	3,000
03/03/23	Bank of Queensland	TD	5.06%	19/03/24	2,000	2,000
04/04/23	Auswide Bank	TD	4.90%	02/04/24	3,000	3,000
04/04/23	Auswide Bank	TD	4.90%	10/04/24	1,000	1,000
05/04/23	Suncorp-Metway Limited	TD	4.45%	05/10/23	1,000	1,000
16/05/23	Westpac Banking Corporation	TD	3.95%	14/08/23	-	2,000
23/05/23	Great Southern Bank	TD	5.11%	21/05/24	-	2,000
30/05/23	MyState Bank Ltd	TD	5.10%	28/05/24	-	2,000
31/05/23	Great Southern Bank	TD	5.13%	04/06/24	-	2,000
	<b>Total</b>				<b>107,300</b>	<b>104,300</b>
	TD=Term Deposit; FRN=Floating Rate Note					

### RECOMMENDATION

That Council notes the report of banking and investments for May 2023.

### Attachment(s)

Nil

## 9.2 Donations - Australian Representation

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### 9.2 Donations - Australian Representation

**Section** Communications

**Objective** To consider an application for funding under the Donations - Australian Representation Policy

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#### **Background**

Council receives requests to financially support athletes who reside in the Ballina Shire if they are selected to represent Australia in their chosen field of sport.

Council recently received an application for financial support under the Donation - Australian Representation Policy.

The application is seeking assistance for travel and accommodation expenses to participate in a Mens 21's squad touring Ireland in July/August 2023 for the International Tag Federation Alliance Tag World Cup.

#### **Key Issues**

- Compliance with Council policy
- Equity in donation assistance

#### **Discussion**

Mr. Connor Everson, resident of Alstonville, has been identified as a talented male OzTag player and invited to participate in the Tag World Cup (refer Attachment 1).

Connor is seeking Council's financial assistance under the Donations – Australian Representation Policy to support the expenses incurred to participate in the tour.

In terms of compliance with the policy, Connor's application complies with the selection criteria including:

- confirmed resident of the Ballina Shire
- has not previously received a donation this year
- assistance is for the expenses incurred as part of their role representing Australia
- has been chosen in a team or event that is part of a nationally recognised federation

The total cost for Connor to participate in this international touring squad is significant, the expenses include flights, playing kit, registration, and accommodation, as outlined in the original request (refer Attachment 2).

Should Council endorse the application, the level of assistance provided, as detailed in the policy, is \$513 (overseas representation in 2023).

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

CC3.2 - Provide young people with a range of leisure activities

### Community Consultation Policy

This matter has not been subject to community consultation.

### Financial / Risk Considerations

There is no specific budget allocation for the Donations - Australian Representation policy as the donation requests are typically ad hoc and the funds donated are minor in comparison to Council's overall budget.

Any allocation is typically funded from the Community Donations budget.

The last consideration of an application under this policy was in March 2023.

### Options

Council has an option to support the application, or not support the application.

This application for Australian Representation meets all the criteria in the policy, therefore the recommendation is to support the application.

### RECOMMENDATIONS

1. That Council approves a donation of \$513 for Mr Connor Everson towards travel costs for the Tag World Cup Tour of Ireland in July / August 2023 as per Council's Donations – Australian Representation Policy.
2. That the Ballina Shire community wish Connor all the best at the Tag World Cup.

### Attachment(s)

1. Invitation for Connor Everson - ITF Alliance - Tag World Cup 2023 [⇒](#)
2. Australian Representation Donation Request - Connor Everson [⇒](#)



### **9.3 Richmond Tweed Regional Library - Sale of Vacant Land**

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#### **9.3 Richmond Tweed Regional Library - Sale of Vacant Land**

<b>Section</b>	Communications
<b>Objective</b>	To seek Council's position on the sale of vacant land owned by the Richmond Tweed Regional Library.

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#### **Background**

The Richmond Tweed Regional Library (RTRL) is a resource sharing library service made up of four member councils, being Tweed, Byron, Ballina and Lismore.

Lismore City Council is the Executive council, employing all the RTRL staff and undertaking the various corporate functions for the RTRL.

The RTRL operates 11 libraries throughout the region, including three in the Ballina Shire at Alstonville, Lennox Head and Ballina.

The RTRL governance model includes a Senior Leadership Group (SLG), comprising of senior managers from each of the councils, and the Regional Library Manager.

The SLG is responsible for strategic and financial planning, policy development and reporting.

This group reports to the RTRL Committee, made up of Councillor representatives from each member council.

As a member council of RTRL, Council owns part of the RTRL assets including the head office building located in Goonellabah, an adjoining vacant block of land, all library books and resources purchased from Ballina library resources budget, a mobile library, and plant and fleet associated with the library operations.

During 2021/22 the RTRL SLG and Committee completed a review of budgets, services, and assets to ensure an efficient operation of RTRL operations.

This review identified that the vacant land (Lot 2 DP 1061931, 1 Lancaster Drive, Goonellabah) adjoining the Support Services building is not required for RTRL purposes.

This report seeks Council's position on the sale of the vacant land.

#### **Key Issues**

- Sale of assets
- Value for money
- Council decision making in library operations

#### **Discussion**

### **9.3 Richmond Tweed Regional Library - Sale of Vacant Land**

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As part of the budget process for 2021/22, in recognition of the significant impact of COVID-19 on all member councils, a decision was made to help reduce the costs of member contributions through accessing available funds within the reserves.

Throughout 2021/22, the SLG sought opportunities to reduce costs without impacting on the service delivery for our communities. This included reviewing potential commercial lease options of part of the Support Services office (located at 2 Centenary Drive, Goonellabah) and the sale of vacant land (located at 1 Lancaster Drive, Goonellabah).

In pursuing these two options, a valuation report on the vacant land was undertaken in August 2022 and is attached under separate cover to this report.

As a result of seeking opportunities to reduce costs, without impacting library service levels, in March 2023, the RTRL Committee meeting resolved to:

*seek feedback from Member Councils on the proposed sale of the vacant land adjacent to the Support Services Building, which is surplus to the library service requirements.*

The potential sale of the land has been considered due to the known asset improvement works required to the Support Services building in Goonellabah and the potential of this building, due to its size, to be modified to also offer commercial rental option space to provide an ongoing revenue stream to RTRL.

If the vacant land was sold, the proceeds from the sale could be applied, in part, to fund the improvement works at the Support Services building and to potentially offset Member Council Contributions to RTRL. As the building improvement works have not yet been quantified, any potential offset to Member Contributions from the sale of this land is unknown.

Lismore City Council has expressed strong reservations regarding the divestment of land by RTRL and would seek further discussions prior to any divestment.

Whilst Lismore City Council has formed a view, it is the RTRL Committee (which are represented by all member councils), that will make a final decision on the sale of this vacant land, which will then be reported to the Lismore City Council for adoption.

RTRL is not an actual legal entity, which means that Lismore City Council will still have to resolve to sell the land based on the RTRL Committee decision.

The assumption is that Lismore City Council will support the RTRL Committee, and member councils, decision.

#### **Community Engagement Strategy**

There has been on-going consultation with the member councils. Any sale would be subject to Lismore City Council's sale processes.

### Financial / Risk Considerations

In May 2022, Council supported the continued membership to RTRL as it delivered a high level of service to the community and provided operating efficiencies.

In terms of financial considerations, the sale of the vacant land will result in funds becoming available to undertake important maintenance work of the Support Services building, and potentially include a renovation of this building to support a commercial lease option to provide an on-going revenue stream for the RTRL.

In addition, any surplus funds could also provide a saving to future member contributions to the RTRL, however it is important to understand the sale of an asset typically provides a one-off saving only. The savings would be applied to all RTRL member councils.

### Options

The options available are to:

1. Support the sale of the vacant land, Lot 2 DP 1061931, 1 Lancaster Drive Goonellabah.

This option is preferred as the land is not required for RTRL Library operations. The proceeds from the sale would be used to support the required building works and financial position of the library operations.

Also, the land is zoned industrial, and there is strong demand for flood free industrial land in Lismore, and the region, following the 2022 floods, due a large portion of the industrial land in South Lismore being heavily impacted by the floods.

A decision to sell, helps to provide more industrial land for businesses wishing to relocate, or establish, in a flood free location, which is important in the overall economic recovery from the 2022 floods.

2. Not support the sale of the vacant land, Lot 2 DP 1061931, 1 Lancaster Drive Goonellabah.

This option is not recommended as the vacant land is surplus to RTRL needs. Not selling continues land banking of industrial land, which is in high demand, as also stated in the confidential valuation report (page 9).

### RECOMMENDATION

That Council confirms its support for the sale of the vacant land owned by Richmond Tweed Regional Library member councils, Lot 2 DP 1061931, 1 Lancaster Drive, Goonellabah.

### Attachment(s)

1. Land Valuation - 1 Lancaster Drive, Goonellabah (Under separate cover) (Confidential)

## 9.4 Tender - Project Management Services

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### 9.4 Tender - Project Management Services

<b>Section</b>	Project Management Office
<b>Objective</b>	To report the outcomes of the tender evaluation for the Tender - Project Management Services

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#### **Background**

The works to be undertaken under this contract are Project Management Services.

This tender was called to establish a panel for the provision of competitive project management services to Council for the next three years.

The resulting panel contract will support delivery of Council's Delivery Program and Operational Plan. Council has a growing capital works program across all sections of council and the panel will assist with limited internal resourcing.

Types of services sought through the tender are:

- Project management
- Civil design
- Surveying
- Water and Wastewater and Process engineering
- Building design and construction
- Electrical engineering

Tenders were called on 3 March 2023 and at the close of tenders on 30 March 2023, 42 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**

85 companies downloaded the documentation with tenders received from:

- Acorn Project Advisory
- Artazan Property Group
- Barker Ryan Stewart
- Blair & Sons Engineering Contractors Pty Ltd
- Burchills Engineering Solutions
- CivilCS
- Coffey
- COMPLETE Urban
- Currie & Brown (Australia) Pty Ltd

## 9.4 Tender - Project Management Services

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- East Coast Consulting Engineers Pty Ltd
- Engineered Project Solutions
- Engineering Risk Management
- Focus Bridge Engineering
- Ganden
- GDR 1012 Pty Ltd
- GMB Commercial Group
- Harryan Engineering Consulting Pty Ltd
- Hunter H2O Holdings Pty Limited
- Ireland Civil Contracting Pty Ltd
- JJ Ryan Consulting Pty Ltd
- Lackon Pty Ltd
- Living Infrastructure Pty Ltd
- Manage Design Engineer
- McGloin Baker
- Newton Denny Chapelle
- Planit Consulting
- PMLV
- Projence
- Ranbury Management Group
- RPS AAP Consulting Pty Ltd
- Signature Project Management
- Steady State
- Stralis Energy Pty Ltd
- TA Project Services
- Terania Consulting Pty Ltd
- Titus Civil Consulting
- Turner & Townsend
- Upright Management
- Wilde Engineering Consulting Pty Ltd
- Willow & Sparrow Pty Ltd
- Witthoft Engineering
- WSP Australia Pty Ltd

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

- Insurances
- Compliance with tender requirements

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

- |                             |     |
|-----------------------------|-----|
| • Pricing structure         | 45% |
| • Experience and capability | 40% |
| • Social and community      | 15% |

Contractors will generally be contracted based on the tendered prices and on the contractor's ability to provide the services in a timely manner.

Whilst this process provides Council a list of preferred service providers, Council is not bound to hire from the list of approved providers and may invite separate quotations or tenders for specific works.

Details of the assessment, including whether the tenderer was determined to be competitive or appropriately geographically based, has been provided to Councillors by a confidential memorandum.

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

Project Management services will be procured as part of delivering Council's capital and operational works program, as outlined in the Delivery Program and Operation Plan.

### **Community Engagement Strategy**

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

### **Financial / Risk Considerations**

Purchases under this tender are costed against program budgets. Using a mixture of the tendered rates and quoted works provides appropriate flexibility in respect of maintaining an efficient procurement process and ensuring best value for money.

There is no estimated total contract value for this tender, as the outcome of this evaluation is to have a panel of providers which have provided scheduled rates for a volume of work that cannot be accurately estimated.

### **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 process, it is recommended that Council accept the tenders from all companies assessed as part of the evaluation process as providing value for money and appropriately geographically based to meet our operational requirements.

**RECOMMENDATIONS**

1. That Council in accordance with the *Local Government (General) Regulation 2021 Section 178(1)(a)*, accepts the tender and awards the contract to:

- 1) Acorn Project Advisory
- 2) Artazan Property Group
- 3) Barker Ryan Stewart
- 4) Blair & Sons Engineering Contractors Pty Ltd
- 5) Burchills Engineering Solutions
- 6) CivilCS
- 7) Coffey
- 8) COMPLETE Urban
- 9) Currie & Brown (Australia) Pty Ltd
- 10) East Coast Consulting Engineers Pty Ltd
- 11) Engineered Project Solutions
- 12) Engineering Risk Management
- 13) Focus Bridge Engineering
- 14) Ganden
- 15) GDR 1012 Pty Ltd
- 16) Hunter H2O Holdings Pty Limited
- 17) JJ Ryan Consulting Pty Ltd
- 18) Lackon Pty Ltd
- 19) Living Infrastructure Pty Ltd
- 20) Manage Design Engineer
- 21) McGloin Baker
- 22) Newton Denny Chapelle
- 23) Planit Consulting
- 24) Projence
- 25) Ranbury Management Group
- 26) RPS AAP Consulting Pty Ltd
- 27) Signature Project Management
- 28) Steady State
- 29) TA Project Services
- 30) Terania Consulting Pty Ltd
- 31) Titus Civil Consulting
- 32) Turner & Townsend
- 33) Upright Management
- 34) Willow & Sparrow Pty Ltd
- 35) Witthoft Engineering
- 36) WSP Australia Pty Ltd

for the Tender - Project Management Services.

2. That Council authorises the General Manager to sign the contract documents.

**Attachment(s)**

1. Confidential Memorandum - Project Management Services Panel Contract (Under separate cover) (Confidential)

## 9.5 Delivery Program and Operational Plan - Adoption

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### 9.5 Delivery Program and Operational Plan - Adoption

**Section** Communications

**Objective** To consider submissions received during the exhibition period for the draft 2023/24 to 2026/27 Delivery Program and the 2023/24 Operational Plan and to adopt the documents prior to 30 June 2023.

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#### **Background**

The draft 2023/24 to 2026/27 Delivery Program and 2023/24 Operational Plan (including the supporting documents; Fees and Charges, Long Term Financial Plan (LTFP), Budget, and Workforce Plan) were placed on exhibition following the Finance and Facilities Committee meetings held in March and April 2023.

Council held two public meetings as part of the exhibition process, provided an online presentation and invited submissions during the period from Wednesday 4 May to Monday 5 June 2023.

The intention of this report is to adopt the 2023/24 to 2026/27 Delivery Program and 2023/24 Operational Plan (DPOP), including the supporting documents, after considering the submissions and other information relevant to the documents since they were prepared.

As the exhibited documents are extensive, they have not been reproduced for this report. Copies of the documents, as exhibited, have been loaded to the Councillor hub under the title of Integrated Planning and Reporting. Hard copies are available from Council.

#### **Key Issues**

- Contents of submissions
- Additional amendments
- Balancing demand for Council services against available resources

#### **Discussion**

This report has three main sections:

- A. Review of the submissions
- B. Recommended updates based on contemporary information
- C. Other matters

#### **A. Submissions**

The submissions can be categorised under two main headings:



## 9.5 Delivery Program and Operational Plan - Adoption

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1. Submissions for funding assistance in response to Council's donations programs (i.e. community groups, capital works assistance for sporting groups)
2. Submissions for works and services

### 1. Submissions for Funding Assistance

The draft LTFP includes the following allocations for funding assistance / donations for 2023/24:

<b>Donation Description</b>	<b>Budget (\$)</b>
Donations – Community Groups	82,000
Capital Works Assistance - Sporting Groups	32,000
Donations - Rates and Charges	32,000
Assistance with Council Fees - Community Groups	4,000
Richmond Room – Donation for Chair Set Up (RSL Lighthouse Day Club)	8,000
<b>Total</b>	<b>158,000</b>

All these items, excluding the Richmond Room, are supported by Council policies.

The Richmond Room item reflects a standing resolution where Council has approved an annual donation to the Ballina Rotary Club to help set up the chairs in the Richmond Room for the Ballina RSL Lighthouse Day Care Club.

The submissions identified in this report relate to the Donations – Community Groups and Capital Works Assistance – Sporting Groups allocations, where Council calls for annual applications under these policies.

The policies for these donations state that Council will form a working party, consisting of at least one Councillor from each ward, plus the Mayor, to provide recommendations on the allocation of the funds to the July Ordinary meeting.

All Councillors are entitled to attend the working party meeting to review the applications and the recommendation to this report seeks nominations to form the working party.

In recent years, more than the one representative from each Ward has attended the meetings, with essentially all Councillors able to attend the meeting.

This process of Councillors reviewing the applications prior to the July Council meeting has worked well, for many years, in determining a preferred funding allocation, as the applications are almost always more than the available funds. The recommendation to this report confirms all Councillors as members of this working party to simplify the process.

Details of the applications received are summarised in the next two tables. Applicants are required to complete a standard application form.

### General Donations – Community Groups

Table One outlines the submissions for community donations.

## 9.5 Delivery Program and Operational Plan - Adoption

**Table One: Submissions for Community Donations**

Ref	Organisation name	Description/Project	Request (\$)
1	Ballina Breast Cancer Support Group	Venue hire - meetings	576
2	Lennox Head Playgroup	Venue hire – Lennox Head Cultural Centre	2,100
3	Dementia Inclusive Ballina Alliance	Symposium - Dementia Awareness week 2023	3,000
4	Ballina Region for Refugees	To settle a refugee family in Ballina Shire	1,000
5	The Rotary Club of Ballina-on- Richmond	Venue hire - Domestic and Family Violence Community walk	478
6	Combined Sports Lennox Head Carols Committee	Christmas Carols in the park @ Williams Reserve	10,000
7	Ballina and District Ministers Association Incorporated	Ballina Riverside Carols	5,000
8	Lennox Head Residents' Inc Heritage Committee	Venue hire - Love Lennox Festival and public & personal liability insurance costs	500
9	Australian Seabird & Turtle Rescue	Purchase of a veterinarian examination table	2,950
10	Rotary Club of Ballina-on-Richmond	Event costs - Domestic and Family Violence Community walk	3,000
11	Rotary Club of Ballina-on-Richmond and Rotary District 9640	Rotary District Conference 2024 - May 18, Ballina RSL Club	5,000
12	Northern NSW Helicopter Rescue Service Limited	Essential engineering tools for our Lismore airbase, from which we serve the Ballina community.	1,000
13	Our Kids	Temporary fencing costs through Council for the Our Kids Day Out	1,000
14	Lions Club of Lennox Head Inc	Administration costs for the club	3,139
15	Riding for the Disabled (NSW) Ballina & District	New riding saddle for disabled children	836
16	Marine Rescue Ballina	Purchase, installation and configuration of 5 computers	8,000
17	Ballina Hot Meal Centre	Cost of food staples to provide meals	1,000
18	Rous Mill and District Memorial Hall	Termite eradication (retrospective), insurance and maintenance costs	8,423
19	Rotary Satellite Club of Ballina Lifestyle	The purchase of two new recycling cages and fittings	1,350
20	Ballina Lighthouse RSL Day Club	Venue hire - Richmond Room	8,955
21	Alstonville RSL Tibouchina Day Club	To assist with club expenses i.e., community transport, venue hire - Rous Mill Hall	5,000
22	Lennox Community Gardens Inc	For welcome and information signage for the gardens	746
23	Ballina Hockey Club Inc	To assist with costs of rates, water and electricity charges and crown rent	3,000
24	Community Sewing Group	Venue hire - Northlakes Hall and incidental costs	991
25	Lennox Head Residents Association	Venue hire - CWA Hall and public liability insurance costs	952
26	Lions Club of Ballina Inc	Venue hire - Richmond Room	1,815

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Ref	Organisation name	Description/Project	Request (\$)
27	Community Christmas Lunch	Cost of food staples to provide meals	1,000
28	Lennox Head Residents Association - Boomerang Bags Committee	Venue hire	578
29	Pearces Creek Hall	Insurance costs	4,000
30	Rous Public School P&C Association	Rous Bonfire Night and Fireworks	5,250
31	Northern Rivers Pickleball	Tournament equipment and office supplies	1,000
32	Volunteer Marine Rescue NSW	Cost of maintenance and insurance	9,000
33	Lennox Head Residents Association - Coast Care Committee	To replace their equipment storage container and cover insurance costs	6,800
34	Ballina Croquet Inc	To fund the design and construction of portable croquet equipment	1,000
35	Newrybar Community Hall	Cost of the purchase of a defibrillator	2,000
36	Wollongbar Progress Association	Cost of the installation of an alarm system	3,600
37	Ballina and District Historical Society	Cost of cooling and heating solutions for the museum	2,604
38	Alstonville Wollongbar Chamber of Commerce	Event costs for an inaugural Community Christmas Night Market	1,000
39	Lennox Head Public School P&C Association	To fund the cost of a pie warmer for the canteen	991
40	Lennox Head Chess Club Inc	To fund insurance costs and venue hire	506
<b>Total</b>			<b>119,140</b>

### Donations - Capital Works for Community Sporting Groups

Table Two outlines the submissions for capital works assistance for community sporting groups.

Council writes to approximately 50 sporting groups each year advising of the opening of the program and encouraging submissions.

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

Ref	Organisation name	Description/Project	Request (\$)
1	Ballina Seagulls Football Club Inc	To build an upgraded Canteen, BBQ and drinks building	140,000
2	Ballina Rugby Club Inc	Construction of a steel framed covered grandstand to include disabled access and viewing facilities.	10,000
3	Ballina Little Athletics	Upgrade Chickiba Park Clubhouse and kitchen facilities	10,000
4	Ballina Croquet Inc	Assessment costs relating to proposed capital works for Ballina Croquet (i.e., DA and planning proposal fees)	9,250
<b>Total</b>			<b>169,250</b>

Copies of the submissions for Tables One and Two have not been included with this report as they are extensive.

## 9.5 Delivery Program and Operational Plan - Adoption

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Submissions have been loaded to the Councillor Hub, under the title of Donations Working Party.

### **2. Submissions to Works and Services**

The following submissions are included as Attachment 1 to this report.

#### Footpath – Silver Gull and Angels Beach Drive, Ballina

A submission was received from Ms L Wheat, requesting a foot/bike path to connect to the path on Silver Gull Drive and Angels Beach Drive.

#### *Staff response:*

This request is for the inclusion of approximately 180m (estimated cost \$45,000) of new footpath along Silver Gull Drive, from the intersection of Angels Beach Drive to the intersection of the return leg of Silver Gull Drive, East Ballina.

The proposed footpath is not listed in the Pedestrian Access and Mobility Plan (PAMP).

However, for the purposes of reviewing this request an assessment was made using the original PAMP criteria for priority weighting (ranking) of individual projects within the program.

The individual weighting of PAMP projects has determined the priority order for delivery of our footpath works over a ten-year program containing approximately 100 individual projects.

The Delivery Program and Operational Plan lists the current four-year program, with approximately 45% of the program already complete.

The weighting of the projects within the current four-year program ranges from 55 (highest priority) through to 45 (lowest priority). The weighting of this Silver Gull Drive request is assessed as a weighting of 45.

If this project was to be included in the PAMP program it would be included in 2026/27, at the earliest.

Other footpath requests, which are received throughout the year, and not submitted as a formal response to the DPOP, are recorded as potential future footpath projects and will be assessed as part of the next update of the PAMP.

This will be scheduled prior to the completion of the 10-year program and likely in 2027.

The detail of the weighted criteria scoring system can be found by viewing the PAMP on Council's website. Based on the weighting of 45 it is not recommended that Council amend the four year works program.

## 9.5 Delivery Program and Operational Plan - Adoption

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### Sealing of Camden Lane, Ballina

A submission was received from Mr S Goldie, requesting the sealing of Camden Lane, commenting that this lane appears to be the only lane in Ballina town that is unsealed.

#### *Staff response:*

This request is for the sealing of a small 50m length of a gravel laneway at Camden Lane, Ballina. Camden Lane comprises an existing sealed section of laneway approximately 50m long, and then has another 50m section which remains unsealed.

The existing sealed section of Camden Lane is proposed for a reseal treatment in 2023/24.

This will comprise an asphalt heavy patching treatment followed by bitumen reseal.

This work on Camden Lane will be able to be undertaken within the existing annual budget allocation for 2023/24 for urban heavy patching and reseals.

### Cumbalum Community Sports Fields Facilities

11 submissions were received, with requests to expand works and bring forward expenditure.

Submissions were received from Dr G Unwin, Ms S Kiss, Cumberland Residents Association, Ms L Hartel, Mr I Gillespie, Ms S Gouveas, Ms J McIntyre, Ms H Chang, Ms A Imlay-Gillespie, Ms L Imlay-Gillespie, and Ms L Anderson.

#### *Staff response:*

Council is considering options for the provision of multipurpose / hard courts in various locations throughout the Shire, with Ballina Heights sports fields investigated as a specific site as part of a resolution from the November 2022 Ordinary meeting.

A report on this item is included earlier in this agenda.

The revised capital works program for Open Spaces for 2023/24 includes \$170,000 for expenditure on facilities at the Ballina Heights sports fields.

Other works recently undertaken at the sports fields include drainage improvements (approximately \$150,000) and upgraded lighting (approximately \$232,000).

The 2023/24 budget includes \$80,000 for further drainage improvements to these fields.

### Cumbalum Flood mitigation

Two submissions were received, from Ms L Anderson and Ms L Tyrrell, in relation to completion of flood mitigation works for Cumbalum.

*Staff response:*

The issue of recurrent flooding at the Cumbalum interchange has been an ongoing matter, which has been raised with Transport for NSW (TfNSW) since the completion of the Pacific Highway motorway. In the short term, several measures have been addressed by TfNSW and this has included:

- The authorisation of a traffic control plan, which allows the Cumbalum southbound exit ramp of the motorway to be used as the entry and exit for point for the Cumbalum / Ballina Heights Estate.

This is initiated with the use of traffic controllers and is an emergency measure when Tamarind Drive and Deadmans Creek Road are not passable.

- The assessment of road levels along Tamarind Drive has led to the placement of an additional asphalt layer along the section of Tamarind Drive between Deadmans Creek Road and the Cumbalum Interchange.

It has been recognised by TfNSW that settlement has occurred, which has lowered the road levels, and has made sections of Tamarind Drive more susceptible to inundation.

TfNSW has also committed to investigating the recurrent flooding, and to-date this has comprised the recent completion of a local flood study report (2022) to confirm the current scenario post highway construction.

The next step is to undertake investigations into examining potential mitigation measures utilising this report. However, it is also recognised there has been a significant demand on TfNSW and consultancy resources following the 2022 flood event.

A significant length of time has passed since these matters were first raised with TfNSW and the most recent resolution of Council was at the 23 February 2023 Ordinary meeting; i.e.

*That Council write to Transport for NSW requesting a commitment to a time to complete the previously agreed options analysis to improve drainage at Tamarind Drive."*

TfNSW has been written to regarding the urgent need for a project team to complete this work, with no confirmed timelines received to date. This remains a high priority for Council and representations will continue with TfNSW.

### Various matters including North Ballina slip road and other

A submission received from Ms L Tyrrell included several requests.

#### *Slip Road on / off at North Ballina Intersection*

Whilst acknowledging that a slip road would be a Federal Government responsibility, Ms Tyrrell enquires as to what action Council is undertaking to ensure this happens.

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*Staff response:*

For many years Council has been attempting to secure funding for an upgrade to the Ballina Bypass Interchange at Cumbalum.

At the February 2023 Ordinary meeting, Council resolved to write to the relevant Ministers to again seek appropriate funding for the design process to commence and allocations made for the upgrade; i.e.

1. *That Council write to the NSW Minister for Regional Transport and Roads, the Deputy Premier, local MPs, Federal Minister and all Shadow Ministers calling for a full project design process to occur and that a funding allocation be made in the State Government's 2023/24 budget for the Cumbalum Interchange north (off) and south (on) ramps to be completed. Included in this work should be the rectification of the Cumbalum interchange roundabout to raise it relative to contemporary flood planning levels.*
2. *That Council clarify with Hon Justine Elliot a previous commitment of 50/50 funding with Federal/State Governments for this project.*

The relevant Ministers have been written to regarding the urgent need for this project to proceed, with no response to date.

### *Street Lighting Tamarind Drive and Broader Shire*

There is no lighting for Tamarind Drive and that a large portion of the lights don't work in Ballina Heights.

With concerns around security, it is requested that streetlights be installed, and it was questioned as to whether Council has any other plans to tackle concerns around increasing crime.

*Staff response:*

Council's street lighting program is approximately \$55,000 per annum and allows for a few small projects each year, with each project providing for an infill light, or a number of lights, along our local street network.

The lighting program derives its list of projects largely from public nominations, where poor lighting has been identified. The projects are ranked giving consideration to the standards, and the level of pedestrian (footpath) use along the roadside.

The broad scope of this request is to provide for street lighting along Tamarind Drive. The section of Tamarind Drive between the Cumbalum interchange and north Ballina is approximately four kilometres and the cost of lighting this road section would amount to millions of dollars.

Where future road upgrades of Tamarind Drive have been identified under our traffic demand modelling and road network planning, then it would be proposed for street lighting to be assessed during the detail design, for installation to meet contemporary standards.

## 9.5 Delivery Program and Operational Plan - Adoption

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This is likely to be with the future duplication of sections of Tamarind Drive in north Ballina and at the Tamarind Drive upgrade associated with the intersection at the north end of Barlows Road.

The maintenance of streetlights throughout the shire is undertaken by Essential Energy and where lights are identified as not working then these should be reported directly to Essential Energy. This is done online at [www.essentialenergy.com.au](http://www.essentialenergy.com.au) and follow "Report streetlight faults".

### *Weed Control Ballina Heights*

It was noted that the weeds (in Ballina Heights) are rarely kept under control, specifically the footpath going up Ballina Height Drive towards Banyan Hill.

#### *Staff response:*

Council continues to undertake scheduled and reactive vegetation maintenance throughout Ballina Heights, with additional resources continuing to be allocated as more developed areas come online.

### *Ballina Town Precinct Investment*

It was commented that Ballina (CBD) could do with further investment to improve the vibe of the town, to become a precinct, with consideration for making Tamar Street the through road.

#### *Staff response:*

Council has been heavily investing in the redevelopment of its town centre precincts to improve the amenity and streetscape, and this has included road reconstruction and parking improvements, footpath widening and paving, garden areas and tree planting, themed lighting and uniform street furniture.

This impetus by Council is a driver for local business to remain and grow as part of a vibrant town centre precinct.

Council's investment in town centres has been significant over a lengthy period, i.e.

- Ballina town centre beautification from 2000 to 2020 with approximately \$15m including the development of Fawcett Park and the beautification of River Street from Grant Street to Martin Street and including sections of Cherry Street and Moon Street
- Alstonville town centre between 2010 to 2011 with approximately \$3m including the redevelopment of the Main Street park and the beautification of Main Street
- Lennox Head town centre between 2022 to 2023 with approximately \$11m including the redevelopment of Ross Park.
- Wardell town centre in progress with approximately \$1m and a streetscape plan being developed.



## 9.5 Delivery Program and Operational Plan - Adoption

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The overall town beautification program has supported the business centres of the main population centres, and it always been thought, although not programmed to date, that once Council finished the last town centre beautification, being Lennox Head, the next step will be to start planning for the next 20-year program of works.

Fawcett Park and River Street between Moon and Cherry Streets were the first two major projects for Ballina, and it may well be these two areas that will need to be revisited in the medium term.

Captain Cook Park has an adopted master plan, that remains unfunded, and this is another town centre location that could be subject to a beautification program.

It is recommended that the concept of overall beautification programs be referred to Council's Economic Activation Group to seek their feedback on where the priority should be. Even though there is no funding identified in the ten-year LTFFP, feedback during 2023/24 from this Group can assist in planning on-going programs for future years.

### *Ballina River Frontage Park Area*

It was commented that the river frontage could be better activated by having more picnic benches, a kiosk, fitness equipment.

#### *Staff response:*

Council continues to upgrade parks, within the constraints of the funding available, and if Council has any priority that should be addressed, that needs to be identified as part of this annual review of the Delivery Program and Operational Plan.

### Cedar Street, Wardell

A confidential submission was received, requesting an upgrade from single to dual width and an aligning with the existing kerb and gutter at the southern end.

#### *Staff response:*

This submission supports the upgrade of Cedar Street, Wardell, which is currently listed in the Road Reconstruction Program for 2026/27 with an allocation of \$270,000.

The context of the submission is to request the upgrading of Cedar Street to dual width, and to align with the width of existing kerb and gutter at the south end of Cedar Street. Although this submission does not impact the 2023/24 program, consideration will be given to widening of Cedar Street with any future upgrade.

At present the northern section of Cedar Street (approximately 70% of length) remains at its historic road width of five metres. A local road would now ordinarily require seven metres width for two lanes, and this will be incorporated onto the future design and reconstruction for Cedar Street.

## 9.5 Delivery Program and Operational Plan - Adoption

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### Footpath - Carlisle Street, River Drive, Lindsay Crescent- Pine Street, Wardell

A submission was received from the Wardell & District Progress Association (WDPA), noting that the Carlisle Street footpath had previously been identified (in 2018) for inclusion in the 2026/27 works program, and is no longer included in the 2023/24 to 2026/27 program.

It is requested that Carlisle Street be placed back into the current Delivery Program. It is also requested that River Drive and Lindsay Crescent - Pine Street footpaths are brought forward.

#### *Staff response:*

The request from the WDPA is a follow-up to previous year's DPOP submissions and replies provided regarding the Wardell footpath works program in the PAMP. Previous advice (2018) to the WDPA has been:

*“Works for the footpaths in Cedar Street, Carlisle Street, Lindsay Crescent, and River Drive have been identified under the Ballina Shire Council Pedestrian Access and Mobility Plan 2018/19 – 2026/27 (PAMP) as follows:*

- *Cedar Street, with \$43,950 allocated for the 2024/25 year*
- *Carlisle Street, with \$24,300 allocated for the 2026/27 year*
- *Lindsay Crescent and Pine Street, with \$133,725 allocated for the 2027/28 year*
- *River Drive, with \$41,200 allocated for the 2028/29 year”*

Subsequently with the 2019 DPOP submissions, Council resolved to bring forward the Cedar Street footpath project to 2022/23 and defer the Cawarra Street (Ballina) footpath project. The Cedar Street footpath project was completed in 2022/23.

The request from WDPA on this occasion, is that the Carlisle Street footpath project is not listed in the current DPOP footpath program for 2026/27, and that Lindsay Crescent and Pine Street and River Drive projects should be brought forward.

A response included earlier in this report dealing with a request for a new footpath in Silver Gull Drive, Ballina described the process for priority ranking of individual footpath projects. This develops the priority order for delivery of our PAMP footpath works and the four-year DPOP program.

The recommendation is not to change the current process to bring forward an early delivery of one project and cause deferral of another project.

With respect to the timeline for delivery of the works, the current DPOP footpath program has been updated with current day costs. This shows increased costs against the individual footpath projects relative to the costs developed at the time of the PAMP in 2018.

With significant increases in construction costs the number of projects delivered within the annual budget is less, and with the priority ranking process the individual projects will get deferred to a subsequent financial year.

## 9.5 Delivery Program and Operational Plan - Adoption

The current projection of the timeline for the Wardell footpath is as follows:

- Carlisle Street - \$30,000 in 2027/28
- Lindsay Crescent and Pine Street - \$150,000 in 2028/29
- River Drive - \$55,000 in 2029/30

An update of the PAMP will be scheduled prior to the completion of the 10-year footpath works program and will likely commence in 2027.

As footpaths is a regular topic of discussion as part of the annual DPOP, the works program exhibited, and the revised works program based on current costs are as follows.

**Table Three - Exhibited and Recommended Footpath Works Program**

Location	Exhibited				Recommended			
	2023/24	2024/25	2025/26	2026/27	2023/24	2024/25	2025/26	2026/27
Ross Street, Lennox (Bike Plan)	71,000				71,000			
Westland Drive, Ballina	5,000		75,000		5,000		85,000	
Green Street, Alstonville	15,000				15,000			
Canal Road, Ballina	50,000				50,000			
Chickiba Drive, Ballina	70,000				90,000			
Martin Street, Ballina	80,000				60,000	40,000		
Montwood Dve, Lennox SCCF Rd 5	170,000				179,000			
Montwood Dve, Lennox Head	210,000				170,000			
Pearces Ck Rd, A'ville SCCF Rd 5	120,000				120,000			
Compton Dve, Ballina (Bike Plan)	60,000				120,000			
Fig Tree/Ross Lane Lennox-Get Active	86,200				86,200			
Manly Street, Ballina	22,000				22,000			
Williams Street, Lennox Head	40,000				40,000			
Greenwood Pl, Sunrise Cr, Lennox	38,000				38,000			
Camoola Avenue, Ballina	35,000				35,000			
Skennars Head Rd, Skennars Head	20,000				20,000			
Cawley Cl -Main St, A'ville - Get Active	674,500				674,500			
Rubiton St, Wollongbar SCCF Rd 5	100,000					100,000		
Parkland Dive, A'ville SCCF Rd 5	150,000					150,000		
Angels Bch Dve, Ballina (Bike Plan)	29,000	41,000				100,000		
Jameson Avenue, Ballina		100,000				140,000		
Anderson Street, Ballina		5,000				5,000		
Cawarra Street, Ballina		50,000				50,000		
Stewart Street, Lennox Head		70,000				90,000		
Martin Street / Fox Street, Ballina		10,000				10,000		
Horizon Drive, Ballina		90,000				81,000	29,000	
Mellis Circuit, Alstonville		121,000	35,000				180,000	
Main Street, Alstonville (Bike Plan)		59,000	11,000				90,000	
South Street, Alstonville (Bike Plan)			60,000					95,000
Allens Parade, Lennox (Bike Plan)			29,000					
Pearces Creek Road, Alstonville			110,000					
Moon Street, Ballina			15,000				15,000	
Shelly Beach Road, Ballina			5,000				5,000	
Castle Drive, Lennox Head			15,000				15,000	
Bonview Street, Ballina			120,000				120,000	
Parkland Drive, Alstonville			85,000			30,000		
Eyles, Links Ave (Bike Plan)				95,000				
Eyes Drive, Ballina				5,000				5,000
Tanamera Drive, Alstonville				195,000			21,000	174,000
Deegan Dve, Parklands Dve, A'ville				80,000				80,000
Gibbon Street, Lennox Head				45,000				45,000
Northumberland Drive, Ballina				154,000				175,000
<b>Total</b>	<b>2,045,700</b>	<b>546,000</b>	<b>560,000</b>	<b>574,000</b>	<b>1,795,700</b>	<b>795,000</b>	<b>560,000</b>	<b>574,000</b>

Further information on changes to this program is outlined later in this report under the heading of “*Capital Expenditure Program Capacity*”.

## 9.5 Delivery Program and Operational Plan - Adoption

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### Rainforest area in Wollongbar

A submission was received from Ms M Perkins, requesting that the rainforest area of Wollongbar be considered when Council "Prepare a Climate Change Adaptation Plan" per Delivery Program activity HE1.1d and requests for the rainforest are to be added within Delivery Program Strategy HE 1.3 "Beautify and protect our streetscapes and open spaces".

#### *Staff response:*

Council maintains contemporary Vegetation Management Plans to ensure the preservation and health of vegetation throughout the Shire.

The Wollongbar Rainforest Reserve (5.1598ha) is included as an identified site within the Wollongbar Reserves Vegetation Management Plan.

Actions from Vegetation Management Plans are resourced through a combination of volunteer, contract and internal resources funded from existing Open Space operational budgets.

Council now has resources dedicated to bush regeneration works and these resources will help to revegetate areas such as the Wollongbar Rainforest over time.

### Chickiba Park improvements

A submission was received from Ballina Little Athletics Committee, requesting various improvements including irrigation, facility improvements, lighting and disability services.

#### *Staff response:*

Funding of \$216,000 is proposed in the 2024/25 financial year to undertake improvements to Chickiba Park as a local athletics facility.

The proposed timing remains appropriate due to the priority of other identified projects scheduled for 2023/24.

Council staff will continue to work with the club for input into the priorities.

### Footpath - Gibbon Street, Lennox Head

A submission was received from Mr B and Ms M Wilcox requesting completion of the link between the north end (completed by developers) and southern end (Byron Street to pedestrian land to Barrett Drive completed by Council). It was noted that this footpath completion continues to be deferred.

#### *Staff response:*

This request is for the delivery of a section of the Gibbon Street footpath, Lennox Head which is a missing link at the northern end of Gibbon Street. This section of path is listed in the works program for 2026/27.

The recommendation remains not to change the current process of ranking the priority of projects to bring forward one project and defer another.

### Highway Signage on M1 Motorway

A submission was received from the Lennox Head Chamber of Commerce noting a lack of appropriate highway signage on the M1 to promote Lennox Head as a holiday destination and requesting improved signage be funded in 2023/24.

#### *Staff response*

The installation of tourism signage on the motorway will support the promotion of the area as a holiday destination and stimulate business growth.

Council received preliminary advice from Transport for NSW in March 2022 that seaside village signage would be applicable. However, to ensure current eligibility and obtain updated cost estimates, Council will need to submit a formal application to Destination NSW.

The Lennox Head Chamber advise that they understand the cost to be approximately \$30,000 for this relatively small seaside village signage.

As Wardell, Ballina and Alstonville / Wollongbar all now have bypass signage, it is reasonable to try and secure this signage, albeit that there are concerns that \$30,000 may not be sufficient.

For the purpose of applying to Destination NSW, it is recommended that Council include \$30,000 in the 2023/24 financial year for this signage, funded as follows:

<b>Funding Source</b>	<b>Amount (\$)</b>
Tourism Signage (Recurrent Budget of \$10,000)	10,000
Strategic Planning Reserve	20,000
<b>Total</b>	<b>30,000</b>

The Strategic Planning Reserve includes unexpended economic development activities funding from previous years, which provides a nexus to this project.

### Wheelchair Access to the Coastal Path

A submission was received from Phil Silver, David Beck and Sam Mitchell on behalf of the disabled community of Ballina to provide improved disability access to the Coastal Path through a range of different connections.

#### *Staff response:*

#### *Pat Morton Car Park Connection*

The request for the Pat Morton section of the shared path relates to the status of the 'missing link' around the Pat Morton Car Park.

The most recent report on this was to the 24 November 2022 Ordinary meeting, where Council resolved to endorse the Option 1 alignment for the shared path 'missing link', plus adopt a surface treatment comprising 'rock salt pitted coloured concrete' as the preferred surface.

## 9.5 Delivery Program and Operational Plan - Adoption

The Council report identified that there was no funding allocated for the total scope of work (estimated at \$700,000), however, under Council's car park program there was \$100,000 allocated for the car park component.

The preference was to proceed with the whole project, and not just the car park, and that funding opportunities would continue to be sought, as they become available.

### *Finger Paths from The Coast Road to Boulder Beach*

The request for these connections is to be able to complete a closed loop from the western shared path or The Coast Road through to the boardwalk section of the coastal recreational walk at Boulders Beach. This loop would be confined to the lower and flatter sections of the existing east-west maintenance tracks.

The following image describes how these connections could be made.



Based on the most recent tender for asphalt path installation at Sharpes Beach (albeit a short length), the following is an estimate for these path works:

Upper section	\$90,000
Middle section	\$450,000
Lower section	\$450,000

This request is outside the original scope of the coastal recreational path project and will require funding.

## 9.5 Delivery Program and Operational Plan - Adoption

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### *Sharpes Beach North to Boulders Beach*

This request deals with a suggestion to provide a 'short cut' to the current shared path route, which uses the existing shared path network on the western side of The Coast Road and takes users through the Skennars Head 'Headlands' estate.

Once at the north end of Sharpes Beach the existing shared path passes under The Coast Road and follows Headlands Drive to Skennars Head Road which then leads to the Skennars Head Road roundabout.

The suggestion is to follow The Coast Road from Sharpes Beach, which has a 'lower' height than the adjoining natural ground towards the north, and therefore provides a direct link to the Skennars Head roundabout.

This would require road widening with embankment construction and the widening of the existing road cutting. The length of this route is approximately 1km and has not been assessed or costed.

The cost of this route would be significant (\$2m) and is the reason why the original route selection process for making a connection between Ballina and Lennox Head elected to make use of existing infrastructure.

### *Lake Ainsworth South to Lennox Head CBD*

This request deals with a suggestion to provide a three-metre-wide concrete path along the east side of Pacific Parade, Lennox Head between Byron Street and Lake Ainsworth. This path project is identified as a future project in the PAMP and Bike Plan but is not funded. The estimated cost for this connection is \$450,000.

In summary, the difficulty with each of these connections is the magnitude of funding required, which is well beyond recurrent budgets, which then means other funding solutions such as internal reserves, loans or grant funds are required.

Council's Community Infrastructure Reserve is largely allocated to major building projects such as the Lennox Head Rural Fire Service Shed and Ballina SES building. Loan funds are not recommended for footpath related works as the loan repayments reduce funding available in future years.

One grant opportunity that may be shortly forthcoming is Phase 4 of the Federal Government's Local Roads and Community Infrastructure (LRCI) Program.

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts website, identifies that Council has received "nominal funding" of \$1.39m under Phase 4, as per the following link:

[Briefing \(infrastructure.gov.au\)](https://www.infrastructure.gov.au)

These funds were originally thought to be available from 1 July 2023, however there is currently a Federal Government review that is looking at all infrastructure funding, and it is unclear whether these funds will ultimately be available.

## 9.5 Delivery Program and Operational Plan - Adoption

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The information has remained on this website and if the funds do become available, one option could be to fund one of the recommended connections from that grant funding.

In looking at the various options, the lower section connection for the finger path to Boulder Beach, would allow sealed access to this location, which is not able to be viewed from The Coast Road, whereas the Pat Morton and Sharpes Beach areas do have some level of visibility.

The recommendation would be to identify the lower section connection, estimated at \$450,000 as one project as a priority listing for Phase 4 of the LRCI program.

When, and if, that funding becomes available, a further report will be presented to Council to confirm how the entire \$1.39m is to be allocated.

Other connections will need to be funded as other grant opportunities arise.

### Elizabeth Anne Brown Park

A submission was received from the Alstonville RSL Sub-Branch requesting Council's support in completing the approved master plan works at Elizabeth Anne Brown Park prior to the Remembrance Day on 11 November 2023.

The master plan works include fixing of drainage, construction of new pathways to meet essential accessibility needs and improvement to memorial gardens. The submission also noted that the sub-branch has purchased timber bench seats for this site, utilising donation received from the Alstonville Lions Club.

#### *Staff response:*

This matter has been raised at C Ward during 2022 and 2023, with staff working closely with Alstonville RSL Sub-Branch on the master plan work requirements.

Internal staff resources can undertake the drainage, footpath construction and majority of the landscaping requirements, with some works already having been completed from operational budgets. A budget allocation of \$100,000 is required to enable the project to be completed in full.

There is an allocation of \$255,000 in 2024/25 for Elizabeth Anne Brown Park in the Open Spaces program, with that funding relating to the replacement of existing playground equipment.

With the playground due for replacement and an adopted master plan in place, along with some minor works having been completed, the preference is to work with the Alstonville RSL Sub-branch and have this project completed by November 2023.

The one internal reserve in the Open Spaces Section with adequate funds is the Cemeteries Reserve, which has a forecast balance of \$473,800 as at 30 June 2024. Income for the cemeteries continues to trend will above forecast, therefore the recommendation is to transfer an additional \$100,000 from that reserve to allow this master plan to be completed in 2023/24.



**B. Amendments to Delivery Program and Operational Plan and LTFP**

This section deals with recommended changes to the exhibited documents based on updated information, feedback or ideas generated from the submissions, or other suggestions to improve the adopted documents.

In respect to the LTFP, at the time of preparation of the draft 2023/24 salary budgets, salary award increases, to commence 1 July 2023, had not yet been determined and salary budgets were based on an assumed 5.0% Award increase. The final Award determination has now been made with increases of 4.5% in 2023/24, 4% increase in 2024/25 and 3.5% in 2025/26.

The draft 2023/24 workers compensation budget as per the exhibited LTFP was \$540,000. Council's insurer, StateCover Mutual, has advised that based on Council's excellent safety record, the premium is now likely to be around \$450,000, a saving of \$90,000, with this figure well above industry averages.

Both of these changes are positive adjustments, whereas the one negative adjustment relate to the State Government's emergency services levy (ESL for NSW Fire Brigades, Rural Fire Service and the SES), where confirmed contributions for 2023/24 are now \$566,000, an increase of \$94,000 on the draft LTFP figures.

***Capital Expenditure Program Capacity***

The exhibited draft Operational Plan included over \$76m worth of capital works for delivery in 2023/24.

Council's typical capital expenditure averages around \$40m to \$50m per annum, with the program having expanded in recent years due to numerous successful grant applications.

Many of the flood related projects, are also not included in the LTFP, as State and / or Federal Government, or insurance, funding may not have been approved

A review of the entire capital program has been now completed to confirm what is likely to be expended during 2023/24. This review has resulted in the capital works program being reduced to approximately \$79m for 2023/24.

The revised program is included as Attachment 2, 3 and 4 to this report, based on the General Fund (Attachment 2), Water Fund (Attachment 3) and Wastewater Fund (Attachment 4) capital expenditure programs. Where a change is recommended, the project has been highlighted in yellow.

The columns titled "Draft LTFP" represents the exhibited information and the columns titled "Recommended" reflects the revised timing. The attachments only include projects for 2023/24 and 2024/25, whereas the DPOP has a four-year program of works.

Where a change in timing is recommended, this does not mean the project is not being delivered, rather it is a better reflection of the likely cash flows. The preference is also to under-sell and over-deliver as projects can always be brought forward during the year.

## 9.5 Delivery Program and Operational Plan - Adoption

Comments on some of the changes identified in Attachments 2 to 4 are as follows.

### Russellton Industrial Estate – Final Stage

Council resolved in November 2022 to call tenders for the development of the final stage of the Russellton Industrial Estate. That tender is now being advertised and the outcomes will be reported to Council soon.

The feasibility summary in that report identified development costs of approximately \$5.5m, interest costs of \$324,000 and net sales of approximately \$15.9m.

For the purposes of financial planning the following information has now been included in the LTFP:

**Table Four - Cash Flows – Russellton Industrial Estate – Final Stage**

Item	2023/24	2024/25	2025/26	2026/27
<b>Expenditure</b>				
Development Costs	6,000,000			
Loan Interest		360,000		
Loan Principal		6,000,000		
<b>Sub Total</b>	<b>6,000,000</b>	<b>6,360,000</b>		
<b>Income</b>				
Loan Funding	6,000,000			
Net Sales		6,000,000	5,300,000	4,600,000
<b>Sub Total</b>	<b>6,000,000</b>	<b>6,000,000</b>	<b>5,300,000</b>	<b>4,600,000</b>
<b>Net Result</b>	<b>0</b>	<b>(360,000)</b>	<b>5,300,000</b>	<b>4,600,000</b>

The net result is transferred to or from Council's Property Development Reserve.

Once all loan debt is repaid from Council's property development activities, the surplus funds can then be transferred to the Community Infrastructure Reserve for other community infrastructure projects.

These cash flows are preliminary and will be subject to reporting of the tender outcomes to a future Council meeting.

### **Flat Rock**

The draft 2023/24 capital expenditure budget, as per the exhibited budgets, was \$20,000.

After the setting of that budget, Council Trades Team have been able to provide costings for several works to be undertaken to one of the amenities buildings at Flat Rock Tent Park.

These works had been identified in Council's maintenance program but were unable to be costed until we received confirmation from Council's Trades Team.

## 9.5 Delivery Program and Operational Plan - Adoption

The works include replacement of toilets, shower and tap fittings, vanities, renewal of electrical fittings and internal and external paint with gardens to be placed around the building.

The 2023/24 capital expenditure budget is increased from \$20,000 to \$130,000, with that adjustment funded from the Flat Rock Tent Park reserve.

In addition to this it is also proposed to increase the draft 2023/24 budget for Advertising and Promotion from \$2,000 to \$50,000.

An audit report for the Flat Rock Tent Park identified that Council should engage a marketing consultant to develop a marketing plan, including rebranding, website upgrade and photography portfolio, to help increase income levels.

The tender for the management of the Park is also due early next year and it is proposed to have a marketing strategy developed that will be attractive for prospective new managers.

Both the capital and operating budget adjustments are funded from the Flat Rock Tent Park reserve, with no impact on working capital.

Income for 2022/23 is trending well and it is hoped that the current projected income levels for 2023/24 will be exceeded.

### Ballina – Byron Gateway Airport (BBGA)

BBGA staff have reviewed the LTFP for the BBGA, following the adoption of the BBGA Land Use Plan by Council, and identified that the priority projects for the next four years are as follows:

**Table Five - BBGA – Updated Capital Works Program**

Description	2023/24	2024/25	2025/26	2026/27	2027/28
Runway – Strengthening	3,200,000				
Upgrade Bays 1, 3,4 and 5				6,300,000	6,500,000
Terminal - Air-Conditioning and CBS		1,150,000			
Terminal – Expansion		3,000,000	3,800,000		
Terminal - Common Use Check-in			3,000,000		
Terminal – Additional Screening Lane		1,000,000			
Car Park – Expansion	500,000	500,000			
Car Park - Walkway and Shade		1,700,000			
Car Park - Equipment Upgrade					1,000,000
Crown Land and Revetment Wall		100,000			
Transition to Controlled Airspace	500,000				
Hangar Site Preparation (Lot 1)		500,000			
<b>Total</b>	<b>4,200,000</b>	<b>7,950,000</b>	<b>6,800,000</b>	<b>6,300,000</b>	<b>7,500,000</b>

For 2023/24 the only works planned are the completion of the runway strengthening project, with those works already commenced, commencement of a further car park expansion, with the priority being to the east (somewhat north / east), along with the transition to controlled airspace.

Based on the latest cash flow forecasts for the BBGA, these projects can be funded from the BBGA internal reserve.

## 9.5 Delivery Program and Operational Plan - Adoption

The car park is a priority as it should generate an additional \$1m in revenue each year, with that project likely to occur during 2024, with the funding spread between the 2023/24 and 2024/25 financial years.

The transition to controlled airspace budget of \$500,000 is included in 2023/24 as CASA want controlled airspace in place, within two years, preferably by June 2024.

Ideally the additional screening lane would also be funded in 2023/24, however the forecast reserve balance to 30 June 2024 is only \$64,400, meaning funds are not available.

What the latest review of the LTFP for the BBGA has again demonstrated is that many of the projects for 2024/25 onwards, cannot proceed unless significant State and / or Federal grant funding is achieved.

Council also has a resolution seeking a report on the potential lease of the BBGA.

This update on the BBGA LTFP and an assessment of leasing, will now be submitted to the 1 August 2023 Commercial Services Committee meeting, where Council can again review the forecast capital works program, along with the overall financial plan for the BBGA.

### ***Alstonville Cultural Centre (ACC)***

The draft LTFP did not include any future capital expenditure for the ACC, other than the \$220,300 included in the 2022/23 budget, which has been funding the consultant engaged by Council to finalise the architectural designs, development application and other associated pre-construction activities.

The development application was lodged in July 2022 and a consent is likely to be forthcoming during the next few months.

This then puts the project as shovel ready for the purpose of securing grant funds.

The latest estimate for the project is approximately \$13m, therefore it is recommended that Council include the following funding strategy in the adopted LTDP.

**Table Six - Alstonville Cultural Centre  
Revised Cash Flow Forecast and Funding**

Description	2022/23	2023/24	2024/25	2025/26
<b>Updated</b>	<b>220,300</b>	<b>76,000</b>	<b>3,000,000</b>	<b>10,000,000</b>
Capital Cost				
<b>Funded by:</b>				
Alstonville Cultural Centre Internal Reserve	220,300	76,000	600,000	0
Community Infrastructure Internal Reserve	0	0	0	500,000
Section 7.11 Contributions	0	0	900,000	3,000,000
State / Federal Govt Grants (Not Approved)	0	0	1,500,000	3,500,000
Loan Funds	0	0	0	3,000,000
<b>Total Funding</b>	<b>350,000</b>	<b>3,000,000</b>	<b>3,000,000</b>	<b>10,000,000</b>

## 9.5 Delivery Program and Operational Plan - Adoption

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There is currently \$676,000 remaining, as at 30 June 2023, in the Alstonville Cultural Centre internal reserve, with this reserve being established through a transfer from the Community Infrastructure Reserve.

Transfers from that reserve are used to finance on-going pre-construction activities in 2023/24 and the first stage of construction in 2024/25.

The Community Infrastructure Reserve will have sufficient funds in 2025/26 for another \$500,000 transfer to this project, with any surplus funds held in that reserve prior to 2025/26 being applied to the Ballina SES building.

The Section 7.11 contribution is consistent with Council's adopted Open Spaces and Community Facilities Contribution Plan, which allows certain apportionment of funding to this project.

For financial planning purposes, State and / or Federal Government grants of \$5m have been included, with the balance of the funding then sourced from loan funds.

The repayments on the loan funds for 2026/27 onwards equate to approximately \$260,000 per annum based on a 20-year term at 6%, with any loan repayments again reducing the funding available for recurrent infrastructure renewal.

The Federal Government has recently announced the Growing Regions Program, where funding is available from \$500,000 to \$15m, for projects that contribute to economic opportunity, social and community inclusion (40 points), alignment with regional strategic priorities (20 points) and the organisation has the capacity to deliver and sustain the project (40 points), with the project to be completed by December 2025.

The Alstonville Cultural Centre aligns with that program, and with the grant funding allowing up to 50% of the total cost of the project, the intention is to apply for approximately \$6m in funding.

There is an initial expression of interest (EOI) process that closes 1 August, with successful EOI respondents then able to submit a complete application from 1 November 2023.

If Council was successful with this application, the redevelopment could be completed during the 2024/25 financial year.

This cash flow forecast is for financial planning only, with the main aim being to obtain planning consent and then obtain grant funding.

It may well be that Council will not need to loan fund part of this project, if land development activities, such as the Russellton Industrial Estate – Final Stage, and Southern Cross Industrial Estate – Boeing Avenue, proceed as planned.

### ***Depot – Administration Centre***

Similar to the Alstonville Cultural Centre, this new administration centre, primarily for Water and Wastewater employees at the Council depot on Southern Cross Drive, Ballina, has been subject to an updated estimate, with the estimate for that project now sitting at approximately \$5m.

## 9.5 Delivery Program and Operational Plan - Adoption

A large portion of this facility will be occupied by Water and Wastewater employees, therefore funding can be sourced from reserves held in those funds.

Based on the forecast occupation of approximately 75% of the building, the revised funding strategy is as follows.

**Table Seven - Depot – Administration Building  
Revised Cash Flow Forecast and Funding**

Description	2022/23	2023/24	2024/25
<b>Updated</b>	<b>300,000</b>	<b>2,200,000</b>	<b>2,500,000</b>
Capital Cost			
<b>Funded by:</b>			
Water Contributions	150,000	1,100,000	580,000
Wastewater Contributions	150,000	1,100,000	580,000
Admin Centre and Depot - Internal Reserve	0	0	139,400
Building Renewal Program – Internal Reserve	0	0	200,000
Revenue	0		600
Loan Funds	0	0	1,000,000
<b>Total Funding</b>	<b>300,000</b>	<b>2,200,000</b>	<b>2,500,000</b>

It will be necessary to loan fund \$1m of the General Fund component of the project, with the repayments on the loan 2025/26 onwards, equating to approximately \$90,000 per annum based on a 20-year term at 6%.

### ***Open Spaces and Public Amenities***

Some projects deferred based on current workload, along with including the masterplan works for Elizabeth Anne Brown park.

Ballina Heights Sports Field has been brought forward to 2023/24, to assist with providing sports courts, as outlined in an earlier report in this agenda.

### ***Ross Lane - Betterment***

The draft LTFP included \$500,000 in 2023/24 and \$3.4m in 2024/25 for this fully State and Federal Government funded project, to provide flood resilience for Ross Lane.

The project continues to progress with the activities undertaken so far including geotechnical assessment and heritage assessment.

A public meeting was held with adjoining landholders. Further to this meeting, Council's technical officers and flood consultant have completed a round of site meetings with each individual landholder. A further public meeting to share the results of this consultation is proposed for July 2023.

At the public meeting, Council officers explained how the flood model is calibrated to ensure there is an appropriate level of confidence in the model outputs, before it is used to assess the impacts, if any, from the design.

Council has commenced a project to update the Ballina Floodplain Risk Management Plan. This project includes a budget for the collection of LiDAR data. LiDAR stands for Light Detection and Ranging and is a process to capture land survey data using aerial surveillance.

## 9.5 Delivery Program and Operational Plan - Adoption

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The Northern Rivers Resilience Initiative (NRRRI) is a major Federal Government project in response to the unprecedented flood events of 2022. This project is being delivered by CSIRO and includes LiDAR data collection for the regional flood modelling.

To avoid duplication and to access the best possible data, the NRRRI team has agreed to share the LiDAR outputs from their project with Council. Unfortunately, there have been ongoing delays and the latest advice is the LiDAR will not be available until the end of 2023.

This means the update of Council's flood study is delayed until we receive the CSIRO LiDAR.

Council could use its existing flood model to assess the Ross Lane project, however this is not ideal in the knowledge that this flood model will be, in effect, out of date as early as 2024.

Overwhelmingly, the feedback from the adjoining landholders is to complete the flood model update prior to the assessment of the road upgrade design.

The revised cash flow shows most of the construction of the Ross Lane Road upgrade in 2024/25 and this is the most appropriate timing noting the issues in respect to flood modelling.

### ***Fishery Creek Bridge and Barlows Road Connection***

A large part of the construction costs for these two projects is deferred to 2024/25 to reflect the reality of the timing of the works.

### ***Footpaths and Shared Paths***

Various changes to this program as outlined earlier in this report.

Council has been successful in securing \$674,500 from the State Government's Get Active Grant program for a connection from Cawley Close to Main Street, Alstonville. Those works are planned for 2023/24.

### ***Wardell Wharf and Boardwalk***

Funding has now been confirmed for this flood related project, with Council accepting a tender at the March 2023 Ordinary meeting.

### ***Ballina SES Building***

The draft LTFP included \$3.35m for the construction of the new Ballina SES Headquarters with \$350,000 allocated in 2022/23 and \$3m in 2023//24. The funding for this project is sourced through \$2.95m from Council's Community Infrastructure Reserve (\$350,000 in 2022/23 and \$2.6m in 2023/24), along with a \$400,000 approved grant from the State Government.

The "Community Infrastructure-Non-recurrent Capital Projects" report to the 17 April 2023 Finance and Facilities Committee meeting noted it was likely additional funding would be required, with the reporting stating that:

## 9.5 Delivery Program and Operational Plan - Adoption

*“The SES Building remains a major financial risk based on recent increases in construction costs and Council has resolved to expand the building to include an emergency incident control room”.*

The work to prepare the pre-construction documentation has continued to progress.

Recently a quantity surveyor’s report was received assessing the cost of the current design, with this report estimating the construction cost at \$5.7m (GST exclusive). This price includes a cost escalation allowance for 2024 and a 10% contingency.

Last year the State Government announced grants for the construction of SES buildings, however the Ballina project was not in the priority listing. Council has not been advised of any expected changes to the previous announcement regarding the availability of State Government funds to assist.

Also, we are not aware of any intention by the State Government to announce a second round of funding for SES facilities.

As this is effectively a \$3m increase in the construction cost, Council will need to apply additional internal reserve funds to the project, seek further grants or as a last resort take out a loan for the project.

The Community Infrastructure Reserve is forecast to have a closing balance of just over \$1m as at 30 June 2024, which means Council could apply another transfer of \$1m to this project from that reserve. This then leaves a shortfall of \$2m based on the current estimate.

For financial planning purposes, the preference is to include \$2m in grant funding as the preferred funding source, which then allows Council to approve the State and Federal Governments for funding to allow this project to proceed.

If grant funds are unable to be secured, Council will need to take out a loan for the shortfall, which then reduces the recurrent funds available for on-going asset renewal. Land sale proceeds may also be an option. This is summarised in the following table.

**Table Eight - Ballina SES Building  
Revised Cash Flow Forecast and Funding**

Description	2022/23	2023/24	2024/25
<b>Exhibited</b>	<b>350,000</b>	<b>3,000,000</b>	
Capital Cost			
<b>Funded by:</b>			
State Government Grant (Approved)	0	400,000	
Community Infrastructure Internal Reserve	350,000	2,600,000	
<b>Total Funding</b>	<b>350,000</b>	<b>3,000,000</b>	
<b>Updated</b>			
Capital Cost	350,000	3,000,000	3,000,000
<b>Funded by:</b>			
State Government Grant (Approved)	0	400,000	
Community Infrastructure Internal Reserve	350,000	2,600,000	1,000,000
State / Federal Govt Grants (Not Approved)	0	0	2,000,000
<b>Total Funding</b>	<b>350,000</b>	<b>3,000,000</b>	<b>3,000,000</b>



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Similar to the Alstonville Cultural Centre, it is important to include this information in the LTFP, for financial planning, with the project not able to proceed unless grant funds are secured.

Based on this revised program of works the capital expenditure program for 2023/24 is now estimated at almost \$80m, due to the inclusion of the Russellton Industrial Estate and Wardell Wharf works, with both projects to be completed by contractors.

### C. Other Matters

#### **Ordinary Rate Revenue**

Council must adopt the ordinary rates to be levied for 2023/24.

The rates in the dollar and base amounts in the following table reflect an increase of 3.9%, based on the IPART Approved Peg for Ballina Shire for 2023/24.

**Table Nine - Rates in the Dollar and Base Amounts – 2023/24**

Rate Category	Rate in Dollar (cents in \$)	Base Amount (\$)	% Income from Base Amount
Residential	0.088110	606	49.87
Business	0.526060	606	14.94
Farmland	0.078160	606	31.93
Mining	0.526060	606	0.00

The recommendations include the making of the rates and the various annual charges (i.e. waste, water, wastewater etc) included in the fees and charges.

#### **Flood Impacted or Displaced Residents**

During 2022/23, Council's assistance to flood impacted residents included the following:

- Water Charges for the June and September 2022 quarters. For those ratepayers that made application in respect of the usage following, charging based on historical consumption figures to acknowledge that consumption levels may include excess consumption as part of the cleanup.

This was a continuation of assistance available from the 2021/22 year, in recognition that there could be several months' delay between the March 2022 flood event and usage.

- Ferry Fees – Assistance provided to residents who had been re-located to South Ballina Caravan Park, as their homes were no longer habitable, or they had been moved from other temporary accommodation, thus requiring the residents to regularly travel on the ferry. The total assistance provided by Council as of 8 June 2023 is \$8,399.

In respect to water charges, this relief ceased after the September 2022 quarter.

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In respect to the ferry passes, there continues to be displaced residents temporarily living in South Ballina who continue to use the ferry. The recommended approach is to continue to provide quarterly passes to eligible residents, at no charge, with that process then allowing Council to confirm the eligibility of the residents each quarter.

This process has been applied throughout 2022/23 and is proposed to continue for 2023/24, as it may take a couple of years before some residents are able to return to their normal homes.

Further to the relief mentioned, if any ratepayer is continuing to struggle financially, Council has an existing hardship policy that can provide assistance and Council rating staff will continue to make sure that any property owner is supported through payment plans and possible reporting to Council for further support, if needed.

### ***Compliance with NSW Child Safe Standards***

The NSW Child Safe Scheme commenced in 2022 and this requires councils to implement the NSW Child Safe Standards. Therefore, it will be necessary to include an additional action item in the 2023/24 Delivery Program and Operational Plan specific to Child Safe Standards.

It is proposed this item will be included in the Engaged Leadership Direction with the activity to be: *Implement the NSW Child Safe Standards*.

Including this in the DPOP will ensure Council is provided with quarterly updates on this important project.

### ***Maximum Interest Rate for Outstanding Fees and Charges***

In accordance with Section 566(3) of the Local Government Act, the Minister for Local Government has determined that the maximum rate of interest payable on overdue rates and charges for the period 1 July 2023 to 30 June 2024 (inclusive) is 9.0% per annum.

The draft LTFP, as exhibited, is inclusive of budgeted interest income of \$50,000, based on the maximum interest rate, as per normal Council practice.

Ratepayers experiencing financial hardship can apply for relief under Council's Financial Assistance (Hardship) Rates and Charges policy.

### ***Councillor and Mayoral Fees for 2023/24***

Sections 248 and 249 of the Local Government Act require councils to fix and pay an annual fee to councillors and mayors based on determinations made by the Local Government Remuneration Tribunal.

The Tribunal is required to determine the remuneration categories of councils and mayoral offices, at least every three years, and the level of fees depending on the category the council is in.

A council cannot fix a fee higher than the maximum amount determined by the Tribunal.

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If a council does not fix a fee, the council must pay the minimum fee determined by the Tribunal.

The Local Government Remuneration Tribunal has undertaken a review of the categories, resulting in the creation of two new categories and reclassification of several councils.

Further information is available at:

[www.remtribunals.nsw.gov.au/sites/default/files/2023-05/2023 annual determination - lgrrt.pdf](http://www.remtribunals.nsw.gov.au/sites/default/files/2023-05/2023%20annual%20determination%20-%20lgrrt.pdf)

Ballina Shire remains within the “Regional Centre” classification.

The Tribunal determined an increase of 3% for 2023/24 to the minimum and maximum fees applicable to each category.

The recommendation is to adopt the maximum councillor and mayoral fees for 2023/24 as determined by the Local Government Remuneration Tribunal.

### **Patches Beach Car Park**

At the Finance Committee meeting held 28 April 2023, Council made the following recommendation, which was adopted at the April 2023 Ordinary meeting.

*That Council receive a report on options to upgrade the Patches Beach car park.*

The following information responds to this resolution.

There is an existing informal gravel parking area at the northern end of Patches Beach Lane on Council public reserve. A concept design option for an upgrade of the car park is included as Attachment 5 to this report.

The works proposed under this option are

- Existing site stripped and additional gravel imported to form parking area
- Parking area bitumen sealed with a concrete edge strip and line marking
- An accessible parking space is provided
- Stormwater runoff is directly onto the grass areas surrounding the car park
- Existing garbage bin and signage to remain
- Grassed areas identified for picnic tables and shelters

The cost estimate is summarised as;

<b>Item</b>	<b>Estimate (\$)</b>
Site Establishment	5,000
Traffic Control	1,500
Excavate to Subgrade	6,250
Place and Compact 200mm of Road base	35,000
Two Coat Bitumen Seal	19,000
Kerb Edging	20,250
Line Marking	3,000
Contingency	9,000
<b>Total</b>	<b>99,000</b>

## 9.5 Delivery Program and Operational Plan - Adoption

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If Council preferred for the surface sealing to be completed using asphaltic concrete, an additional \$50,000 would be added to the budget.

The upgrade estimate has not considered the provision of toilet facilities or other amenities.

As well as the capital cost, the cost for cleaning and maintenance at a site outside of the urban area is considered prohibitive.

A risk assessment would also be appropriate to consider security, illegal camping and other issues.

The draft Delivery Program and Operational Plan provides the following funds for car park upgrades:

<b>Year</b>	<b>Budget (\$)</b>
2023/24	75,000
2024/25	100,000
2025/56	103,000
2026/27	106,000

The projects in the draft Delivery Program for this budget area follow the Car Park Upgrade Program adopted by Council.

For each year there are six to eight individual projects involving line marking and installing lighting for existing car parks in the urban area.

One option is for Council to defer the projects from 2024/25 by one year and include the Patches Beach Car Park Upgrade as the priority for 2024/25.

An alternative option is to defer a project from the roads program.

This is not preferred as this program is for the reconstruction and renewal of existing assets and Council has already reallocated \$60,000 from this program to undertake drainage improvement works at Rous School on Cemetery Road.

Council has undertaken maintenance works on the gravel surface.

If Council does not proceed with an upgrade, these maintenance works can continue to be included in the roads maintenance program which typically achieves maintenance grading for most of our rural roads on an annual basis.

### **Fees and Charges**

#### **BBGA**

Based on community feedback surrounding the increase in flight circuits in the Ballina area, an analysis of training providers has identified that there has been an increase in flight training movements from training schools outside of Ballina Shire choosing to operate at BBGA. This is partly due to the Gold Coast Airport not accommodating these training schools.

In alignment with our local procurement policy, it is proposed to change the 30% rate for the maximum take-off weight (MTOW) for circuits to only apply to BBGA based training schools and not to schools located outside of our Shire.

## 9.5 Delivery Program and Operational Plan - Adoption

In addition, it is proposed to change the six- and twelve-month landing charge, to exclude circuits for operators outside of Ballina Shire.

Currently the fees and charges do not cover missed approaches.

To correct this, the wording for the fees and charge for circuits will include touch and goes and missed approaches.

A \$20 minimum amount will apply on all monthly invoices. Currently an operator could receive an invoice for less than \$10. This minimum invoice amount is due to the administration costs associated with preparing the invoices.

The revised changes are as per the following table.

**Table Ten - BBGA - Current and Proposed Landing Fees**

Current Wording	Proposed Wording	Current Pricing	Amended Pricing
Landing charge per 1000kg MTOW pro rata per landing per tonne- per aircraft (minimum charge 1000kg MTOW)	Landing and circuit training charge per 1000kg MTOW pro rata per landing per tonne- per aircraft (minimum charge 1000kg MTOW) including missed approach and touch and go	\$13.00 (incl GST)	\$13.00 (incl GST) per tonne MTOW (minimum charge \$20.00 (incl GST) per monthly invoice)
Six-month landing charge per 1000kg MTOW pro rata per aircraft (minimum Charge 1000kg MTOW)	Six-month landing charge per 1000kg MTOW pro rata per aircraft (minimum charge 1000kg MTOW) excluding applicable circuit training fees for non-BBGA based business aircraft	\$242.00 (incl GST)	No change
Twelve Month landing charge per 1000kg MTOW pro rata per aircraft (minimum Charge 1000kg MTOW)	Twelve Month landing charge per 1000kg MTOW pro rata per aircraft (minimum charge 1000kg MTOW) excluding applicable circuit training fees for non-BBGA based business aircraft	\$452.00 (incl GST)	No change
Circuit training (airport management permission required prior to circuit training activities) – per aircraft.	Circuit training including missed approach and touch and go (airport management permission required prior to circuit training activities) per aircraft BBGA based business aircraft only	30% of applicable MTOW landing fee	30% of applicable per MTOW landing fee (minimum charge \$20.00 (incl GST) per monthly invoice)

No other changes are identified for the exhibited fees and charges document, which does include the proposal to remove the \$1 fee for bicycles for the ferry. If adopted, as exhibited, this charge will cease from 1 July 2023.

### Delivery Program Strategy / Operational Plan Activity

The adoption of the draft Delivery Program and Operational Plan establishes the priorities and key actions for the next four years, with a specific focus on 2023/24. Quarterly reports are provided to Council on the implementation of the actions in the Operational Plan.

### Community Engagement Strategy

Council advertised the draft Delivery Program and Operational Plan for public comment during May and early June.

The page views for the website page were viewed 530 times, and this is an improvement on last year where the page views were 327.

Six documents that were posted, with three downloaded 144 times, the most popular download being the Delivery Program and Operational Plan, followed by the Fees and Charges and the Workforce Management Plan.

As at close of business 8 June, we received 15 submissions via the online survey.

Overall, there were 31 submissions received via email or online. We also enabled a new tool on the webpage, which allows the community to post a question online and have it answered by staff.

This tool was used by 15 people.

In addition to the above consultation methods, an online presentation was recorded and posted to the webpage and two public meetings were held.

*Online presentation posted: 17 May 2023*

The online presentation (pre-recorded) was viewed 52 times, excluding staff and Councillors.

*Wardell Community Hall: 17 May 2023*

There were 18 people in attendance excluding Councillors and staff. Cr Cadwallader, Cr Buchanan, Cr Chate and Cr Bruem were in attendance with four staff, with an apology from Cr Johnston.

Discussion points included:

- Discussion of works completed in Wardell over last 12 months, works which had been deferred and future planned program of works
- Requests to address drainage issues, with areas of note including Byron Streets, floodgates and other
- Comment on required future works relating to road widening and street tree design for Cedar Street
- Comment on Alstonville program of works, noting a need for footpaths, bike paths and stormwater works
- Questions were raised about the Ballina Byron Airport, with discussion about number of carparking spaces and carpark revenue and discussion on future plans and consideration of sale and leasing options
- Questions on Patches Beach car park and amenities, with confirmation given that this matter would be reported to Council

## 9.5 Delivery Program and Operational Plan - Adoption

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- Wollongbar rainforest remnant was raised, noted as having an invasive weed problem requiring attention.

*Lennox Head Cultural Centre: 18 May 2023*

There were 11 people in attendance excluding Councillors and staff. Cr Cadwallader, Cr Ramsey and Cr Dicker were in attendance with five staff.

Discussion points included:

- Comments were made on the Shaws Bay Coastal Management Plan and the reasons for undertaking a new plan
- Questions were raised about the Ballina Byron Gateway Airport runway overlay as a significant capital project, and the projected life of the overlay. There was a discussion in relation to future plans for the airport
- Requests for replacement street trees for trees that die throughout construction of CBD upgrade, confirming that they are replaced
- Comments on new building flood height levels on Ballina Island and how these changes impact existing properties
- Several questions on specific capital expenditure items, including \$280,000 for Kentwell Community Centre in 2026/27 and the \$238,000 for Lennox Head Cultural Centre in 2024/25.

It was confirmed these items are for air conditioning and roof replacement of the two community facilities

- Requests for stormwater upgrades in Lennox head, noting that a number have been done as part of the CBD upgrade
- Questions asked on the timing of the Sharpes Beach Masterplan works
- Question and comments on the Ross Lane upgrade and the successful securing of funds for these works
- General discussion on the preschool and RFS new location proposed in Lennox Head
- General discussion on the impact of the Emergency Services Levy on Council's bottom line.

### **Financial / Risk Considerations**

It is important to reinforce that Council's General Fund is facing significant financial pressures, with a large deficit forecast for 2023/24, along with a significant reduction in working capital (WC).

Based on the latest available information the ten-year forecast for the General Fund is as per the following table.

## 9.5 Delivery Program and Operational Plan - Adoption

**Table Eleven - Forecast General Fund Operating Result (\$'000)**

Year	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33
Operating Revs	89,792	90,049	93,638	97,284	100,657	103,678	107,008	110,374	113,880	117,362
Operating Exps Excl Non-Cash	94,060	93,434	95,846	98,876	101,594	104,364	106,628	109,365	112,568	115,631
<b>Operating Result</b>	<b>(4,268)</b>	<b>(3,385)</b>	<b>(2,208)</b>	<b>(1,592)</b>	<b>(937)</b>	<b>(686)</b>	<b>380</b>	<b>1,009</b>	<b>1,312</b>	<b>1,731</b>
Less Depreciation	19,402	20,029	20,673	21,335	22,022	22,730	23,460	24,211	24,986	25,784
Less Loss on Disposal	1,800	1,857	1,916	1,977	2,040	2,105	2,172	2,241	2,312	2,385
<b>Cash Result - (Deficit)</b>	<b>16,934</b>	<b>18,501</b>	<b>20,381</b>	<b>21,720</b>	<b>23,125</b>	<b>24,149</b>	<b>26,012</b>	<b>27,461</b>	<b>28,610</b>	<b>29,900</b>
WC Result	(992)	(954)	(890)	(1,033)	(757)	(665)	(427)	(78)	252	349
<b>WC Balance</b>	<b>5,765</b>	<b>4,811</b>	<b>3,921</b>	<b>2,888</b>	<b>2,131</b>	<b>1,466</b>	<b>1,039</b>	<b>961</b>	<b>1,213</b>	<b>1,561</b>

This forecast highlights the on-going financial pressures for Council.

Council still needs to look at savings of at least \$2m per annum, or additional revenue, or a combination of both, to improve our overall financial viability.

### Options

Council has a legal obligation to adopt the Operational Plan and Delivery Program.

The options include amending the recommendations and / or varying the works and services and / or the proposed fees, charges and rates. The recommendations reflect the contents of the report.

The Donations Working Party recommendation allows any interested Councillor to attend, recognising that the recommendations are reported back to the July meeting for adoption.

Finally, it is important that Council ensures that any actions or key tasks planned for 2023/24 are included in the 2023/24 Operational Plan, as the adopted actions are where Council's resources are allocated for the next 12 months. This then also reduces the need for ad hoc notices of motions during the year that can redirect resources away from the adopted Delivery Program and Operational Plan.

### RECOMMENDATIONS

1. That Council adopts the 2023/24 to 2026/27 Draft Delivery Program and 2022/23 Operational Plan, which includes the Long-Term Financial Plan (budget), Workforce Plan and Fees and Charges, as exhibited, inclusive of any amendments arising from this meeting.
2. That Council approves the formation of a Working Party, consisting of all Councillors in attendance at the Working Party meeting, and the Mayor, to review the submissions received for Community Donations and Capital Works Assistance for Sporting Groups, as per Tables One and Two of this report. The recommended allocation of the funding from the Working Party is to be reported to the July 2023 Ordinary meeting.



## 9.5 Delivery Program and Operational Plan - Adoption

3. That Council notes the contents of this report in respect to the submissions received on works and services, and thanks the people making the submissions for their time and effort in writing to Council.
4. That Council approves an action to Implement the NSW Child Safe Standards for inclusion in the 2023/24 to 2026/27 Delivery Program and Operational Plan.
5. That Council approves funding of \$30,000 in 2023/24 to install seaside village signage for Lennox Head, subject to approval from Destination NSW, funded as follows:

<b>Funding Source</b>	<b>Amount (\$)</b>
Tourism Signage (Recurrent Budget of \$10,000)	10,000
Strategic Planning Reserve	20,000
<b>Total</b>	<b>30,000</b>

6. That Council confirms the lower section connection for a finger path to connect to Boulder Beach to improve disabled access, estimated at \$450,000, as a priority project for Phase 4 of the Local Roads and Community Infrastructure (LRCI) program, subject to that program proceeding.
7. That Council approves the revised cash flows and budgets for the capital expenditure program, as per Attachment 2, 3 and 4 to this report, for inclusion in the 2023/24 to 2026/27 Delivery Program and Operational Plan.
8. That Council resolves to make a base rating structure applicable to all rateable land for the levy of the 2023/24 Ordinary Rates as per the following structure.

<b>Rate Category</b>	<b>Rate in Dollar (cents in \$)</b>	<b>Base Amount (\$)</b>	<b>% Income from Base Amount</b>
Residential	0.088110	606	49.87
Business	0.526060	606	14.94
Farmland	0.078160	606	31.93
Mining	0.526060	606	0.00

The rate in the dollar for 2023/24 applies to the land value of all rateable land within the relevant category.

9. That Council resolves to make the annual charges for 2023/24 as detailed in the Fees and Charges document that forms part of the Delivery Program and Operational Plan for Domestic Waste Management, Stormwater, Waste Management Operations, Water Services, Wastewater Services and Onsite Septic Management.
10. That Council amend the fees for the Ballina Byron Gateway Airport as per Table Ten of this report.
11. That Council authorises the General Manager to continue to provide flood relief financial assistance for eligible property owners, based on:

## 9.5 Delivery Program and Operational Plan - Adoption

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- Ferry quarterly passes at no charge, for 2023/24, to eligible residents who have had to relocate to South Ballina, due to their previous homes becoming inhabitable.
12. That Council adopts the maximum interest payable on overdue rates and charges for the period 1 July 2023 to 30 June 2024 (inclusive) of 9.0% per annum as determined by the Minister for Local Government.
  13. That Council adopts the maximum Councillor and Mayoral fees for 2023/24 as determined by the Local Government Remuneration Tribunal.

### Attachment(s)

1. Delivery Program and Operational Plan - Submissions [⇒](#)
2. Capital Expenditure Program - General Fund - 2023/24 and 2024/25 [⇒](#)
3. Capital Expenditure Program - Water Fund - 2023/24 and 2024/25 [⇒](#)
4. Capital Expenditure Program - Wastewater Fund - 2023/24 and 2024/25 [⇒](#)
5. Patches Beach Car Park Upgrade - Concept Design Option [⇒](#)

## **10.1 Development Servicing Plans - Water and Wastewater**

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### **10. Civil Services Division Reports**

#### **10.1 Development Servicing Plans - Water and Wastewater**

<b>Section</b>	Water and Wastewater
<b>Objective</b>	To place the draft Development Servicing Plans for Water Supply and Sewerage/Recycled Water Infrastructure on public exhibition.

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#### **Background**

To encourage fair pricing for water supply and sewerage services, NSW local water utilities (LWUs) are required to prepare Development Servicing Plans (DSPs) and levy commercial developer charges in accordance with the Developer Charges Guidelines for Water Supply, Sewerage and Stormwater (2016) (Guidelines), issued by Minister for Lands and Water.

Developer charges are up-front charges levied to recover part of the infrastructure costs incurred in servicing new developments or additions/changes to existing developments. The Guidelines detail the methodology for calculating developer charges.

The power for councils to levy developer charges for water supply and sewerage derives from section 64 of the Local Government (LG) Act 1993 by means of a cross-reference to Section 306 of the Water Management Act 2000.

Section 306 of the Water Management Act indicates that the calculation of developer charges may consider the value of existing water management works and the estimated cost of projected water management works.

Council's current DSPs were adopted in 2015. The Guidelines require developer charges to be reviewed after a period of four to eight years. This review has recently been completed and the draft updated plans are attached.

The review undertaken has considered factors such as:

1. Projected growth areas and infill growth
2. Projected Capital Works Plan
3. Current valuation for Council's Assets, and
4. The level of cross subsidy to the Developer Charge.

#### **Key Issues**

- Equitable recovery of the costs of infrastructure provision in response to future development
- Compliance with statutory arrangements and guidelines

### **Discussion**

In calculating the Developer Charge, the Developer Charges Guidelines for Water Supply, Sewerage and Stormwater (2016) must be followed. The Guidelines detail both the methodology for calculation and the works that are allowed to be included in the plan.

### ***Works included in the Plans***

Developers are typically responsible for the full cost of the design and construction of reticulation works within new development areas. Therefore, the DSPs focus on the provision of infrastructure that cannot be practically provided by a developer. Generally, this relates to works that are centralised such as treatment facilities, pump stations and trunk mains.

In summary the works that have been included in the DSPs relate to:

- Wastewater and Recycled Water Treatment Plants
- Pumping Stations
- Distribution and Trunk Mains, and
- Storage

In addition to new works, the DSP includes renewals planned for the next five years, as well the capital cost of assets less than 30 years old. This relates to the above asset categories only and does not include reticulation assets.

At the 15 December 2022 Ordinary meeting, Council resolved to negotiate the transfer of the Marom Creek water supply assets to Rous County Council and defer planned capital works, until the transfer process is finalised.

As this transfer should be completed within the timeframes for the DSP, all assets associated with Marom Creek Water Supply have been excluded.

### ***Calculation of the DSP Charges***

DSP charges are levied based on equivalent tenements (ETs) which represent the annual demand, or load, a typical residential dwelling will place on infrastructure in terms of its water consumption or sewage discharge.

The basic principles underlying the methodology for calculating developer charges is that the charge should:

- be calculated by consistent and transparent methods
- be balanced fair and equitable
- involve full recovery of costs and infrastructure expenditure that is linked to new development
- reflect variations in the costs of servicing different development areas
- avoid excessive cross subsidies and over charging of existing customers through annual customer bills.

The draft DSPs incorporate these principles.

The process within the Guidelines to calculate the Developer Charges was applied in the following steps:

## 10.1 Development Servicing Plans - Water and Wastewater

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1. Population Projections using the Ballina Shire Council Local Growth Management Strategy were forecast over the 30-year planning horizon.
2. Council's levels of service were used to establish the works required for growth and renewals over the planning horizon.
3. Service Areas reflecting variations in the different development areas were identified.
4. The "Capital Charge" was calculated using the Guidelines methodology. The capital charge is the value of existing assets and future works required to service a new development area. Where assets, such as a wastewater treatment plant, cater for several different service areas, these costs are apportioned according to the capacity used by each service area.
5. The "Reduction Amount", being the net income from annual water and wastewater charges over the 30-year planning horizon, was calculated using the Guidelines methodology.
6. The Developer Charge was then calculated for each Service Area using the following formula: Developer Charge = Capital Charge Less Reduction Amount.
7. The Developer charges were then agglomerated to minimise the number of different developer charges within the local government area.

### ***Cross-subsidy of Developer Charges***

Once the above steps are undertaken, the Guidelines permit the LWU to apply a cross-subsidy to levy less than the calculated amount.

The cross subsidy is the difference between the annual bill used in calculating the reduction amount in Step 5 above, and the annual bill with the proposed lower developer charge. That is, the cross subsidy is not paid by developers building in other service areas in the DSP. Rather, the cross subsidy is from all properties charged with an annual bill for wastewater services.

The following table presents three options for cross-subsidisation of the Wastewater Developer Charge for Wardell.

Wardell has a very high wastewater developer charge due to the size of the treatment plant compared to the population and projected growth of the area.

Previous DSPs have subsidised the wastewater developer charges for Wardell, and a cross-subsidy in this DSP is recommended to maintain affordability in this service area.

The weighted developer charge is the average charge for the LWU based on the number of ET per area.

The weighted cross-subsidy is the difference between the weighted charge with no cross subsidy and the weighted charge with the proposed lower developer charge.

## 10.1 Development Servicing Plans - Water and Wastewater

- Option 1 involves a weighted average developer charge of \$13,161/ET, with no cross-subsidy.
- Option 2 involves a weighted average developer charge of \$11,451/ET. This involves an average cross-subsidy of \$1,709/ET on developer charges, requiring an increase of \$26.53 or 2.5% in each year's typical residential bill (TRB).
- Option 3 involves a weighted average developer charge of \$11,330/ET. This involves an average cross-subsidy of \$1,100/ET on developer charges, requiring an increase of \$20.65 or 1.9% in each year's TRB

Option 2, bringing Wardell in line with Lennox Head, is recommended to support affordability in this area and the small overall increase when compared to option 3. No cross-subsidisation is recommended for the Water Supply Developer Charge as the calculated charges are all comparable.

**Table 1 – Cross Subsidy Options for Wastewater Developer Charges**

Cross-subsidy option	Service Area	Developer charge	Weighted developer charge	Weighted cross-subsidy	Required annual wastewater bill	Resulting increase in annual bill
Option 1 - No cross subsidy	Wardell	33,434				
	Ballina (excl East Ballina)					
	WUEA					
	Cumalum / Ballina Heights	13,573	13,161	Nil	1,079	Nil
	Alstonville/Wollongbar					
	Lennox (incl East Ballina)	7,918				
Option 2 - Higher cross subsidy	Ballina (excl East Ballina)					
	WUEA					
	Cumalum / Ballina Heights	13,573				
	Alstonville/Wollongbar		11,451	1,709	1,106	\$27 (2.5%)
	Wardell					
	Lennox (incl East Ballina)	7,918				
Option 3 - Lower cross subsidy	Wardell					
	Ballina (excl East Ballina)					
	WUEA					
	Cumalum / Ballina Heights	13,573	11,830	1,331	1,100	\$21 (1.9%)
	Alstonville/Wollongbar					
	Lennox (incl East Ballina)	7,918				

### ***Proposed Developer Charges***

The following table outlines the current and proposed Developer Charges in the Water Supply and Wastewater and Recycled Water DSPs. The main reasons for the difference in charges are:

- The agglomeration process which groups charges together if they are within 70% of each other

## 10.1 Development Servicing Plans - Water and Wastewater

- Differences in estimates versus actual costs of assets – levies charged in previous DSPs were based on assets not yet constructed which have higher unit rates and larger scope of works.
- Removal of the augmentation of several significant water trunk mains on Ballina Island from the works included in the Water Supply DSP.

**Table 2 – Current and Proposed Developer Charges**

DSP Name	Areas Covered	Current Charge Levied 2022/23	Proposed Developer Charge
		2022/23\$ per ET	
Wastewater and Recycled Water	Ballina Heights/CURA A	3,508	13,573
	WUEA	15,365	
	Ballina (excl East Ballina)	5,509	
	Alstonville/Wollongbar		7,918
	Lennox/Skennars Head/East Ballina		
Wardell			
Drinking Water	Ballina	3,599	1,746
	Alstonville/Wollongbar		
	Ballina Heights/CURA A		
	Lennox/Skennars Head		
	Wardell	4,610	
WUEA	2,299	4,021	

### ***Audit of Compliance with the Guidelines***

LWUs are required to obtain an Independent Audit Report confirming that the draft DSP documents have addressed each item in the Guidelines' Checklist.

The utility's proposed Independent Auditor must be approved by DPI Water prior to the commissioning of the DSP auditor.

Hydrosphere Consulting has audited the draft DSPs and found that the Water Supply and Wastewater draft DSPs comply with the Guidelines for most of the checklist items.

Minor non-compliances relate to information that is not required in the Model DSP provided in the Guidelines (but is noted as required in the checklist). These do not substantially change the completeness or compliance of the DSP documentation.

The Audit Report is included as Attachment 3 to this report.

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

Maintaining DSPs is an activity identified in Council's adopted Delivery Program and Operational Plan.

The activity is HE3.3a *Maintain Water and Wastewater Developer Contribution Plans* which sits within the strategy HE3.3 *Match infrastructure with development to mitigate any impacts on the environment*.

### **Community Engagement Strategy**

The plan will be placed on exhibition for at least 30 working days in accordance with the Developer Charges Guidelines for Water Supply, Sewerage and Stormwater (2016).

### **Financial / Risk Considerations**

The DSPs aim to ensure Council has adequate funds to provide the infrastructure needed to accommodate expected population growth.

The works proposed in the plans have been included in Council's capital works program and the long-term financial plan incorporates the expected works.

If a cross-subsidy is adopted, then there will be an impact on the annual typical residential bill of \$26 per annum.

By adopting the DSPs Council will be compliant with requirements of the:

- Developer Charges Guidelines for Water Supply, Sewerage and Stormwater, (2016)
- Water Management Act 2000
- Local Government Act 1993

### **Options**

The Council's current DSPs were adopted in 2015 and require an update.

The recommendation of this report is to place on public exhibition the proposed new plans, which contain a cross-subsidy to align the Wardell Wastewater Developer Charge with the Lennox Head charge.

Alternatively, the Council can amend the draft plan to change or remove the cross-subsidy as outlined in this report.

The options for cross-subsidisation are summarised below.

Option 1 – Publicly exhibit the Draft Water Supply DSP and the Draft Wastewater/Recycled Water DSP with no cross-subsidy applied.

Option 2 – Publicly exhibit the Draft Water Supply DSP and the Draft Wastewater/Recycled Water DSP with a cross-subsidy to align the Wardell Developer Charge with Lennox Head.

Option 3 – Publicly exhibit the Draft Water Supply DSP and the Draft Wastewater/Recycled Water DSP with a cross-subsidy to align the Wardell Developer Charge with Ballina and Alstonville/Wollongbar.

Previously the Council has adopted DSPs that include the full cross subsidy.



## **10.1 Development Servicing Plans - Water and Wastewater**

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The rationale for this position is that it is not unusual for government services to include cross subsidy and in these circumstances the cross subsidy assists to encourage development in Wardell (or at the very least ensure development costs charged by Council in Wardell do not exceed the costs in other areas and accordingly are not a disincentive to development).

The construction of the DSP and the recommendation follow Council's previous policy position.

### **RECOMMENDATION**

That Council approves the exhibition of the draft Development Servicing Plan for Water Supply 2023 and the draft Development Servicing Plan for Wastewater and Recycled Water Supply 2023, as per Attachments 1 and 2 to this report, for public comment.

### **Attachment(s)**

1. Development Servicing Plan (DSP) for Water Supply 2023 - Draft for Public Exhibition [⇒](#)
2. Development Servicing Plan (DSP) for Wastewater and Recycled Water Supply 2023 - Draft for Public Exhibition [⇒](#)
3. Development Servicing Plan (DSP) 2023 Audit Report [⇒](#)

## **10.2 Policy (Review) - Donations - Waste Disposal Fees**

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### **10.2 Policy (Review) - Donations - Waste Disposal Fees**

**Section** Resource Recovery

**Objective** To review the Donations - Waste Disposal Fees for Not-for-Profit Disposal of Feral, Orphan Animals and Native Fauna 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 Donations – Waste Disposal Fees for Not-for-Profit Disposal of Feral, Orphan Animals and Native Fauna Policy.

Council first adopted this policy in 2015.

The policy provides guidelines to veterinarians to assist in the not-for-profit disposal of feral, orphaned animals and wildlife collected in applying for exemptions from waste disposal fees at the Ballina Waste Management Centre.

#### **Key Issues**

- Whether the policy meets the requirements of Council and current legislation
- Appropriate value for assistance

#### **Discussion**

This review of this policy identified only minor changes as follows:

- The template for Council policies has changed since this policy was adopted and the new template includes information on definitions, policy history etc.
- The per annum amount is indexed each year, in line with changes to the annual gate fee for general solid waste.

The changes have been marked in yellow.

Otherwise, the policy is still contemporary and reflects current legislation therefore no further changes are recommended.

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

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

CC2.2 Encourage community interaction, volunteering and wellbeing  
HE3.1 Implement plans that balance the built environment with the natural environment.

### Community Engagement Strategy

As the changes are only minor it is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment.

If any submissions are received, they can be reported back to Council. There will not be a need for any further report if there is no significant public comment.

### Financial / Risk Considerations

Administration and implementation of the policy is undertaken within the resources allocated by the Council within the resource recovery budget.

Ongoing utilisation rates in accordance with the current policy indicate costs can be effectively managed within the current Resource Recovery budget.

### Options

Council may accept or amend the proposed changes to the policy. The changes included are housekeeping and it is recommended that the policy is adopted as presented.

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

### RECOMMENDATIONS

1. That Council adopts the amended Donations – Waste Disposal Fees for Not-for-Profit Disposal of Feral, Orphan Animals and Native Fauna Policy, as per Attachment 1 to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received, then no further action is required.

### Attachment(s)

1. Policy (Review) - Donations - Waste Disposal Fees for Not-for-Profit Disposal of Feral, Orphan Animals and Native Fauna [⇒](#)

## 10.3 Policy (Review) - Asset Management

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### 10.3 Policy (Review) - Asset Management

**Section** Resource Recovery

**Objective** To review Council's Asset Management Policy and Strategy

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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 Asset Management Policy.

Council first adopted this policy in 2010 and it was last reviewed in 2018.

Asset Management Planning is a fundamental component within Council's Resourcing Strategy. A Resourcing Strategy is a requirement of the NSW Government's Integrated and Reporting Framework and ensures the stewardship of Council's assets supports the outcomes of the Community Strategic Plan.

Best practice Asset Management Planning involves the adoption of a framework that includes an Asset Management Policy, an Asset Management Strategy and Asset Management Plans.

The purpose of the Asset Management Policy is to set guidelines for implementing consistent asset management processes throughout Council.

An updated Strategic Asset Management Plan (SAMP) is also provided for Council's review.

#### **Key Issues**

- Alignment with asset management legislation
- Financial sustainability of Council's assets
- Asset management principles
- Levels of service

#### **Discussion**

##### Asset Management Policy

This review of this policy identified only minor changes as follows:

- Value of Council's Assets
- Minor grammatical changes

The changes have been marked in yellow.

Otherwise, the policy is still considered to be contemporary and reflects current legislation therefore no further changes are recommended. A copy of the amended policy is included as Attachment1 to this report.

### **10.3 Policy (Review) - Asset Management**

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#### Strategic Asset Management Plan (SAMP)

A draft version of Council's SAMP is also included as the second attachment to this report.

It is a fundamental component within Council's Resourcing Strategy which is a requirement of the NSW Government's Integrated and Reporting Framework and ensures the stewardship of Council's assets supports the outcomes of the Community Strategic Plan.

Developing an organisation's asset management maturity is an ongoing process.

The key purpose of the SAMP is to assess Council's current level of maturity, review what improvements are needed and what our priorities are having regard to the available resources for asset management planning.

The SAMP also explains the classes of assets Council has the stewardship for.

Asset Management Plans are in place for each of these classes and it is in these plans where the details of the management of the assets is undertaken.

These asset management plans are subject to their own regular review and updating separately to the SAMP.

To assist in the administration and implementation of the SAMP an internal committee has commenced operation. The actions in the SAMP represent the agreed initial action plan and work for this internal committee.

A final, formatted version of the SAMP will be developed pending the adoption of this document and published as part of the Resourcing Strategy documents on Council's website.

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

Operational Plan Activity EL2.1k is to ensure Asset Management Framework remains contemporary.

This Asset Management Policy is a key part of Council's Asset Management Framework which also includes the Strategic Asset Management Plan (SAMP) and Asset Management Plans for each of council's specific asset classes.

#### **Community Engagement Strategy**

As the changes are only minor it is recommended that Council adopt the policy as presented, however, the document will also be exhibited for public comment.

If any submissions are received, they can be reported back to Council however there will not be a need for any further report if there is no public comment.

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

Asset management planning is fundamentally linked to Council's long term financial plan.

### 10.3 Policy (Review) - Asset Management

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Best practice asset management planning assists in establishing budgets required to effectively manage council assets at a level that meets the desired level of service for community.

#### Options

Council may accept or amend the proposed changes to the policy and SAMP. The changes included are largely housekeeping and it is recommended that the policy be adopted as presented.

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

As discussed, once the SAMP is adopted it will be included in Council's Resourcing Strategy, which forms part of the adoption of the Delivery Program and Operational Plan, which is subject to a separate report in this agenda.

#### RECOMMENDATIONS

1. That Council adopts the amended Asset Management Policy and Strategic Asset Management Plan, as per Attachments 1 and 2 to this report.
2. That Council place this policy and plan on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received, then no further action is required.

#### Attachment(s)

1. Policy (Review) - Asset Management [⇒](#)
2. Strategic Asset Management Plan (SAMP) [⇒](#)

## 11.1 Rescission Motion - Australia Day Celebrations

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### 11. Notices of Motion

#### 11.1 Rescission Motion - Australia Day Celebrations

**Councillor** Cr Buchanan  
Cr Ramsey  
Cr Bruem

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We move

That Resolution 250523/17, as follows, be rescinded:

1. *That Council confirms the categories for the 2024 Ballina Shire Australia Day Awards are to remain unchanged, with citizen of the year selected from one of the categories as follows:*
  - *Young Citizen of the Year (30 years or under)*
  - *Senior Citizen of the Year (60 years or over)*
  - *Volunteer Award*
  - *Sports Award*
  - *Community Event of the Year*
  - *Arts and Cultural Award*
  - *Environmental Award*
2. *That Council confirms the evening of 25 January 2024 as the date for the 2024 Ballina Shire Australia Day Awards and Citizenship ceremony.*
3. *That Council host the 2024 Australia Day event at the Lennox Head Cultural Centre.*

In the event that the above rescission motion is carried, we intend to move the following alternative motion:

1. *That Council confirms the categories for the 2024 Ballina Shire Australia Day Awards are to remain unchanged, with citizen of the year selected from one of the categories as follows:*
  - *Young Citizen of the Year (30 years or under)*
  - *Senior Citizen of the Year (60 years or over)*
  - *Volunteer Award*
  - *Sports Award*
  - *Community Event of the Year*
  - *Arts and Cultural Award*
  - *Environmental Award*
2. *That Council confirms 26 January 2024 as the date for the 2024 Ballina Shire Australia Day Awards and Citizenship ceremony.*
3. *That Council host the 2024 Australia Day event at the Lennox Head Cultural Centre.*

**COUNCILLOR RECOMMENDATION**

That Resolution 250523/17, as follows, be rescinded:

1. *That Council confirms the categories for the 2024 Ballina Shire Australia Day Awards are to remain unchanged, with citizen of the year selected from one of the categories as follows:*
  - *Young Citizen of the Year (30 years or under)*
  - *Senior Citizen of the Year (60 years or over)*
  - *Volunteer Award*
  - *Sports Award*
  - *Community Event of the Year*
  - *Arts and Cultural Award*
  - *Environmental Award*
2. *That Council confirms the evening of 25 January 2024 as the date for the 2024 Ballina Shire Australia Day Awards and Citizenship ceremony.*
3. *That Council host the 2024 Australia Day event at the Lennox Head Cultural Centre.*

**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 May 2023 Ordinary meeting are as follows:

<u>Date</u>	<u>Meeting</u>
23 May	Northern Rivers Reconstruction Corporation (NRRC) meeting
23-24 May	Airport Vocational Education and Training Day
25 May	Ballina Chamber of Commerce & Industry (BCCI) meeting
25 May	Northern Regional Planning Panel (NRRP) meeting
26 May	Country Mayors meeting Sydney
30 June	Australia's Biggest Morning Tea - Ballina Curves
31 June	Alstonville Wollongbar Chamber of Commerce meeting
31 June	Cr Briefing - Ballina CBD Parking Study and River Street Traffic
1 June	NRRC Briefing on the Release of the Draft Resilient Lands Strategy
1 June	Cr Briefing - DA 2018/74 - 8 Grant Street, Ballina
3 June	Love Lennox Festival Opening
5 June	Screening for Councillors of award-winning film by Marlon Denning, Australia Day Environmental Award winner
5 June	Cr Briefings - LEP Amendment / Development Proposal CURA C
5 June	Cr Briefing on Lennox Head Strategic Plan
5 June	Lennox Head Residents Association meeting
6 June	Alstonville Wollongbar Chamber of Commerce Networking Event - guest speaker
7 June	Cr Briefing - Martin St Boat Harbour Precinct & Shared Path from Lennox to Coopers Close
7 June	Cr Briefing - Water & Wastewater Network Asset Master Plan and Developer Servicing Plan
8 June	Oyster Reef Restoration meeting OzFish
8 June	NRRC meeting
8 June	Northern Rivers Pharmacy Guild Member Reception
9 June	Lennox Head Community Tree Planting Day
9 June	NSW North Coast & Mid North Coast NSW Training Awards
10 June	Lennox Head Line Dancers event
11 June	Pop Up Pub Wardell Progress Association
13 June	NRRC Board Briefing - Resilient Homes Program
13 June	Mayors and MPs Technical Briefing - Resilient Homes Program
13 June	Public citizenship ceremony
13 June	Dinner with the Governor-General
13-15 June	National General Assembly (NGA) of the Australian Local Government Association (ALGA), Canberra ACT
15 June	Dinner Government House Council of Local Government
16 June	Australian Council of Local Government Forum Canberra
17 June	Wardell Community Feast
17 June	Open National Scope Club Conference
18 June	2023/24 Rotary District 9640 Changeover Lunch
19 June	Meeting with resident re: Wollongbar Residential Land Holding

## 13.1 Mayoral Meetings

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20 June	Ballina Audit Risk and Improvement Committee Meeting
20 June	World Refugee Day Celebration with Governor General at LHCC
20 June	Meeting with Police - fencing at Pat Moreton Lookout
20 June	Wardell Progress Association meeting
21 June	Rous County Council meeting
22 June	Ordinary Council meeting
22 June	Rotary Club of Ballina-on-Richmond Changeover Dinner

### **RECOMMENDATION**

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

### **Attachment(s)**

Nil

14. Confidential Session

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**14. Confidential Session**

Nil Items