

Agenda

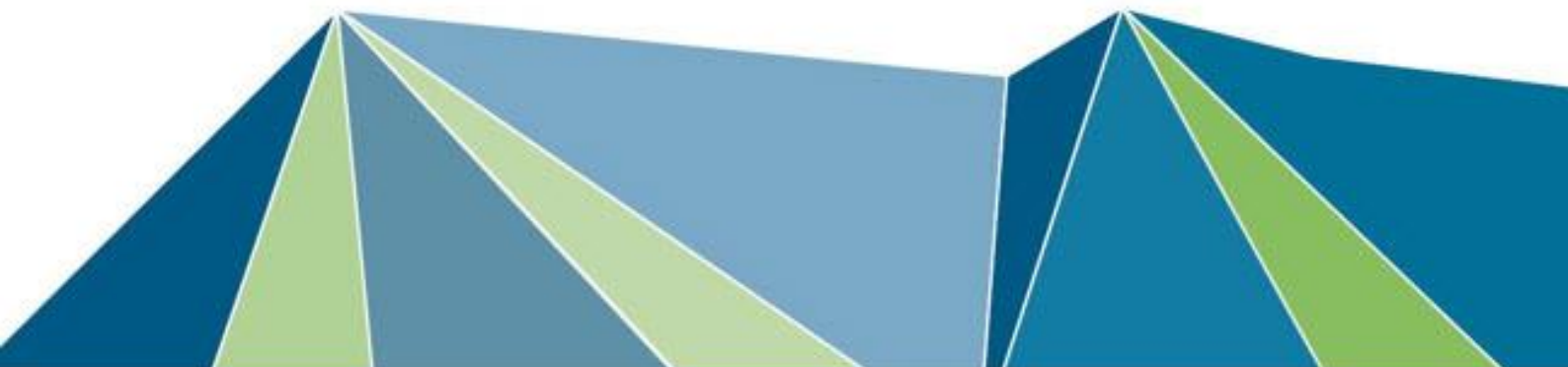
Ordinary Meeting 22 February 2024

An Ordinary Meeting of Ballina Shire Council
will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina
on **22 February 2024 commencing at 9:00 AM.**

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 absenting 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) 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

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 14 December 2023 were distributed with the business paper.

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 14 December 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 2023/150 - 137 Riverside Drive - Review of Determination

Applicant	Ardill Payne and Partners
Property	Lot: 9 DP: 263861, No. 137 Riverside Drive West Ballina
Proposal	Installation of a Vergola (openable roof)
Effect of Planning Instrument	The land is zoned R2 Low Density Residential under the provisions of the Ballina LEP
Locality Plan	The subject land is depicted on the locality plan and aerial plan included as Attachment 1 and Attachment 2

Introduction

Council has received a request under Section 8.2 of the *Environmental Planning and Assessment Act* 1979 to review the determination of Development Application 2023/150. The review request was lodged on 12 December 2023.

Under the Environmental Planning and Assessment Act, a decision on a review of determination must be made within six months of the determination of a development application.

DA 2023/150 was seeking consent for installation of a Vergola (openable roof). While the application form identified the proposal as being for installation of a Vergola, the Vergola had already been constructed without consent and within the foreshore setback area between the rear of the dwelling at 137 Riverside Drive and the adjacent canal.

The development application (DA 2023/150) was determined by way of refusal on 27 September 2023. In addition the owners of the property have received a notice of proposed order that requires demolition of the unauthorised structure. This notice has not progressed to a final order on the basis that the landowner has sought a review of the determination of DA 2023/150.

The reasons for the refusal were stated as follows:

1. The development contravenes the existing 88B instrument Restrictive Covenant relating to canal frontage building setbacks.
2. The development does not comply with the objectives and controls of Part 3.18 Protection of Foreshore and Public Open Space of Chapter 2 of the Ballina Development Control Plan 2012, with regard to enhancing the visual quality of the coastal environment and complimenting the landscape character and public use and enjoyment of the adjoining foreshore area. The development gives the appearance of privatising the public space.

3. The development does not comply with the objectives and controls of Element E – Building Lines, of Chapter 4 of the Ballina Development Control Plan 2012 with regard to protecting the amenity of and views to the canal and foreshore area. The development would protect the amenity if it was to be constructed with a setback meeting the 11.5m control.
4. The development is unsuitable for the site.
5. Approval of the development is not within the public interest.

The Section 4.15 Assessment Report is included as Attachment 3.

This report provides information relating to the development to enable Council to undertake the review of the 27 September 2023 determination.

Reportable Political Donations

Details of known reportable political donations are as follows:

- Nil

Public Exhibition

The proposed development as originally lodged was notified in accordance with the Level 1 – Targeted Notification process as described in Clause 3.2.4 of Chapter 1 of the DCP.

Two submissions in objection to the development were received.

The application for review includes no changes to the original development application for a Vergola structure, and for this reason was not re-notified.

Report

The EP&A Act allows for a review of determination of decisions. In requesting a review, the applicant may amend the proposed development the subject of the original application. Council may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.

In this instance, no new plans have been submitted in the application for review of determination.

The submitted plans are included as Attachment 4

A letter from the applicant (Ardill Payne and Partners) was submitted with the review application. The correspondence from Ardill Payne and Partners contains information relating to Council's reasons for refusal and is included in this report as Attachment 5.

Below is a summary of the applicant's opinions from the Ardill Payne and Partners correspondence and Council's justification of the reasons for refusal.

Reason for Refusal 1.

The development contravenes the existing 88B instrument Restrictive Covenant relating to canal frontage building setbacks.

The applicant's response to this reason for refusal is that there are other properties with existing structures located within the foreshore setback. Whilst this may be true, the applicant has made no reference to the merit assessment that has taken place in these circumstances.

As is the case when Council receives a development application, a merit-based assessment is undertaken and neighboring properties are often notified of the development proposal, and conditions are applied to the development if it is approved.

In this instance, no development application was lodged and so Council did not notify neighbours nor undertake an assessment prior to the applicant erecting the vergola structure without consent. Essentially there was no opportunity for Council (or neighbours) to consider the size and scale of the structure or appropriate conditions of consent prior to the vergola being built.

The applicant, in listing various properties in the Shire with structures erected in the foreshore setback has not considered the merit-based assessment and individual circumstances of approval of these structures, nor the degree to which the structure may encroach the foreshore setback i.e. the encroachment may only be 100mm or as in this instance with the vergola at 137 Riverside Drive the encroachment is a significant 5m.

The applicant seeks to justify the unauthorised vergola structure by stating it "is solely for the purpose of providing shade to the swimming pool and the approved outdoor area adjacent to such". Of note, there is an existing approved outdoor room which is adjacent to the swimming pool and provides shade over the outdoor area (DA 2004/257). This existing sunroom is setback in compliance with the applicable planning controls and has been approved as an outdoor room off the rear of the main dwelling.

It is also important to note that the various structures listed by the applicant in Attachment 5 are not all the same, either in form, scale or composition (e.g. some references are to pools whilst others are to decks and roofs). There are differences in the potential level of impact associated with a pool compared to a roofed structure. There are also differences in context and potential impacts from site to site.

Reason for Refusal 2.

The development does not comply with the objectives and controls of Part 3.18 Protection of Foreshore and Public Open Space of Chapter 2 of the Ballina Development Control Plan 2012, with regard to enhancing the visual quality of the coastal environment and complimenting the landscape character and public use and enjoyment of the adjoining foreshore area. The development gives the appearance of privatising the public space.

The applicant asserts that "the subject property does not front public open space and has no impact on such".

Ballina Shire Council's Development Control Plan Chapter 2 – Environmental Considerations includes a section that applies to Protection of the Foreshore and Public Open Space Areas. The subject property clearly adjoins the foreshore and the public open space of the canal.

The canal adjoining 137 Riverside Drive is zoned W2 Recreational Waterways. The canals at West Ballina are Council owned operational land that can be freely traversed by watercraft and on foot by the public. Given this, the canals and the canal frontage to 137 Riverside Drive are considered to be public land, inclusive of foreshore areas.

The planning objectives of this section of the Ballina DCP have not been met. The placement of the vergola structure within the foreshore setback results in adverse impacts on views and reduces the visual quality of the canal.

The amenity of the area surrounding the subject property has been maintained to a reasonable degree, ensuring the visual quality by avoiding roofed structures. The vergola does not complement the landscape character and is an anomaly, as such structures so close to the canal are not existing in this area.

The following aerial image shows properties along the canal waterfront on Riverside Drive. It is evident from the photo that although there are pools adjacent to the canal, there are no large roofed structures immediately adjacent to the canal in close proximity to 137 Riverside Drive. 137 Riverside Drive is marked with a green dot and in this photo the new vergola structure is not shown (refer to the plans in Attachment 4 for the position of the vergola).



Reason for Refusal 3.

The development does not comply with the objectives and controls of Element E – Building Lines, of Chapter 4 of the Ballina Development Control Plan 2012 with regard to protecting the amenity of and views to the canal and foreshore area. The development would protect the amenity if it was to be constructed with a setback meeting the 11.5m control.

The objectives of the DCP – Element E – Building Lines have been applied consistently in this area of the subject site. The relevant objectives being to protect the amenity of the locality in which the dwelling is situated and to protect the amenity of and views to canals, rivers, and foreshore areas.

The applicant seeks to use the approved swimming pool as justification for why the unapproved vergola should remain. The applicant states that there are no unreasonable amenity impacts created by this proposal.

In relation to swimming pools, pools have been approved within both the front building line setback and rear foreshore setback of the immediate locality (see Attachment 2 aerial image for examples). This is because typically the visual impact upon the streetscape or foreshore and public open space is minimal for subsurface or ground level structure like a pool. Notwithstanding this, each pool or the like is assessed on its individual merits relative to the particular site and its surrounds.

The vergola structure is directly impacting the amenity of the adjoining property owners. The structure is located in close proximity to the eastern side boundary and the solid posts are approximately 3m above ground level. When set forward of the adjoining dwellings on either side, there are unreasonable impacts on the amenity of the locality.

Reason for Refusal 4.

The development is unsuitable for the site.

Council has undertaken a merit-based assessment of the proposal and concluded that the structure does impact amenity for both neighbours and the public relative to the adjacent waterway.

In addition, Council received two submissions objecting to the vergola and raising concerns about its nature and scale.

Reason for Refusal 5.

Approval of the development is not within the public interest.

Council received two submissions from surrounding property owners. Both submissions were in objection to the vergola structure remaining in place in the present location within the foreshore setback. The vergola has been assessed as inconsistent with applicable planning controls and a restriction applying to the land. It has also been determined that the vergola has an adverse impact on amenity. Given this, the development is not in the public interest.

Given that the applicant has not modified original application that was refused, it is recommended that Council affirm the refusal of the application.

Options

Section 8.4 of the EP&A Act provides for Council to confirm or change a determination that has been issued through the review of determination process.

If the determination is changed to approval, it is recommended that standard condition of consent are applied.

In the event of an approval it is also important to recognise that Council cannot retrospectively grant approval for a structure that has been built. So, the granting of an approval would be for the ongoing use of the vergola, not its installation or construction.

In a circumstance where the Council grants consent, the landowner should also seek a Building Information Certificate for the building works already undertake.

If the refusal determination is upheld, no additional reasons for refusal are required to be given. Following refusal of the application, the next step is to proceed with and Order for the removal of the structure.

Conclusion

A comprehensive assessment of the Development Application 2023/150 was undertaken when this application was lodged in 2023.

Given that no changes have been made to the vergola, nor any undertaking to alter or relocate the structure to comply with Council's planning controls has been proposed, the recommendation is to maintain the refusal of DA 2023/150.

RECOMMENDATION

That Council maintains the determination of **REFUSAL** for Development Application 2023/150 for installation of a vergola at Lot 9 DP 26386, 137 Riverside Drive West Ballina based on the Reasons for Refusal 1 to 5, as documented in this report.

Attachment(s)

1. Locality Map - 137 Riverside Drive West Ballina [⇒](#)
2. Aerial Map - 137 Riverside Drive West Ballina [⇒](#)
3. Assessment Report -137 Riverside Drive West Ballina [⇒](#)
4. Lodged Plans - 137 Riverside Drive West Ballina [⇒](#)
5. Letter from Applicant- 137 Riverside Drive West Ballina [⇒](#)

8.2 **DA 2022/690 - 1 Smiths Lane, Wollongbar**

Applicant	EMM Consulting Pty Ltd
Property	Lot 61 DP 826896, No. 1 Smiths Lane, Wollongbar Lot 60 DP 826896, No. 3 Smiths Lane, Wollongbar
Proposal	Additions to an existing childcare centre (additional 20 childcare places) on a temporary basis (maximum of two years), involving the erection of a new building, infrastructure works (car parking and servicing) and landscaping, relocation of an existing pool pump and adjustments to existing pool and boundary fencing
Effect of Planning Instrument	The land is zoned E1 Local Centre under the provisions of the Ballina LEP
Locality Plan	The subject land is depicted in Figures 1 and 2.

Preamble

Council considered Development Application 2022/690 at the December 2023 Ordinary meeting and resolved that the matter be deferred pending an on-site inspection.

An on-site inspection for Councillors was held on 30 January 2024.

This DA is now being presented to Council again for determination. The following reporting (from the Introduction section onwards) is the same as the report presented to Council's December meeting except updates have been made in relation to stormwater (see below).

The recommendation for determination of this application remains the same, being for refusal of the application.

Since the December report was completed, the applicant has submitted additional information relating to stormwater management.

This additional material has suitably addressed the relevant stormwater management considerations and as a result, stormwater management is resolved and is no longer a reason for refusal of the application.

The basis for the recommendation of refusal is non-conformance of the internal driveway access with Australian Standard AS 2890.1.

The access is 3.5m wide rather than the required 5.5m width under the standard.

Should the Council prefer option 2, being to grant approval to the proposed development with conditions, then the following wording is suggested for Council's resolution:

1. *That Development Application 2022/690 for additions to an existing childcare centre (additional 20 childcare places) on a temporary basis (maximum of two years), involving the erection of a new building, infrastructure works (car parking and servicing) and landscaping, relocation of an existing pool pump and adjustments to existing pool and boundary fencing, at Lots 60 & 61 DP826896, Nos. 1 & 3 Smiths Lane, Wollongbar be APPROVED subject to the application of conditions as set out in Attachment 3 and including standard planning, building, civil engineering and environmental health conditions applicable to this type of development.*
2. *That in addition to the conditions of approval identified in point 1, the following conditions also be applied:*
 - *Car parking space number 6, as shown on RLA Building Design drawing number 890/2, shall be allocated and line marked as a manoeuvring area in addition to the nominated manoeuvring area (adjacent to space 5), as shown on the aforementioned plan. Swept path diagrams must be provided with the Construction Certificate design to demonstrate a B99 vehicle is able to undertake a three-point turn using the dedicated manoeuvring area (design adjustments must be made to ensure compliance if necessary). Design plans must be submitted to and approved by the Certifier prior to the issue of a Construction Certificate.*
 - *Car parking spaces 1 to 5, as shown on RLA Building Design drawing number 890/2, shall be allocated as employee only parking and shall not be used by parents and visitors to the centre. Parents and visitors shall use parking spaces 7 to 16 as allocated on the aforementioned plan.*

The conditions suggested in point 2 respond to the issues of vehicle turn around within the car parking area and limiting the availability of the car park to child care centre staff.

Introduction

Development Application 2022/690 proposes the erection of a new building to the rear of the existing motel located on Lot 61, to be used as a temporary addition to the existing childcare centre located on adjacent land Lot 60.

The application also proposes ancillary infrastructure works (car parking and servicing), landscaping, relocation of an existing pool pump and adjustments to existing pool and boundary fencing.

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

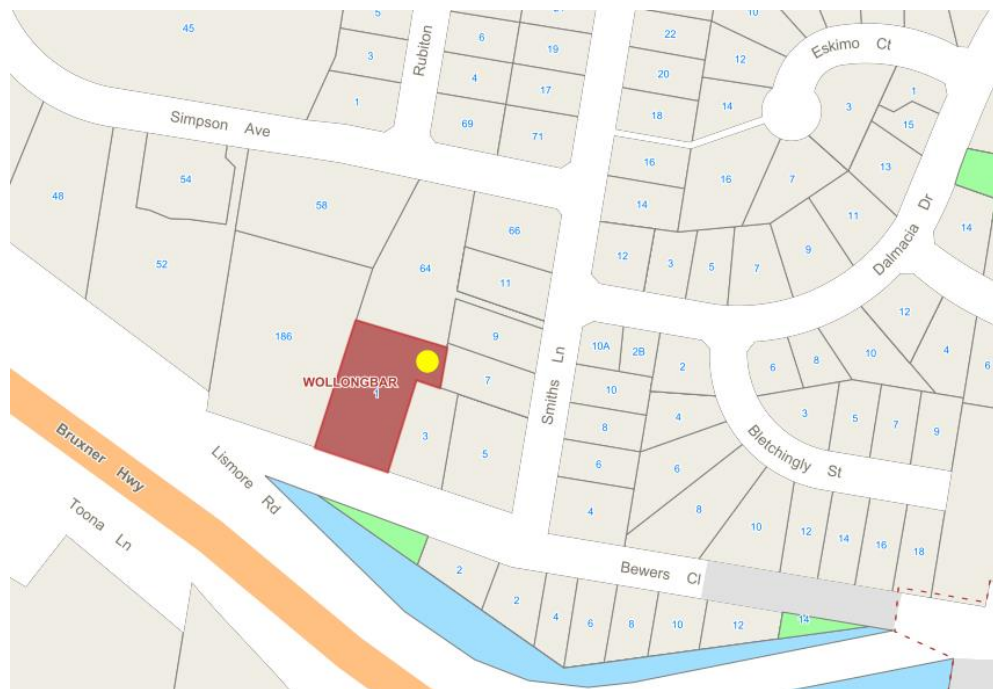


Figure 1: Cadastral Plan - 1 Smiths Lane Wollongbar (Land shown shaded red, site of proposed childcare centre marked by yellow dot)



Figure 2: Aerial Photo - 1 Smiths Lane Wollongbar (site of proposed childcare centre marked by yellow dot)

The purpose of this report is to seek Council's determination of the subject application.

The following report has been prepared by an external consultant, Rob van Iersel of Planit Consulting, who was engaged by Council's Development Services Section to undertake an assessment of the proposed development, review submissions and referrals and prepare the required Section 4.15 assessment report and a Council determination report.

8.2 DA 2022/690 - 1 Smiths Lane, Wollongbar

This report provides an assessment of the relevant matters of the proposal under Section 4.15 of the Environmental Planning and Assessment Act (EP&A Act) 1979. The full Section 4.15 assessment report is contained in Attachment 1.

A copy of the plans for the proposed development is contained in Attachment 2.

Details of Proposal

An existing Learning Centre childcare facility is located at 3 Smiths Lane (Lot 60), with the Arabella Motel located on the adjoining land at 1 Smiths Lane (Lot 61).

The addition to the childcare centre is proposed to be located on vacant land at the rear of the motel site (Figure 3).

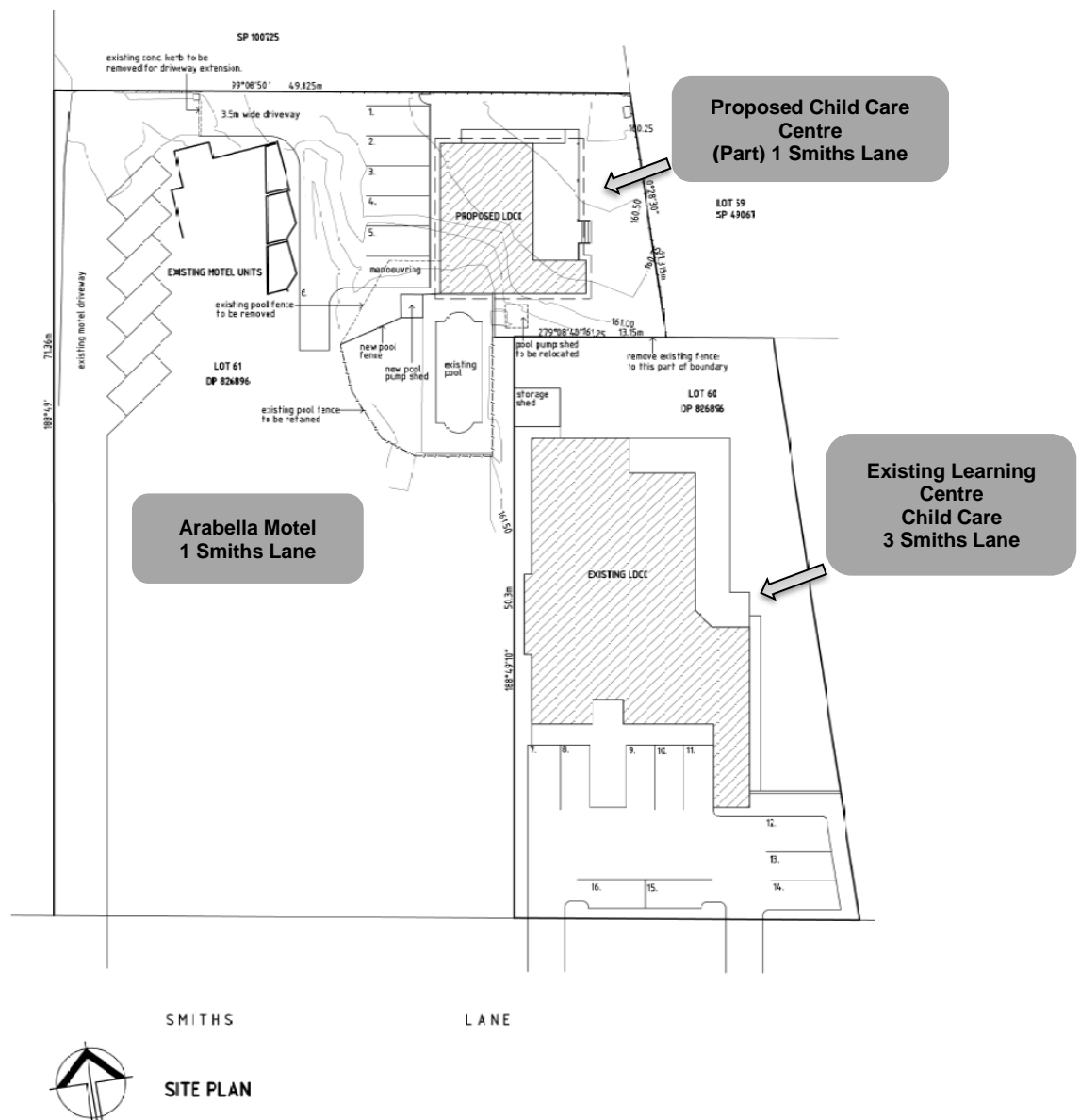


Figure 3: Proposed Site Plan

The motel was approved under Development Consent No. 1997/59 in October 1996. The consent provides for the construction and operation of a 20-unit motel with a manager's residence, approved to be constructed in two stages, with Stage 1 being for 11 units and the manager's residence, and Stage 2 being for the remaining nine units.

The consent was modified in September 2013 to provide for an in-ground swimming pool and associated infrastructure, which also involved some amendments to the Stage 2 units.

Currently, only the Stage 1 units and the swimming pool have been constructed.

The proposed addition to the childcare centre would be located on that part of the motel site where Stage 2 was approved (not yet constructed). This part of the site is currently vacant.

The operators of the childcare centre also operated a centre at Lismore that was damaged in the 2022 floods. They have been unable to reopen the Lismore Centre, and therefore the additional room is proposed as a way of providing for additional places to offset the loss of the Lismore facility.

It is proposed to place a prefabricated building on vacant land at the rear of the Arabella Motel (1 Smiths Lane) to provide an additional 20 temporary childcare places for The Learning Cottage.

The building would be located adjacent to the rear of The Learning Cottage to allow for the integration of the two sites and buildings so it will operate as one centre.

The building will be prefabricated and delivered to site by truck and positioned using a crane. The building would be positioned on piers. Plumbing, stormwater, and electrical services would be connected to existing services at the site.

The Proposal would contain an indoor play space with an unencumbered area of 69m², a verandah with an area of 32m² accessed by a ramp and stairs, and an unencumbered outdoor play area of 192m². It would also provide a staff room and kitchen, a staff toilet (sized for disabled access and usage), a children's bathroom with a shower and infants bath, and a storeroom.

Vehicle access is proposed via The Arabella Motel's driveway. Six parking spaces will be provided at the rear of the existing motel. The applicant proposes that these spaces be allocated as employee spaces. Council's DCP does not allow the allocation of parking spaces to staff, requiring that all spaces must be accessible and available to both staff and customers of a business.

One maneuvering space will also be provided to ensure vehicles can enter and exit in a forward direction. The motel site enjoys a right-of-carriageway over an adjacent parcel to the north, with a sealed driveway accessing the Wollongbar Shopping Centre car park. Staff would be able to exit the site via this ROW.

Car parking and child drop-off and pick-up will continue to be provided at the existing centre's main entrance off Smiths Lane. No additional parking is proposed in that location.

There will be no change to The Learning Cottage's hours of operation, which are between 7.00 am and 6.00 pm Monday to Friday. Child drop-off is between 7.00 am and 9.30 am and pick-up is between 3.00 pm and 6.00 pm.

The application proposes a temporary use of the additional building for a two-year period. A minimum of two additional employees will be required for the purposes of the additional childcare space.

The application also proposes minor modifications to an existing swimming pool associated with the motel, by way of relocation of a section of pool fencing and the pool pump shed.

Reportable Political Donations

There are no known reportable political donations.

Public Exhibition

The application was placed on public exhibition in accordance with the Environmental Planning and Assessment Regulation 2021 and Council's Community Participation Plan.

The exhibition period was from 7 June to 23 June 2023. No submissions were received.

Report

Matters for Consideration

The proposed development has been assessed under the heads of consideration in Section 4.15 of the EP&A Act 1979.

The assessment has identified the following key issues in relation to this development application.

This report should be read in conjunction with the attached Section 4.15 assessment report in Attachment 1. The development plans are at Attachment 2.

Section 4.15(1)(a)(i) provisions of any environmental planning instrument

State Environmental Planning Policies	
SEPP (Resilience and Hazards) 2021	<p>The property is not recorded on Council's Contaminated Land Register. The property is also not located within the vicinity of any cattle dip sites or investigation area or unexploded ordinances.</p> <p>The historical imagery suggests that the property has previously been used as potential cattle grazing area. However, this has been addressed in the Preliminary Contamination Assessment (PCA) dated 14 November 2022 in Appendix A of the Statement of Environmental Effects (SEE). The PCA concludes the site is suitable for the proposed development.</p>

SEPP (Transport and Infrastructure) 2021	<p>Chapter 3 Education establishments and childcare facilities.</p> <p>See detailed assessment in the Section 4.15 assessment report in Attachment 1. Key points are summarised below:</p> <ul style="list-style-type: none"> • Complies with requirements of the Education and Care Services National Regulations for indoor and outdoor play area • Generally consistent with the objectives and relevant controls within the State Government's Child Care Planning Guidelines, other than in relation to internal vehicular and pedestrian access – safety concerns relating to non-compliant width of part of internal driveway.
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Ballina Local Environmental Plan 2012 (key clauses)	
<i>Clauses 2.2 and 2.3 Zoning</i>	<p>The property is zoned E1 Local Centre. For the purposes of the LEP, the proposal is defined as a <i>centre-based childcare facility</i>, which is a use permitted with consent in the E1 zone.</p> <p>The proposal is consistent with the key zone objectives, including:</p> <ul style="list-style-type: none"> • <i>To provide a range of retail, business and community uses that serve the needs of people who live in, work in, or visit the area.</i> • <i>To encourage investment in local commercial development that generates employment opportunities and economic growth.</i> • <i>To minimise conflict between land uses within the zone and land uses within adjoining zones.</i>
<i>Clause 4.3 Height of buildings</i>	<p>A maximum height of 9.0m applies in this location. The proposed building is single storey, with a height of 4.2m.</p>
<i>Clause 4.4 Floor space ratio</i>	<p>The Arabella Motel was approved on the site under DA 1997/59. Scaling from the approved plans indicates that the existing motel has an FSR of approx. 0.2:1.</p> <p>Addition of the proposed childcare building to the site will result in an FSR of 0.22:1.</p>
<i>Clause 7.2 Earthworks</i>	<p>The proposed addition is a prefabricated building so the earthworks will be minimal, involving excavations for foundations and services.</p> <p>The proposed car parking area has been constructed on the site without consent.</p>
<i>Clause 7.7 Services</i>	<p>The site is serviced with sufficient capacity for the proposed childcare addition.</p>

Section 4.15(1)(a)(ii) provisions of any proposed instrument

There are no draft planning instruments relevant to this proposal.

Section 4.15(1)(a)(iii) provisions of any development control plan

The proposal is consistent with the relevant chapters of Ballina Development Control Plan 2012 (DCP), other than in relation to controls relating to car parking and access.

Chapter 2 – General and Environmental Considerations

Section 3.4 - Potentially contaminated land:

The property is not recorded on Council's Contaminated Land Register.

A Preliminary Contamination Assessment (PCA) has been submitted with the application, which concludes that the site is suitable for the proposed development.

Section 3.7 - Waste Management:

The management of site waste in the construction and operation of the centre has been addressed in the Site Waste Minimisation and Management Plan submitted with the application.

Section 3.9 - Stormwater Management:

Council's Civil Services Division identified that the application as originally submitted did not comply with the stormwater management requirements of this section of the DCP.

The application had requested an exemption from the stormwater management requirements due to the proposed limited timeframe for the consent (approval to operate for a two-year period).

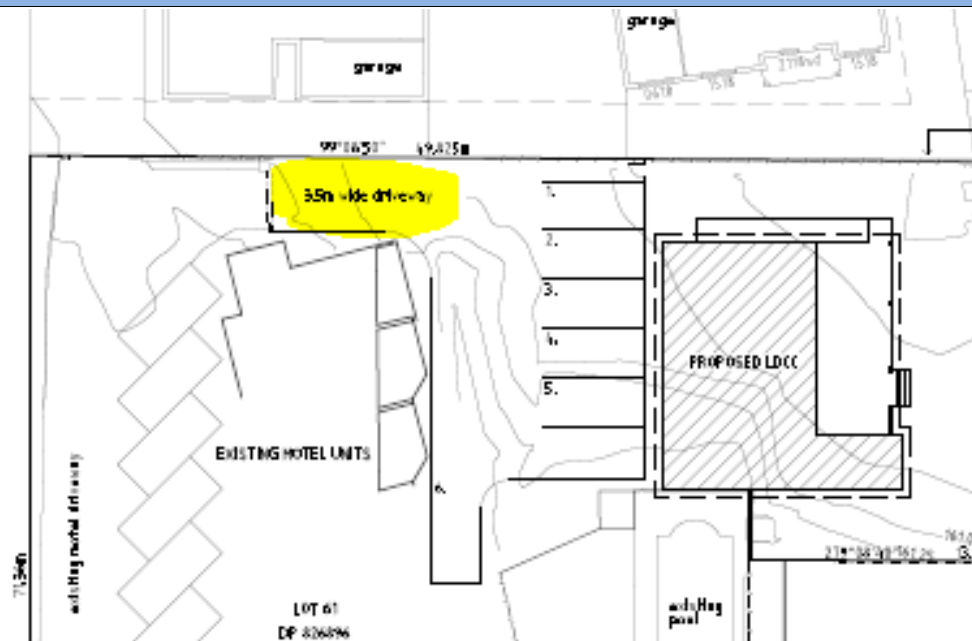
The development would, however, result in stormwater impacts throughout the duration of the two years of operation.

Further information was provided by the applicant in response to this concern. Initially the additional information did not meet the requirements of the DCP. However, further information submitted in December 2023 demonstrated compliance with the applicable provisions of the DCP.

Section 3.19 - Car Parking and Access

Council's Civil Services Division has identified that the existing internal driveway includes a narrow 3.5m wide section, located to the rear of the existing motel units (see area highlighted below).

Chapter 2 – General and Environmental Considerations



This section of driveway does not comply with the minimum width requirement (5.5m) specified in “AS 2890.1 Off-street car parking” or the car parking requirements of Council’s DCP, Chapter 2, Section 3.19.

While this restricted width is for a relatively short section, the relevant Australian Standard does not contain any criteria for exemptions to the minimum width.

It is further noted that the restricted section has 90° bends at its western and eastern ends. Vehicles entering and exiting the car park will be unable to see each other until they meet at the point where passing is not possible. One of the vehicles would therefore need to reverse back, which increases the risk of an accident.

While the application indicates that the car park is intended for staff use, there is potential for it to be used by parents dropping off/picking up children, increasing the risk and the consequences of an accident, given the immaturity and unpredictable nature of children around traffic.

It is considered that a childcare facility is a land use that requires parking and driveway areas that comply with the minimum requirements of the Australian Standards, given the nature of the use and the associated traffic generation, particularly at busy pick-up and drop-off times.

The applicant provided a traffic report regarding the proposed car park and associated access driveway. The report contends that the proposed width of 3.5m is acceptable under Table 3.2 of AS 2890.1.2004. Council’s engineering assessment does not support that position.

Table 3.2 prescribes an “access driveway” width range from 3.0m to 5.5m wide for Category 1 developments. Category 1 facilities range from single dwellings to commercial developments with up to 25 car parking spaces. The minimum access driveway width of 3.0m relates to scenarios such as single residential dwellings and small residential unit developments, not commercial properties.

Chapter 6 – Commercial Development

General Controls:

- Building height: The proposed building is single-storey and complies with BLEP 2012
- Floor Space Ratio: the proposed floor space ratio will be 0.22:1
- Roof form: skillion proposed, which is acceptable in this location
- Landscaping: perimeter landscaping is in place around the site of the proposed addition
- Access and parking see discussion above.

Section 4.15(1)(a)(iiia) any planning agreement that has been entered into under section 6.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

None applicable.

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

There are no relevant matters.

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

The proposed childcare addition is not expected to result in adverse impacts on the environment or the broader locality.

The site proposed for the prefabricated structure is a cleared, gently sloping area located to the rear of the existing motel, with the existing childcare facility to the south.

The site has existing single-storey residential units to the north and east. 1.8m boundary fencing will provide visual privacy for residents of those units. They are unlikely to be significantly impacted by noise, given that the existing childcare centre has been located in this position for a long time.

The addition of 20 childcare places does have the potential to generate additional traffic in the locality. The local road system has sufficient capacity for this minor additional traffic and the centre will retain the existing drop-off / pick up location at the Smiths Lane frontage.

Additional parking is proposed at the rear of the motel, proposed by the applicant as staff parking. However, no additional parking is proposed at the front of the site to cater for the additional capacity of the centre. Comments are provided above regarding safety issues with access to the proposed parking area.

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

While the site is generally suitable for placement of the prefab building, there is a section of internal driveway that has a restricted width of 3.5m. As outlined above, this is significantly less than the 5.5m width requirement in the relevant Australian Standard and DCP control and there is no physical space in that section of the site to provide additional width.

Council previously approved a similar car park layout to that now proposed in the original motel consent, DA 1997/59. The approved 1997 car park design had a 4.5m wide circulation roadway in the location where the current application proposes a width of 3.5m. The previously approved design did not therefore meet the current Australian Standards either. This is not, however, considered reasonable justification to approve the current application given it is not compliant with the contemporary standards.

The application proposes this internal car park for use by staff, but there is potential that it could be used by parents dropping off or picking up children, particularly as there is a sealed access north from the site to the nearby Wollongbar shopping area and residential areas beyond, potentially providing a short-cut for some families.

The presence of this restricted width section of driveway is such that the site is not considered suitable for the intended development.

Section 4.15(1)(d) any submissions made in accordance with this Act or the regulations

The application was notified to adjoining owners with an exhibition period from 6 June to 23 June 2023. No submissions were received.

Section 4.15(1)(e) the public interest

While the provision of additional childcare places is in the public interest, particularly given the loss of places at Lismore following the 2022 floods, there are safety and compliance issues associated with the existing internal driveway with a section of the driveway not meeting relevant Australian Standards.

These Australian Standards are in place to protect public safety and, in the case of internal accessway widths, they do not provide for exemptions or variations to the required width.

The safety risks associated with the restricted accessway section are not in the public interest and that these risks outweigh public benefit associated with additional childcare spaces in the locality. Therefore, the proposed development is not considered to be in the public interest.

Conclusion

As outlined above, the proposal does not comply with the minimum width requirement for a circulation roadway under Australian Standard AS 2890.1.

The non-compliant section of circulation roadway is located on a blind corner leading to the internal parking area, which compounds safety concerns.

Whilst the application states that this parking area is to be utilised by staff of the centre, the applicable car parking rates within Section 3.19 of Chapter 2 within the Ballina DCP 2012 relate to the provision of spaces per child (i.e. 1 space per 4 children). In this regard, the parking area should not be solely identified for staff parking. There has not been an assessment provided with respect to the existing parking area for the existing childcare centre and how this parking area (and drop off and pick up facility) can cater for the additional 20 children to be accommodated within the proposed development.

Given the availability of parking spaces and pedestrian connections to and from the site, the proposed car park is likely to be used by parents and children (both in relation to car parking and pedestrian access), which increases the risk of an accident, given the age and unpredictable nature of children around traffic.

A childcare facility is a land use where parking and driveway areas should be compliant with the minimum requirements of the Australian Standards.

Options

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

Option One – Refusal

Non-compliance with Australian Standard AS 2890.1 is detailed above, generating safety concerns regarding internal vehicle movements. The non-compliance cannot be remedied onsite as there is insufficient space between the existing motel building and the property boundary.

The safety concerns around the non-compliance are particularly relevant as the internal driveway is likely to be used by parents and children attending the childcare centre.

This option is recommended, based on the reasons outlined in the report.

Option Two – Approval with Conditions

Other than the non-compliances outlined, the application is generally compliant with the relevant planning instruments and the Ballina DCP 2012.

Approval of the application requires a variation to the traffic and access provisions within Chapter 2 of the DCP, acknowledging the safety risks associated with the granting of the variation.

Regardless of whether the car park is used for general access or staff only, this approach is not recommended.

However, should Council be of the view that the access and parking arrangements are acceptable, then it is recommended that a condition be imposed to require the new car parking spaces at the rear of the motel to be allocated and managed as employee parking only.

Option Three – Defer Determination to Seek Additional Information

Council could invite the applicant to submit additional information. If this approach is preferred Council should specify what information it is seeking to inform its determination of the application.

RECOMMENDATIONS

That Development Application 2022/690 for additions to an existing childcare centre (additional 20 childcare places) on a temporary basis (maximum of two years), involving the erection of a new building, infrastructure works (car parking and servicing) and landscaping, relocation of an existing pool pump and adjustments to existing pool and boundary fencing, at Lots 60 & 61 DP826896, Nos. 1 & 3 Smiths Lane, Wollongbar be **REFUSED** for the following reasons:

1. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed access arrangements are inconsistent with the requirements of Chapter 2 of Ballina Development Control Plan 2012.
2. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not considered to be suitable for the development as proposed given that access arrangements cannot meet the requirements of the relevant Australian Standard.
3. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development would not be in the public interest as proposed access arrangements present significant safety risks.

Attachment(s)

1. Development Plans [⇒](#)
2. Section 4.15 Assessment [⇒](#)
3. Draft Conditions of Consent [⇒](#)

8.3 Stokers Quarry Rehabilitation

8.3 Stokers Quarry Rehabilitation

Section Open Spaces

Objective To report on rehabilitation options for Stokers Quarry that give consideration to expansion of mountain bike recreational uses.

Background

Council has previously provided in principle support to consider opportunities for the provision of mountain bike trails within the Stokers Quarry site as an expansion of the adjacent Duck Creek Mountain Bike Facility.

The Stokers Quarry land parcel is 8.47ha in size and has frontage to the Bruxner Highway. The land is Council owned operational land and is currently zoned RU1 Primary Production under the Ballina Local Environmental Plan 1987.

Extraction at Stokers Quarry commenced sometime between 1979 and 1987 with activities formalised in 1995 under DA 1995/274. Extraction was discontinued in 2015 consistent with the DA approval. Rehabilitation obligations under DA 1995/274 currently remain outstanding.

Northern Rivers Dirty Wheels Mountain Bike Club (NRDWMBC) have previously developed a master plan with three scenarios for the Stokers Quarry site (refer to Attachment 1). The scenarios have varying levels of embellishment and cost to implement.

A Councilor briefing was held in November 2023 and Council staff have continued to work in collaboration with NRDWMBC executive to look at options and the capacity of the site overall.

The purpose of this report is to establish direction on the approach to the management of the Stokers quarry site having regard for the aspirations of the mountain bike club.

Key Issues

- Quarry Rehabilitation
- Expanded Recreation Facilities
- Cost and funding

Discussion

The current EIS site rehabilitation obligations under DA 1995/274 include:

- Progressively bench and stabilise quarry walls and faces.
- Spread benches with quarry overburden and topsoil.
- Plant and revegetate benches, quarry floor and 'entire working area'.

8.3 Stokers Quarry Rehabilitation

Following the cessation of quarrying activities significant work is required to meet the EIS rehabilitation requirements. Successive geotechnical and mining assessments completed by Groundwork Plus (2013), AusRocks (2015) and GeoLINK (2022) show the quarry requires significant structural work to achieve a stable landform.

The site currently has identified safety concerns, with

- Exposed drop offs, high rockfall risk areas.
- Potential for rockslides from eastern and western pit walls.
- Landform stability issues.
- Erosion of unvegetated slopes.

The GeoLINK assessment (2022) specifically looked at rehabilitation options that considered site safety, EIS obligations, best practice rehabilitation and opportunity for mountain bike expansion. Three options were presented for consideration.

These options include:

1. Minimal rehabilitation with no landform shaping, negligible revegetation activities other than weed management and significant security fence installation.

Estimated cost \$97,000.

This option relies on excluding access for safety and doesn't meet rehabilitation requirements. Given the site exclusion it doesn't facilitate any mountain biking embellishment on the site.

2. Partial rehabilitation of unconstrained quarry elements such as revegetation of the quarry floor and lower east and western slopes, and some minor landform shaping utilising stockpiled overburden/ waste rock with significant security fencing installation.

Estimated cost \$213,000.

This option still retains some safety risks that would limit use for mountain biking embellishment.

3. Complete rehabilitation with landform shaping reflecting the surround topography and establishment of suitable endemic native vegetation throughout the site.

Estimated cost \$549,000.

This option meets the required environmental obligations by undertaking best practice rehabilitation, including benching of quarry walls to achieve site safety.

This option is also seen as compatible with progressing expanded mountain bike facilities consistent with Scenario One of the NRDWMBC master plan, noting that a planning pathway exists to combine this rehabilitation option with approximately 5km of additional mountain bike trails.

8.3 Stokers Quarry Rehabilitation

Scenarios Two and Three presented by the club both include significant car park expansion in lieu of rehabilitation of the quarry floor and working area, inconsistent with existing rehabilitation obligations under DA1995/274 in addition to requiring a new vehicle access.

This proposed access to the site also presents a key challenge with the only viable vehicle access to Stokers Quarry via a Right of Carriageway which passes through a private property in very close proximity to residential housing.

Consultation to date has highlighted that this option is not supported by the landowner.

During the Councillor briefing held in November 2023, the possibility of using the quarry site for residential development was raised.

This has been reviewed at a broad level and is not recommended for the following reasons:

- The size of the available area for a residential development footprint has limited yield potential. The quarry floor is a relatively small proportion of the overall site.
- Residential development in this location is not consistent with Council's adopted Local Growth Management Strategy, Local Strategic Planning Statement or the Alstonville or Wollongbar strategic plans.

It is also inconsistent with the North Coast Regional Plan.

Although it is possible to identify new areas and incorporate them into strategies, this site has not been identified through strategic planning processes to date as a candidate area for further investigation.

- There is adequate planned urban land supply for residential development in the shire for the projected population over the next 20 or more years.
- It is likely that there would be significant expense associated with providing water, sewer and road infrastructure to the site for a small residential lot yield.
- Part of the land is identified as core koala habitat and forms part of an identified wildlife corridor under Council's Development Control Plan.
- The land has limited access via right of way across an adjoining property. Access for a residential subdivision is not practical from the Bruxner Highway given the slope of the southern quarry face and vegetation present on the land.

Delivery Program Strategy / Operational Plan Activity

The recommended option aligns with Council's Delivery Program and Operational Plan:

- CC3.2 - Provide young people with a range of leisure activities.
- CC3.3 - Support improved health outcomes by providing equitable access to sporting, recreational and community facilities.
- HE3.1 Implement plans that balance the built environment with the natural environment.

Community Engagement Strategy

Council has previously undertaken consultation on mountain biking when undertaking the Sport and Recreation Facility plan, noting its emergence and importance as high participation and growing sport that significantly contributes to our local economy.

Consultation has been undertaken with NRDWMBC executive and is planned to continue.

Financial / Risk Considerations

Council has maintained a quarry reserve to undertake future quarry rehabilitation. The current balance of the reserve is \$503,000. It is recommended that this funding be allocated to rehabilitation works identified at Stokers Quarry.

Options

1. Progress minimal rehabilitation Stokers Quarry
2. Undertake partial rehabilitation of Stokers Quarry
3. Proceed with the undertaking of complete rehabilitation of Stokers Quarry with landform shaping and include provision for NRDWMBC trail improvements consistent with Scenario One of the attached master plan (this option does not provide for car parking and other mountain biking amenities on the quarry site).

Option 3 is recommended on the basis that this addresses Council's quarry rehabilitation requirements whilst also providing for enhanced mountain bike trails over time.

It is recommended that the rehabilitation works be funded from the existing quarry reserve. Given the reserve does not contain sufficient funds to meet the current full rehabilitation cost estimate, it is recommended that detailed rehabilitation planning and design is now progressed. If on detailed design there is a funding shortfall confirmed, the funding of the shortfall would be the subject of a further report to Council.

Funding is not presently proposed for the construction of additional mountain bike trails. However, where works that coincide with and/or support trail expansion within the quarry site can be undertaken as part of the rehabilitation works these can be incorporated into the rehabilitation where costs permit relative to the available funding.

RECOMMENDATIONS

1. That Council proceed with the undertaking of complete rehabilitation of Stokers Quarry inclusive of landform shaping and provision for NRDWMBC trail expansion and improvements consistent with Scenario One of the attached master plan (but not including car parking, skills parks or amenities).
2. That the quarry rehabilitation works be funded from the quarry reserve with any shortfall in funds identified following detailed design to be the subject of further reporting to Council.

Attachment(s)

1. Duck Creek Mountain Bike Master Plan [↗](#)

8.4 LEP Amendments and Planning Proposals - Status

8.4 LEP Amendments and Planning Proposals - Status

Section Strategic Planning

Objective To report on the status of Local Environmental Plan amendments and planning proposals that are currently under consideration.

Background

Council has an ongoing program of processing amendments to 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 and those finalised since the last update report was provided. 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, Infrastructure and Housing (DPIH).

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 7)	<p>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 (more than forecast need) for residential purposes and facilitate the provision of affordable housing.</p> <p>At Council's 22 June 2023 Ordinary meeting Council resolved to finalise the Planning Proposal and execute the VPA.</p> <p>The LEP amendment was made and published on 27 October 2023.</p>	Completed 27/10/2023

8.4 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)	<p>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.</p> <p>The assessment of submissions has been completed.</p> <p>At the Ordinary meeting held on 29 September 2023 Council resolved to allocate a conservation zone only to properties included in the deferred matters review planning proposal where a written request from the landowner has been received to do so, with all other properties to be zoned the closest equivalent zone to their current BLEP 1987 zone.</p> <p>At its November 2023 Ordinary meeting, Council resolved to amend the exhibited planning proposal and to adopt a staged approach to completing the transitioning of deferred matters from Ballina LEP 1987 to Ballina LEP 2012. Further to the resolution, a request was sent to the Department of Planning, Housing, and Infrastructure (DPHI) on 29 November 2023 with all mapping and other documentation to seek to amend the Gateway determination and enable an extension of time to complete the amended planning proposal. Significant additional information has been submitted to the DPHI, including on 15 January 2024, to assist the Department's consideration. The DPHI is still considering Council's submission.</p>	<p>15/12/2023*</p> <p>* Awaiting DPHI extension of time to complete</p>
22/005	Southern Cross Industrial Estate Expansion (Stage 2)	<p>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.</p> <p>An updated flood study that takes account of future airport operations has recently been completed. This matter was the subject of a report to Council's February 2024 Commercial Services Committee.</p>	#

8.4 LEP Amendments and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
22/006	Tuckombil Quarry High Technology (Stage 4)	<p>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.</p> <p>At its 26 May 2022 Ordinary meeting Council adopted recommendations from the 19 May 2022 Finance and Facilities Committee meeting to engage relevant experts to prepare a planning proposal and seek a Gateway Determination for the site rezoning and authorise public exhibition of that proposal.</p> <p>The Department of Planning, Housing and Infrastructure (DPHI) issued a Gateway determination on 8 August 2023 that included a condition to require an update to the Contamination Assessment.</p> <p>A contamination assessment report has been completed and public exhibition of the proposal has concluded. Five submissions were received.</p> <p>Submissions from the Biodiversity Conservation Division and Transport for NSW (TfNSW) were also received. TfNSW has requested further traffic assessment, particularly in relation to potential impacts on the intersection at the Bruxner Highway. Further consideration of biodiversity attributes is also required.</p> <p>Address of the issues raised through the exhibition process is underway.</p> <p>DPIH has approved an extension to finalise the Planning Proposal.</p>	08/05/2024
22/007	Burns Point Ferry Road (Stage 7)	<p>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.</p> <p>The planning proposal was publicly exhibited during April and May (concluding on 12 May 2023).</p> <p>The Planning Proposal was finalised by Council. Subsequently, the landowner requested an independent review of the application of the C2 Zone by the Planning Secretary of DPE. The review was completed in November 2023 and the amendment published on 1 December 2023 rezoning the site to C2.</p>	Completed 1/12/2023
22/008	Johnstone Land (Stage 1)	<p>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.</p> <p>Proponent has been advised that additional information is required. Council is also engaging with the proponent in relation to biodiversity considerations.</p>	#

8.4 LEP Amendments and Planning Proposals - Status

Item	Name and Status	Summary and Notes	Completion Due
22/009	Banyan Hill Estate Zoning Anomalies (Stage 7)	<p>Proposal to adjust various zone boundaries within the Banyan Hills Estate to accurately reflect the current cadastre and subdivision plan.</p> <p>This planning proposal was superseded and the LEP amendment expedited through S3.22 of the <i>Environmental Planning and Assessment Act 1979</i>, whereby obvious errors (such as this amendment with cadastral misalignments) in an LEP can be rectified and the amendment made without the need to go through the planning proposal process.</p> <p>This mapping amendment was dependent on the Ballina Heights Neighbourhood Commercial Centre map amendments (see item 21/002 above) first being finalised by DPE, which occurred on 27 October 2023. This LEP amendment was then finalised and made on 1 December 2023.</p>	Completed 1/12/2023
22/010	Wollongbar Dual Occupancy (Stage 7)	<p>Proposal to amend the Additional Permitted Uses schedule in BLEP 2012 to permit attached dual occupancy development in R2 zone in Wollongbar on lots >900m².</p> <p>DPE issued a Gateway determination on 19 May 2023. Following consultation with the NSW Rural Fire Service the planning proposal was publicly exhibited from 24 July to 25 August 2023.</p> <p>Council finalised the Planning Proposal at its Ordinary meeting on 26 October 2023 and the LEP was made and published on 3 November 2023.</p>	Completed 3/11/2023
22/013	Sheather Land (Stage 1)	<p>Proposal to rezone land on western edge of Banyan Hill Estate to enable residential subdivision.</p> <p>The proponent has submitted additional information that was requested, and assessment of the proposal has commenced.</p>	#
<p>LEP Amendment Request/Planning Proposal Processing Stages</p> <ol style="list-style-type: none"> 1. Initial Concept - Proponent submits initial amendment concept for review and reporting to the Council. 2. Planning Proposal - Preparation of a planning proposal for the Council's consideration (if the initial concept is supported by the Council). 3. Gateway Determination - DPE determination as to whether the planning proposal may proceed (if the Council resolves to submit the planning proposal for determination). 4. Study Preparation - Relevant technical information to enable complete assessment compiled and considered. This step may also involve pre-exhibition public authority consultation. 5. Community Consultation - Planning proposal and associated technical assessment material exhibited for public comment. 5a. Public Hearing - Public Hearing held, where required. 6. Submissions Assessment and Council Decision - Reporting of community consultation outcomes and Council decision regarding finalisation of the planning proposal. 7. 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. <p># Denotes proposal number and due date subject to Gateway determination.</p> <p>The completion due date is a date determined by the Department of Planning, Industry and Environment.</p>			

Proposed LEP Amendment Requests

The following planning proposals are anticipated in the coming months:

- CURA B – the land known as CURA B at Kinvara adjacent to Ross Lane has been zoned for some time for housing and associated neighbourhood shopping and commercial uses. The proponents are now seeking to relocate the commercial precinct and make other changes to the overall layout of the release area, which requires amendment to the zoning and the Structure Plan in the CURA B Development Control Plan provisions.

The proponents have met with Council staff on several occasions and made a presentation to Councillors in December 2023 to discuss these changes and agree on a planning pathway. The proponents have advised their intention to submit the DCP amendment and planning proposal soon.

- CURA C – located at Tintenbar, the proponents made a presentation to Councillors in June 2023 about their broad intentions for the site and have met with staff prior to finalising the required documentation to support a rezoning proposal.

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 HE3.1g – Maintain Local Environmental Plan (LEP).

Community Engagement Strategy

Community engagement in accordance with Council's Community Participation Plan and Gateway determinations issued by the Department of Planning, Housing and Infrastructure 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 undertaken within existing resources. Fees are applied in accordance with Council's 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.

RECOMMENDATIONS

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

Attachment(s)

Nil

8.5 Public Murals on Private Walls - Ballina CBD

Section Strategic Planning

Objective To provide details regarding murals installed on the walls of private buildings in the Ballina CBD in accordance with Section 67 (Private Works) of the Local Government Act.

Background

At the 28 September 2023 Ordinary meeting Council resolved as follows:

1. *In accordance with Section 67 (Private Works) of the Local Government Act, Council approves the use of Council's public art funds for the installation of mural art on the walls of two properties at 34 - 38 Cherry Street and 2/105 River Street, Ballina as part of the Ballina Street Art Project, at no charge to the landowner.*
2. *That Council, with respect to point one above, note the cost of the mural installations is estimated to be \$20,000 and the reasons for not charging the property owners are:*
 - *The works primarily relate to achievement of wider community benefits through improving the visual amenity of the area and reducing graffiti potential.*
 - *The works address the public domain.*
 - *The works are minor.*
 - *Any private benefit to the property owner is reasonable in the circumstances.*

Council did not charge a fee to the property owners for hosting the public art works as the works are seeking to provide wider community benefit through improving visual amenity and encouraging a greater sense of place.

This report provides details of the work undertaken to complete the murals in accordance with Section 67 of the Local Government Act 1993.

Key Issues

- Compliance with Section 67 - Private Works of the Local Government Act 1993
- Community outcomes

Discussion

Now that the murals on the private buildings in Cherry Street and River Street in the CBD are complete, section 67 of the Local Government Act 1993 requires details of the works to be provided to a Council meeting in accordance with subsection (4).

8.5 Public Murals on Private Walls - Ballina CBD

Section 67, clauses (1) to (4) are reproduced as follows:

67 Private works

- (1) *A council may, by agreement with the owner or occupier of any private land, carry out on the land any kind of work that may lawfully be carried out on the land.*
- (2) *A council must not carry out work under this section unless—*
 - (a) *it proposes to charge an approved fee for carrying out the work as determined by the council in accordance with Division 2 of Part 10 of Chapter 15, or*
 - (b) *if it proposes to charge an amount less than the approved fee, the decision to carry out the work is made, and the proposed fee to be charged is determined, by resolution of the council at an open meeting before the work is carried out.*
- (3) *A council must include details or a summary of any resolutions made under this section and of work carried out under subsection (2)(b) in its next annual report.*
- (4) *A report of work to which subsection (2)(b) applies must be given to the next meeting of the council after the work is carried out specifying—*
 - *the person for whom the work was carried out*
 - *the nature of the work*
 - *the type and quantity of materials used*
 - *the charge made for those materials*
 - *the total of the number of hours taken by each person who carried out the work*
 - *the total amount charged for carrying out the work (including the charge made for materials)*
 - *the reason for carrying out the work.*

The details required to satisfy section 67(4) are provided in the following table.

Detail	2/105 River Street	34 - 38 Cherry Street
The person for whom the work was carried out	Ballina Shire community and Property Owner – Dan Walsh	Ballina Shire community and Property Owner – Wayne Porter
The nature of the work	Painted mural	Painted mural
The type and quantity of materials used	Approx 40 litres of exterior house paint and 24 cans of spray paint (assorted colours)	Approx 48 litres of exterior house paint (assorted colours)
The charge made for those materials	\$2,500 (excludes equipment hire)	\$1,900 (excludes equipment hire)
The total of the number of hours taken by each person who conducted the work	Design and install 58 hours	Design and install 75 hours
The total amount charged for conducting the work (including the charge made for materials)	\$10,000 excl GST (labour, equipment and materials)	\$10,000 excl GST (labour, equipment and materials)

8.5 Public Murals on Private Walls - Ballina CBD

Detail	2/105 River Street	34 - 38 Cherry Street
The reason for conducting the work	The works provide broad community benefits through improving the visual amenity of the area, enhancing public art availability and reducing graffiti potential.	The works provide broad community benefits through improving the visual amenity of the area, enhancing public art availability and reducing graffiti potential.

Delivery Program Strategy / Operational Plan Activity

The project helps meet the Delivery Program and Operation Plan Strategy *CC2.1 Create events and activities that promote interaction and education*, as well as providing a sense of place and addressing actions *CC2.1a Implement Cultural Plan* and *CC2.1b Implement the Northern Rivers Community Gallery Creative Action Plan*.

Community Engagement Strategy

Council issued a letter, together with guidelines and an Expression of Interest form (EOI) to property owners and occupiers in the Winton Lane/Tamar Street carpark precinct in July 2023 to determine if any would be supportive of hosting street art on high profile or regularly tagged walls.

The EOI outlined the general roles and expectations of Council, property owners and artists involved in the project. The two private property owners listed in the table above expressed interest in hosting artworks.

A EOI process was undertaken to seek artists with the skills and experience to design and deliver suitable street art for the spaces identified through the project. Council's Public Art Advisory Panel (PAAP) reviewed the draft concepts provided for these spaces and offered feedback that was incorporated into the final mural design. Ongoing consultation occurred with selected artists and property owners to develop the artwork concept, methodology and installation schedule.

Financial / Risk Considerations

Prior to implementation, Council's PAAP identified a budget of \$20,000 to provide murals on privately owned walls that have frontage to the public domain. This budget was sourced from the Public Art fund which is made up of recurrent funding Council allocates to public art each year and contributions from developers as required by the Public Art Policy.

Options

This report provides detail on the artworks that have now been installed on two privately owned buildings in the CBD. This is to satisfy the requirement of Section 67 (Private Works) of the *Local Government Act 1993*, and specifically subsection (4) It is recommended that Council notes the contents of this report.

RECOMMENDATION

That, in accordance with Section 67 (Private Works) of the Local Government Act 1993, Council notes the contents of this report regarding the details of artworks installed on the walls of two private properties at 34 - 38 Cherry Street and 2/105 River Street, Ballina.

Attachment(s)

Nil

8.6 Policy (Review) - Fire Asset Protection Zones - Private Use

8.6 Policy (Review) - Fire Asset Protection Zones - Private Use

Section Open Spaces

Objective To review the Fire Asset Protection Zones - Private Use of Public Land policy

Background

All of Council's existing policies are progressively reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Fire Asset Protection Zones – Private Use of Public Land policy.

Council first adopted this policy in April 2007 and then reviewed it in 2011, 2016 and 2020.

The objective of the policy is to regulate the use of public land in respect of its use as a fire asset protection zone.

Essentially the policy requires new subdivisions to ensure adjoining public land is not included in the assessment for the required asset protection zones meaning these zones are provided and maintained on private land.

Key Issues

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

Discussion

This review of this policy identified only a minor change to update a legislative reference. The change has been marked in yellow (Attachment 1).

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

Delivery Program Strategy / Operational Plan Activity

The content of the policy relates to PE3.2 Facilitate residential land, HE3.1 Implement plans that balance the built environment with the natural environment and EL2.3 Provide effective risk and safety practices.

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 public comment.

Financial / Risk Considerations

The NSW Rural Fire Service has requirements for asset protection zones around developments of identified bushfire prone land.

The policy ensures that public land is not the subject of financial burden for the purposes of private development.

Options

Council may accept or amend the proposed changes to the policy.

The changes included are minor 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, that no further action is required.

RECOMMENDATIONS

1. That Council adopts the amended Fire Asset Protection Zones – Private Use of Public Land policy, as per Attachment 1 to this report
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received, then no further action is required.

Attachment(s)

1. Policy (Review) - Fire Asset Protection Zones - Private Use of Public Land
[⇒](#)

8.7 Policy (Review) - Markets on Public Land

Section	Strategic Planning
Objective	To review the Markets on Public Land Policy.

Background

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

The purpose of this report is to provide an overview of a review of the Markets on Public Land policy.

The policy provides direction on operating markets on public land.

Council first adopted this policy in March 2006 and the policy was revised again in 2012, 2016, and 2020.

Key Issues

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

Discussion

The purpose of this policy is to provide a framework for how market managers may obtain approval to hold a market on public land in Ballina Shire that is owned or managed by Council, including parks, open spaces or streets.

This review of this policy identified only minor wording changes.

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

Changes have been marked in yellow and proposed deletions have been marked in red and struck through.

The changes to the policy are minor and include the following.

- adjusting the timeframe for extension to appointments after the first year of a market's operation from three years to four years (this equates to a potential for a five year term, which is consistent with current Council practice).
- updating references to relevant legislation.
- updating the development approval status of key event sites.

The policy is contemporary and reflects current legislation.

Therefore, no further changes are recommended.

Delivery Program Strategy / Operational Plan Activity

CC2.2 – Create events and activities that promote interaction and education, as well as a sense of place.

CC3.3 - Support improved health outcomes by providing equitable access to sporting, recreational and community facilities.

Community Engagement Strategy

As the changes are only minor it is recommended that Council adopt the amended policy as attached.

However, it is also recommended the document be exhibited for public comment.

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

Financial / Risk Considerations

The proposed changes to the policy do not create any additional risk or financial considerations.

Options

Council may accept or amend the proposed changes to the policy.

The changes included are minor in nature 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, that no further action is required.

RECOMMENDATIONS

1. That Council adopts the amended Markets on Public Land Policy as per Attachment 1 to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be reported to Council. If no submissions are received, then no further action is required.

Attachment(s)

1. Policy (Review) - Markets on Public Land [↗](#)

8.8 Development Applications - Works in Progress - February 2024

This report provides an overview of current development application activity. The data for the current year is to the end of the month prior to the date of this report (i.e. to the end of December 2023, noting no January meeting). A list of development applications, not yet determined, that have been under assessment for a period of greater than 90 days is attached.

The 90 day threshold has been chosen as it provides a good indication of the volume of DAs that are in progress and overall workload. The data and reporting are continually being refined and there may be adjustments that result in alterations to the data sets as the reporting is improved.

Outstanding DAs by Month

The following tables for 2022 and 2023 provide an indication of the number of DAs (including modifications) under assessment with reference to various timeframes.

Assessment Timeframe	2022											
	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sept	Oct	Nov	Dec
Less than 90 days	107	150	109	147	113	140	92	115	107	142	74	87
90 to 180 days	159	140	163	127	131	93	117	99	113	92	118	104
180 to 365 days	67	63	82	71	97	87	85	69	82	69	91	79
More than 365 days	23	23	31	29	34	30	41	34	37	36	50	48
TOTAL	356	376	385	374	375	350	335	317	339	339	333	318

Assessment Timeframe	2023											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
Less than 90 days	61	91	73	101	72	95	93	93	66	77	38	56
90 to 180 days	114	97	83	73	93	70	69	49	69	56	74	70
180 to 365 days	86	79	103	91	84	63	70	61	63	53	72	64
More than 365 days	52	47	40	37	52	47	38	34	46	41	51	47
TOTAL	313	314	299	302	301	275	270	237	244	227	235	237

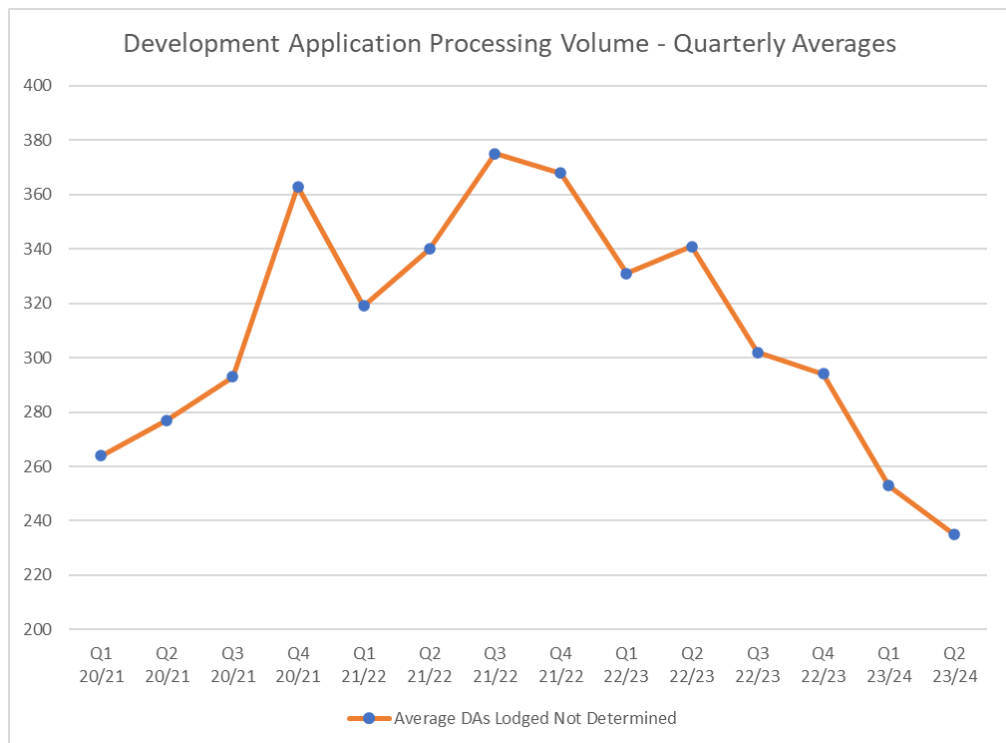
The number of outstanding (lodged but not determined) DAs this financial year has seen a sustained reduction. Continuing to reduce this number of outstanding DAs remains an important focus.

DA Determination Trend (Financial Year Comparison)

The following chart provides an overview of the volume of development applications lodged but not determined each quarter for the period July 2020 to the end of October 2023.

8.8 Development Applications - Works in Progress - February 2024

The quarterly figure represents the three monthly average of DAs lodged but not determined for that quarter.



The period between Q4 2020/21 and Q1 2021/22 aligns with the introduction of the NSW planning portal. This caused some fluctuation in the figures around this time primarily due to the portal changing the way DAs are received and lodged.

Since the peak of applications lodged but not determined in March 2022 there has been a steady reduction in the volume of DAs under assessment at any one time, and a particularly noticeable decline across the last two quarters.

There is an ongoing challenge though in that there are continuing position vacancies for development assessment planners and building surveyors.

With respect to what is commonly referred to as the DA backlog, it is important to recognise that there will always be DAs under assessment.

In this regard it is not uncommon for councils like Ballina Shire to have more than 250 applications under assessment at any one time.

A focus at present is to achieve a further reduction in the number of applications under assessment at any one time, to complete assessments of DAs for alterations and additions to dwelling houses and construction of new dwelling houses and dual occupancies and to continue to progress the determination of older applications in the system.

There are also other development related services and responsibilities that flow on from when a DA assessment and determination has been completed.

8.8 Development Applications - Works in Progress - February 2024

For example, the Development Services Section has a range of responsibilities other than DA assessment including development compliance, building information certificates, subdivision works and subdivision certificate assessment, construction certificate assessment and critical stage building inspections, occupation certificate assessment, s.68 plumbing and drainage inspections and approvals and s.138 Roads Act approvals.

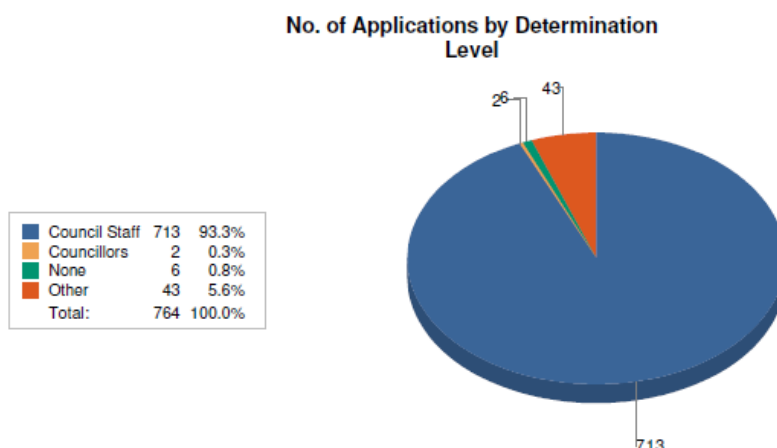
In addition, there are swimming pool barrier compliance inspections and certification, essential fire safety programs, provision of planning certificates, address of customer planning and building enquiries and formal pre-DA lodgement meetings.

There are also considerable ongoing changes to Council's systems and processes to align with the State Government's planning reform agenda including the operation of the NSW Planning Portal and numerous environmental planning instrument changes.

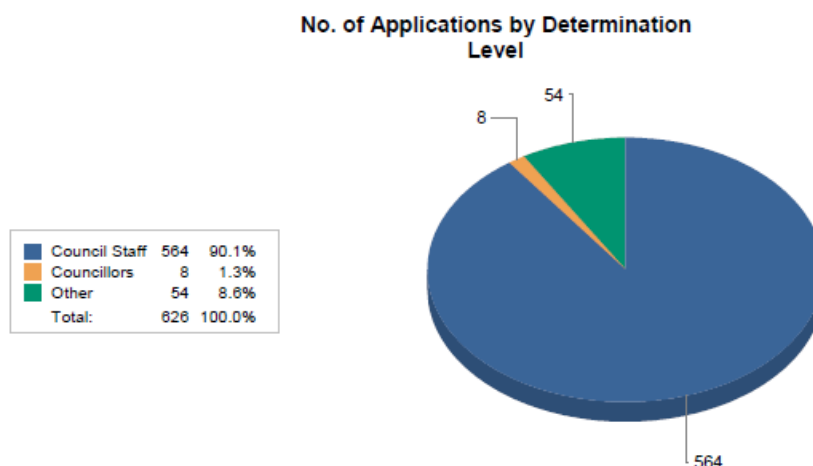
Determination Method

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

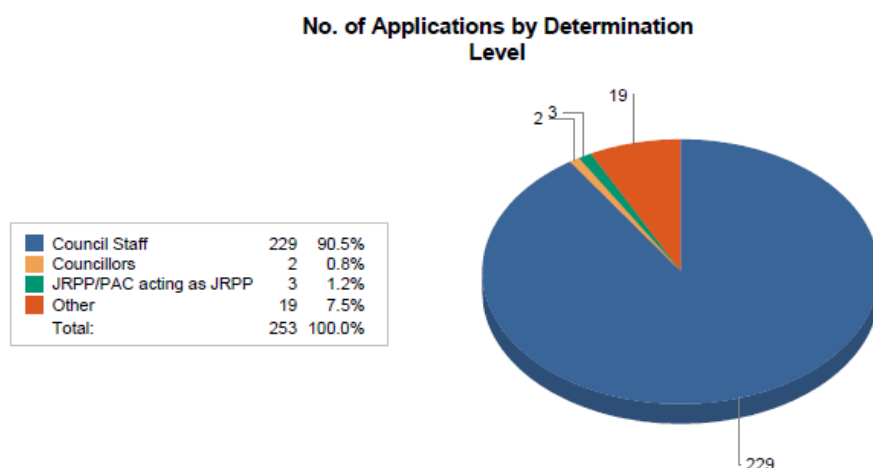
2021/2022



2022/2023



July 2023 to December 2023



In the July to December 2023 period, 98% of applications determined have been resolved by staff under delegation.

The target for the percentage of applications determined under delegated authority in the 2022/23 Delivery Program and Operational Plan is >95%.

Three applications were determined by the Northern Regional Planning Panel.

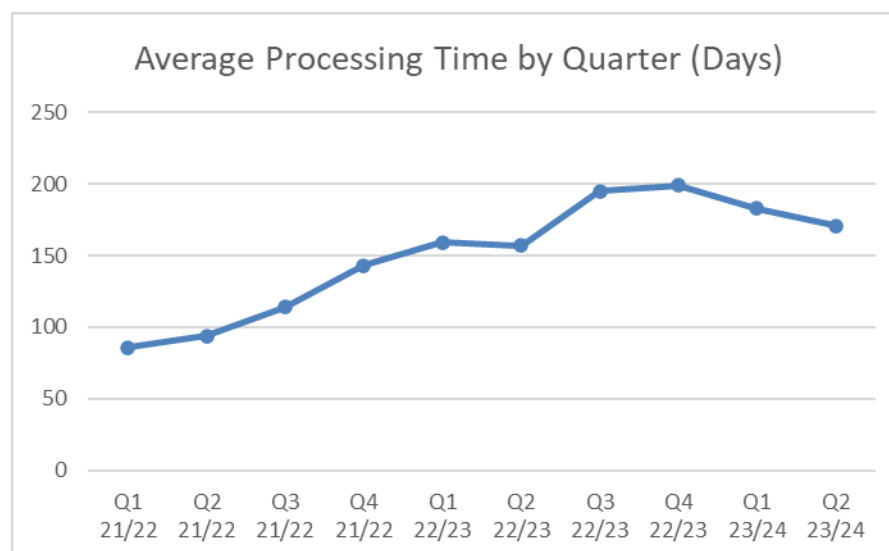
Determination Outcome

In relation to the determination of DAs, most development applications are determined by way of approval.

In the financial year to date 97% of all applications determined by Council have been approved. In the previous two financial years the approval rate has been 98.2% (2022/23) and 98.9% (2021/22).

Processing Time

The following indicates average processing times for DAs by month. The chart below shows the trend for the last three financial years via the average quarterly processing time per quarter.



Like the number of DAs undetermined, the average assessment time is a continued reflection of previous years' high DA volumes and complexity of incoming applications, ongoing management of numerous large development and subdivision projects and the determination of long outstanding DAs, which significantly contribute to average processing times.

There is a downward trend on assessment times emerging. However, a long-term downward trend is dependent on a sustained reduction in the number of DAs in the system that have been undetermined for a lengthy period.

The current resourcing strategy, including the engagement of external assistance, is aimed at reducing the volume of DAs held each month and in turn average processing times over a 12 to 18 month period. Being able to fill the current staff vacancies is critical to this strategy.

Total DA Volume

The next table provides an indication of the total volume of DAs annually. The figures are for DAs and section 4.55 modifications and do not include complying development certificates or other related applications for approvals. The volume of incoming DAs submitted has reduced throughout 2023 resulting in a 25% reduction in submitted applications for 2022/23 compared to 2021/22. This trend has continued in the current financial year.

Volume is not the only influence on the key assessment indicators. The type of applications received is also a factor and recently there have been enquiries and applications relating to substantial residential subdivisions, commercial, mixed use and multi storey developments. There is an ongoing trend indicating that it is likely Council will see a greater proportion of this type of development proposal during 2024.

	Year						
	17/18	18/19	19/20	20/21	21/22	22/23	23/24 YTD
No. of DAs Submitted	861	890	976	1,093	1,020	759	317
% Change	N/A	+3.4%	+9.7%	+12%	-7.2%	-25%	NA

Residential Subdivisions

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

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

Subdivision certificates for a number of these subdivisional estates are ongoing. Notably the final stage subdivision certificate for Aureus was released in mid-November.

In addition to the work associated with the roll out of these subdivisions and creation of registered lots, considerable Council resources are applied to the subsequent dwelling and dual occupancy approvals on these newly created allotments, building construction inspections and certification and plumbing and drainage approvals and inspections.

External Assessment Program

Prior to the 2022/23 financial year, Council received some external assistance in the assessment of DAs. This included the Department of Planning's Regional Flying Squad.

Since the commencement of the 2022/23 financial year, planning consultants have been continuing to assist with the assessment of housing DAs. These consultants will continue with assessment work for Council (through Council engagements) to assist in reducing the volume of outstanding DAs and prioritising DAs for housing.

This is particularly important given the volume of applications with Council, the continued demand for housing supply and the difficulty in recruiting suitably qualified and experienced staff to fill existing vacancies.

In addition to these consultants, the Regional Housing Flying Squad announced a new program of assistance during 2022/23.

During the 2022/23 financial year 28 DAs were assigned to the flying squad for assessment. These applications are coordinated, reviewed and determined by Council, with the assessment being undertaken by the Regional Housing Flying Squad. Seven DAs have been assigned to date to the Flying Squad in 2023/24.

As an expansion of the external assistance program, Council has accessed an external resource program that LGNSW manages. The assessment of a number of housing related applications have been assigned under this program as well as a few commercial projects.

Overall, 174 DAs have been determined and 89 are being assessed under Council's external assessment program.

Key Issues and Improvement Measures

Influencing Factors

There have been a number of factors that have driven increases in assessment timeframes and the need for Council to alter and implement new processes.

These factors have had a significant impact on the delivery of assessment functions in recent years and particularly since the beginning of 2020. Some of the key factors are summarised below:

- Severe shortages in availability of skilled planning and building surveyor staff (this has been evident in significantly reduced numbers of applicants for positions across all councils on the North Coast and is worsened by a lack of housing availability (number and price) which has been a limiting factor in recruitment).
- Sharp and sustained increase in development activity and applications starting in mid 2020 in association with Covid restrictions through until 2022.
- Operational limitations associated with Covid restrictions during 2020, 2021 and 2022. This coincided with a peak in application lodgement and backlog.
- Significant disruption to service availability due to the Northern NSW floods between February and June 2022 (not only were individual staff impacted in various ways, this also impacted our resource capacity as resources were directed to attending to flood clean up and recovery matters as a priority). Although a relatively short period of time, each 'shock' to the assessment system impacts Council's capacity to complete assessment and determinations and this then flows on for a period whilst the work is 'caught up'.
- Introduction of the NSW Planning Portal with limited support from DPE and ongoing change to the operation and administration of the portal.
- A very large NSW Government planning reform agenda which is diverting resources to consideration of policy matters and then in turn implementation of outcomes (changes to the planning certificate system and standardisation of conditions of consent are cases in point where substantial assessment staff time had to be directed to conforming with the DPE changes and set timeframes). We would also argue these mentioned changes have had minimal benefit and in the case of the Department's approach to conditions, this has actually slowed Council down by reducing the efficiency of well established internal processes.
- DPE's removal of the compliance levy which has had the result of requiring more time from our planners and building surveyors to be directed to compliance tasks.
- Several significant Court appeals which have been commenced based on information that was ultimately significantly amended or found to be deficient through the Court process. These types of cases direct huge amounts of staff time away from routine application work.
- Broader scale break down in the construction industry supply chain, industry labour shortages and changes in the way construction has been operating.

- Increasing revenue constraints on local government and increasing costs which limits capacity to quickly resource up when application volumes increase.

Ultimately, the challenges around assessment timing relate to a combination of factors, each of which has impacts in their own right and cumulatively have created circumstances where it is difficult to quickly reduce volumes and timeframes.

Operational Observations

Additional to some of the macro level issues that have impacted on assessment functions over the last few years, some other things that impact the efficiency of the assessment system at present include:

- High proportion of DAs seeking variations to LEP standards and DCP provisions with a large proportion of these variations not identified in lodgement documents or supported by cursory information.
- Many applications do not provide detail of the assessment undertaken against applicable provisions so assessment staff are having to repeat this work (or ask for it).
- Many large scale projects being submitted with information that is not commensurate with the nature and scale of the proposal which invariably leads to the need for more information.
- Applications commonly being submitted without standard reports and documentation (e.g. current BASIX certificates, landowner consent for the lodgement of an application, design plans with dimensions).
- Pre-lodgement meeting advice is often not addressed in application material (i.e. showing how advice has been considered or why it has not been incorporated into applications when there is no change to a proposal).
- Community expectation around environmental and amenity outcomes is increasing along with scrutiny and community interest in transparency and information availability.
- The complexity of the system and the scope of items that assessment staff need to demonstrate have been taken into account is always increasing (both from a community and Department of Planning perspective). The Department of Planning has audited Council twice in recent years in relation to the assessment of 4.6 variations and the suitability of associated information and documentation utilised in decision making.
- There is often a lack of information flow between applicants (consultants) and owners whereby owners do not seem to fully appreciate why an issue has arisen and the options for solution. This leads to increased contacts on DAs and sometimes confusion.
- Post consent tasks are increasing particularly in relation to the implementation of conditions of consent. It is now unfortunately quite common for core elements of the condition sets to be overlooked or not acted on up front by applicants which in turn leads to increased pressure points and scrambling for solutions at post consent stages, consuming assessment time on things that really should be attended to by the beneficiary of the consent.

Solutions

The following is a summary of key actions being taken by staff that aim to improve processing efficiency and assessment outcomes. Staff are consistency engaged in business improvement initiatives and focus on this is continuing through 2024.

- Overarching review of development assessment process, including review of individual steps in the assessment process. This commenced in November 2023.
- Increased the number of FTE positions undertaking and supporting development assessment work.
- Created and filled a Business Support Officer position to oversee process improvement and operation of the NSW Planning Portal.
- Created and filled a Technical Support Officer position to undertake tasks to directly support planners and building surveyors (e.g. planning certificates, s68 and s138 approvals, adequacy reviews).
- Restructured the Development Services Section and redistributed the assessment workflows between planning and building staff (this has included changes to match our structure with skills available in the job market and to achieve consistency in assessment processes across classes of development).
- Established multiple trainee and graduate planning and building surveyor positions – essentially Council has been training a substantial number of staff to support long term availability of skilled assessment officers within Council and the region.
- Compiled and published various information requirement documents to guide applicants through our process.
- Set a standard for the expected quality of applications being received aiming to reduce the time that is directed to consistency poor applications, particularly from applicants who regularly repeat the submission of poor quality materials.
- Increased utilisation and reporting of data to support senior staff in decision making, process management and process improvements.
- Maintained a determination rate under delegated authority of greater than 98%.
- Utilised the Department of Planning Regional Flying Squad and LGNSW contract staff for the assessment of applications.
- Managing an outsourcing program whereby external consultant planners have been engaged to assess development applications to increase available assessment resources.
- Reviewing Chapters 3 and 4 of our DCP (subdivision and residential development) with a view to improving the operation of the provisions relative to staff and industry feedback. This includes consideration of provisions that are regularly varied and whether change is warranted to the parameters these provisions set.

- Undertaking a full review of the adequacy review process (the period where an application progresses from submission to lodgement) with the aim being to reduce the timeframe for this step. There is a balance here though between expediency in lodgement vs acceptance of poor quality or incomplete applications at this point which does not speed up the assessment process; it only redirects the point at which matters are raised and addressed.
- Identifying applications that are non-conforming or subject to significant information inadequacies for earlier refusal. Council has typically tried to work with applicants to resolve outstanding issues and whilst this remains the case, there are some applications that consume a disproportionate amount of resource in working through this process. Early refusal of applications can be beneficial in terms of assessment resources but it can also have the consequence of increased Court appeals which are very resource intensive and ultimately drain Council's resources.

How Can Industry Assist?

Improving assessment timeframes and outcomes can also be supported by industry. Industry can help in a few key ways such as (noting that many industry operators do the following very well and work proactively and productively with Council. These points do though relate to common challenges staff experience in the DA process):

- Ensuring that applications include a complete assessment of the relevant planning provisions inclusive of explanations as to how conclusions around compliance have been arrived at.
- Supporting applications with all of the material needed to show compliance up front (e.g. bushfire reports, LUCRAs, shadow diagrams).
- Ensuring supporting reports all refer to the development that is the subject of the application (e.g. make sure reports are all up to date with the latest plans as Council cannot reasonably accept conclusions about things like bushfire and amenity impact when plans reviewed by sub consultants don't match what is lodged).
- Utilising the application preparation process to inform applicants about better design outcomes and more compliant design outcomes.
- Utilising pathways for development that achieves compliance so there are less or no variations to provisions. The suggestion that simple DAs should be assessed in a 'factory' like way is reasonable when there is conformity but Council sees a high number of variances which in turn requires a greater level of assessment and justification.
- Addressing the feedback Council gives in pre-lodgements more directly so assessment staff know why choices have been made not to change or address something.
- Ensuring clients understand the rationale behind an issue being raised and solutions as opposed to perpetuating the age old concept of Council is being difficult.

- Supporting Council in having a single and/or consistent point of contact for an application (helping to minimise time spent addressing similar enquiries on an application, gathering of response information and misunderstandings or inconsistency regarding information being shared between Council, applicants, owners and builders).
- Engaging the strategic planning process ahead of a DA to address planning provisions that might be better adjusted (e.g. when there is obvious non-conformance looking at the strategic intent and outcomes with a view to demonstrating merit and altering the DCP to enable the development more readily through the statutory process).
- Ensuring that post consent, conditions are fully considered and addressed with suitable lead time etc before construction, works, subdivision certificates and the like are sought.

RECOMMENDATION

That Council notes the contents of the report on the status of outstanding development applications for February 2024.

Attachment(s)

1. Undetermined DAs (Under Assessment>90 Days) [⇒](#)

9.1 Use of Council Seal

9. Corporate and Community Division Reports

9.1 Use of Council Seal

RECOMMENDATION

That Council affix the Common Seal to the following documents.

US2024/ 1	<p>Ballina Shire Council Lease to Louise Rizzo for Shop 153 River Street, Ballina, for a three-year lease with a two-year option at market rent.</p> <p>Explanation: Ms Rizzo has leased the above premises since 2015 and runs a hairdressing business. Ms Rizzo has been a good tenant. The current lease is due to expire and Ms Rizzo has requested a new lease.</p>						
US2024/ 2	<p>1. That Council, in accordance with the relevant provisions of the Local Government Act 1993, enters into the following lease of <i>community land</i>:</p> <table><tr><th>Property</th><th>Tenant</th><th>Tenure</th></tr><tr><td>Lot 8 Section 5A DP 758047 – River Street, Ballina (Council is Crown Land Manager)</td><td>Country Women’s Association of New South Wales Incorporated</td><td>Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$587 per annum plus GST)</td></tr></table> <p>2. Council authorises the General Manager to affix the seal to the lease documents in point one and any other documents required to allow tenure to be granted in accordance with point one.</p> <p>3. That prior to points one and two being actioned, statutory public notification relating to the proposed lease of community land be undertaken, with a report to be presented to Council in the event that an objection of a substantive nature is received to the grant of the proposed lease.</p>	Property	Tenant	Tenure	Lot 8 Section 5A DP 758047 – River Street, Ballina (Council is Crown Land Manager)	Country Women’s Association of New South Wales Incorporated	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$587 per annum plus GST)
Property	Tenant	Tenure					
Lot 8 Section 5A DP 758047 – River Street, Ballina (Council is Crown Land Manager)	Country Women’s Association of New South Wales Incorporated	Four year lease at a rent equal to the statutory minimum charged by Crown Lands (currently \$587 per annum plus GST)					
US2024/ 3	<p>Ballina Shire Council Variation to Lease to R Mamone for Lot 4 DP 1195515, No. 18 Fawcett Street Ballina known as Wharf Bar and Restaurant. The variation to lease is to add an additional 5 + 5 year term to his current lease at market rent.</p> <p>Explanation: Mr Mamone has exercised the option on his current lease for a further five year term and requested consideration of an additional term due to disruptions to trade from COVID and floods. Following a rent review it is proposed to vary the current lease to add a 5 + 5 year term which equates to a 5 + 5 + 5 year lease at market rent. Mr Mamone has been in occupation of the premises for 10 years and is a good tenant.</p>						

Attachment(s) - Nil

9.2 Investment Summary - December 2023 and January 2024

Section Financial Services

Objective To provide details of Council's cash and investments portfolio breakup and performance

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. As there was no Ordinary Council meeting held in January 2024, this report has been prepared to confirm the cash and investments held as at 31 December 2023 and 31 January 2024.

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 and the Regulations, with a breach of Council's Investment Policy identified for the period of 23 January 2024 to 13 February 2024.

Key Issues

- Compliance with Investment Policy
- Return on investment

Discussion

Council's investments are in accordance with the Local Government Act and the Regulations.

The investments breached Council's investment policy on 23 January 2024.

An investment of \$7m was taken with National Australia Bank on 23 January 2024, which inadvertently increased the percentage for the institution to 20.9% of the total portfolio at that date. The allowable exposure to a single ADI/Counterparty is only 20.0% of the portfolio per clause 13.3 of Council's investment policy, reproduced below:

The following credit risk parameters apply to the investment portfolio:

Maximum/Minimum Thresholds – ADI/Counterparty Portfolio Limits			
Credit Rating	Maximum % of Total Portfolio	Minimum % of Total Portfolio	Exposure to a Single ADI/Counterparty
A- or higher	100%	40%	20% of portfolio
BBB and BBB+	60%	n/a	20% of portfolio

9.2 Investment Summary - December 2023 and January 2024

In accordance with Clause 18 of Council's investment policy no further investments have been made in National Australia Bank.

It is pointed out that clause 18 also states; *The objective will be to manage the portfolio back in accordance with the policy limits, within three months from the date the portfolio first exceeds the limit or threshold.*

The investments remained in breach until 13 February 2024, when a National Australia Bank investment of \$4m matured, thus reducing the holdings with that institution.

As at 13 February 2024, Council has \$19 million invested with National Australia Bank which represents 19% of the total portfolio.

The total balance of investments, as at 31 January 2024, was \$108.9m, compared to a balance of \$102.9m as at 31 December 2023 and a balance of \$99.9m as at 30 November 2023.

Council's investments, as at 31 January 2024, were invested at a weighted average interest rate of 5.186%, which was 0.835% higher than the January average 90 Day Bank Bill Index (BBSW) of 4.351%.

The balance of Council's Commonwealth Bank business account, as at 31 January 2024 was \$16,132,761, which compares to a balance of \$11,141,106 as at 31 December 2023 and a balance of \$18,529,282 as at 30 November 2023.

Total combined cash and investments, as at 31 January 2024 was \$125,032,761 compared to \$114,041,106 as at 31 December 2023 and \$118,429,282 at 30 November 2023.

The net decrease of \$4.4m in cash and investments from November to December is the result of loan repayments paid of \$4.2m along with regular creditors payments during the month, offset by grant funds received from Transport for NSW of \$1.2m.

The net increase of \$10.9m in cash and investments from December to January is the result of grant funding received of \$4.1m from Department of Industries for BBRF Infrastructure Projects and water rates instalments due the end of December received into early January at a time when regular creditors payments were small due to the Christmas/New Year break.

TCorp's monthly Economic Commentary report for January 2024 can be viewed using the following link: [Monthly economic report – January 2024 \(nsw.gov.au\)](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 following table reflects the portfolio percentages based on balances as at 30 June 2023.

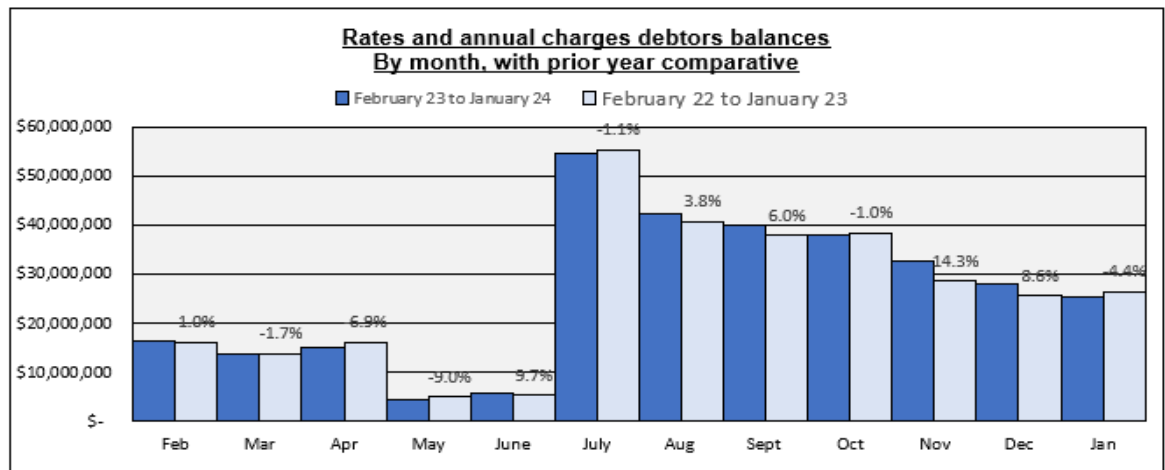
9.2 Investment Summary - December 2023 and January 2024

Reserve Name	Restriction	% Portfolio
Wastewater (incl developer contributions)	External	18.18%
Water (incl developer contributions)	External	15.32%
Section 7.11 Developer Contributions	External	13.40%
Domestic Waste Management	External	1.49%
Bonds and Deposits	External	3.88%
Specific Purpose Unexpended Grants	External	8.74%
Commercial Properties	External	0.81%
Carry Forward Works	Internal	2.43%
Bypass Maintenance	Internal	2.72%
Management Plans / Studies	Internal	1.15%
Airport	Internal	7.48%
Landfill and Resource Management	Internal	1.60%
Employee Leave Entitlements	Internal	2.22%
Quarries	Internal	0.49%
Property	Internal	5.85%
Plant and Vehicle Replacement	Internal	1.14%
Road Works	Internal	2.00%
Open Spaces	Internal	1.61%
Miscellaneous Internal Reserves	Internal	2.45%
Community Facilities	Internal	0.62%
Financial Assistance Grant in Advance	Internal	4.21%
Unrestricted		2.21%
Total		100.00%

Debtors

The following chart presents the month end balance of rates and annual charges debtors for the 12-month period ended 31 January 2024, and the percentage variance, in comparison to the prior year.

The debtors balance, as at 31 January 2024, was 4.4% lower than the balance as at 31 January 2023.



9.2 Investment Summary - December 2023 and January 2024

A. Investments by Institution

Funds Invested With	Fossil Fuel Free / Green	Rating S&P	31 December \$'000	31 January \$'000	Quota %	% of Total
AMP Bank	No	BBB	6,000	6,000	20%	5.50%
Australian Unity (1)	Yes	BBB+	3,000	3,000	20%	2.75%
Auswide Bank	Yes	BBB	7,000	7,000	20%	6.43%
Bank of Queensland (1)	Yes	BBB+	2,000	2,000	20%	1.84%
BankVic (1)	n/a	BBB+	7,000	5,000	20%	4.59%
Bendigo & Adelaide Bank	Yes	BBB+	1,000	1,000	20%	0.92%
Beyond Bank	Yes	BBB	2,000	2,000	20%	1.84%
Commonwealth Bank	No	AA-	18,000	17,000	20%	15.61%
Defence Bank Ltd (1)	n/a	BBB	4,000	7,000	20%	6.43%
Great Southern Bank	Yes	BBB	7,000	4,000	20%	3.67%
ING Bank (Australia) Ltd	No	A	11,000	17,000	20%	15.61%
Macquarie Bank	No	A+	1,600	1,600	20%	1.47%
MyState Bank Ltd	Yes	BBB+	5,000	2,000	20%	1.84%
National Australia Bank	No	AA-	19,000	23,000	20%	21.12%
Newcastle Perm Build Society	Yes	BBB	1,000	1,000	20%	0.92%
Suncorp Limited	Yes	A+	1,300	5,300	20%	4.87%
Westpac Bank Corp	No	AA-	7,000	5,000	20%	4.59%
Total			102,900	108,900		100.0%

(1) A review of environmental classification has been carried out utilising publicly available information from Market Forces (www.marketforces.org.au), with some institutions changing their position in relation to Fossil Fuel funding since the last review completed.

- Australian Unity, previously not classified by Market Forces, is now Fossil Fuel Free.
- Bank Of Queensland, previously Fossil Fuel aligned, have now advised no exposure to the industry and are now classed as Fossil Fuel Free.
- BankVic and Defence Bank, who previously quoted no direct investments in the fossil fuel industry, have not provided a recent statement of compliance to Market Forces and so are currently not classified.

Credit Rating Summary as per the Investment Policy	Maximum Allowed		Value 31 December \$'000	Value 31 January \$'000	%	%
	%	Value				
A- or Higher	100%	108,900	57,900	68,900	56.3%	63.3%
BBB	60%	65,340	45,000	40,000	43.7%	36.7%
Total			102,900	108,900	100.0%	100.0%

Liquidity Risk Parameters as per the Investment Policy	Maximum Allowed		Value 31 December \$'000	Value 31 January \$'000	%	%
	%	Value				
Term equal to 1 year or less	100%	108,900	94,000	101,000	91.4%	92.7%
Term > 1 year and < 3 years	40%	43,560	-	-	-	-
Term > 3 years	20%	21,780	8,900	7,900	8.6%	7.3%
Total			102,900	108,900	100.0%	100.0%

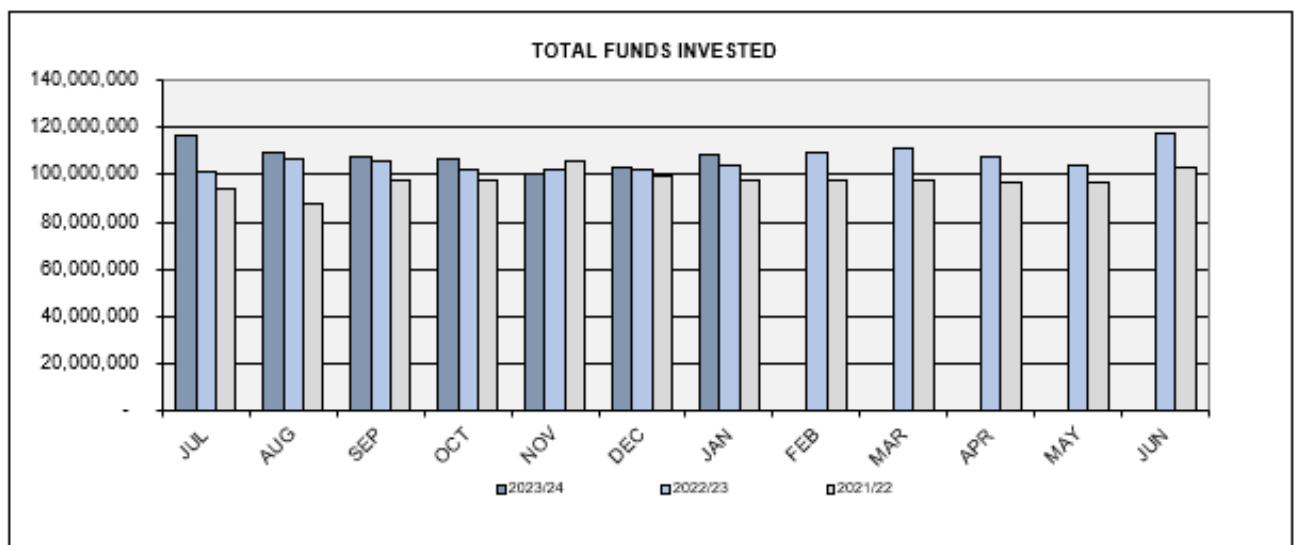
B. Fossil Fuel Free and Green Investments

Environmental Classification	31 December (1)		31 December		31 January	
	(\$'000)	(%)	(\$'000)	(%)	(\$'000)	(%)
Fossil Fuel Aligned and Non-Green Investments	64,600	62.8	62,600	60.8	69,600	63.9
Fossil Fuel Free Investments	35,300	34.3	29,300	28.5	27,300	25.1
Green Investments	0	0	0	0	0	0
Not Classified	3,000	2.9	11,000	10.7	12,000	11.0
Total	102,900	100.0	102,900	100.0	108,900	100.0

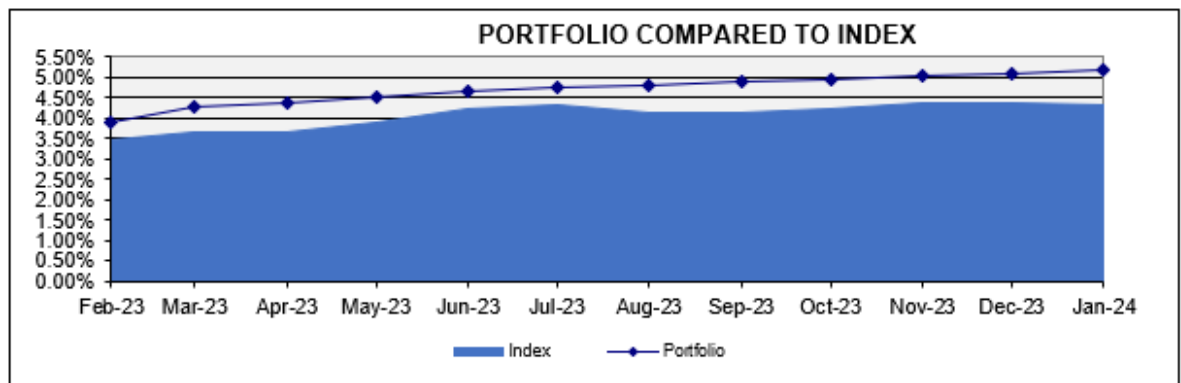
In January 2024, eight investments matured totalling \$17m. Three of these investments were held with a fossil fuel aligned institution (\$6m) and two investments were held in not classified (\$3m).

Seven new investments totalling \$23m were placed. Three of these investments were with non-fossil fuel aligned institutions with a value of \$13m and two investments with the value of \$4m that were not classified.

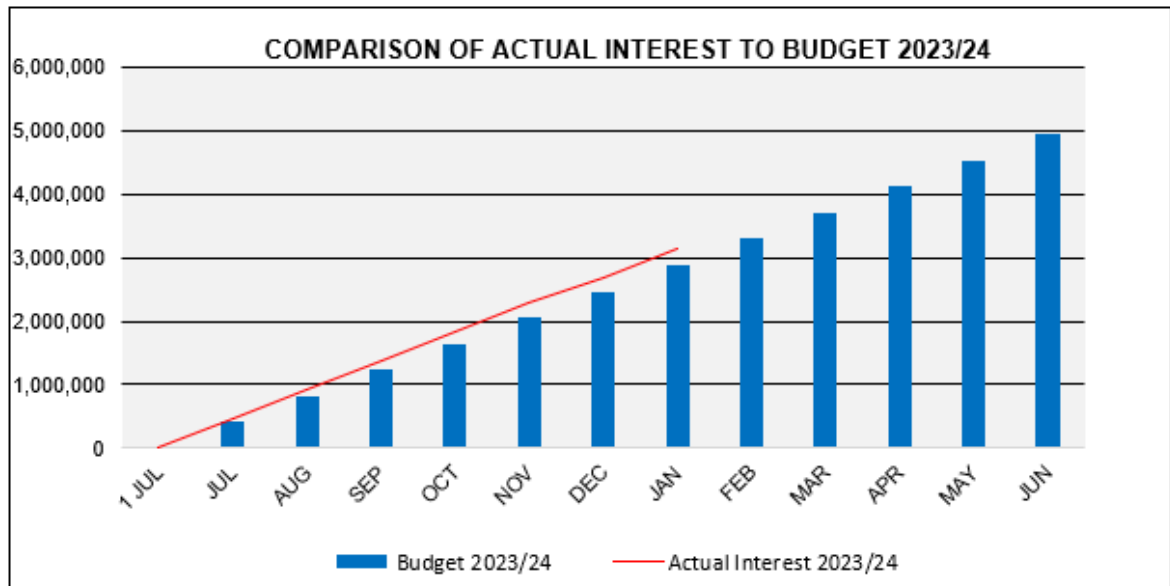
C. Monthly Comparison of Total Funds Invested



D. Comparison of Portfolio Investment Rate to 90 Day BBSW



E. Progressive Total of Interest Earned to Budget



Interest for the year to date is trending on track when compared to the revised budget adopted as part of the September Quarterly Budget Review.

A further review of the interest budget has been completed as part of the December 2023 quarterly budget review, which is a separate report to this meeting.

F. Investments held as of 31 December 2023 and 31 January 2024

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	31 December \$'000	31 January \$'000
11/01/19	Commonwealth Bank of Australia	FRN	5.27%	11/01/24	1,000	-
08/02/19	Westpac Banking Corporation	FRN	5.46%	06/02/24	2,000	2,000
24/02/21	Suncorp-Metway Limited	FRN	4.83%	24/02/26	1,300	1,300
04/03/21	Newcastle Permanent Bld Society	FRN	5.00%	04/03/26	1,000	1,000
18/06/21	Bendigo & Adelaide Bank	FRN	5.01%	18/06/26	1,000	1,000
29/06/23	AMP Bank	FRN	6.01%	29/06/26	1,000	1,000
14/09/23	Macquarie Bank Limited	FRN	5.20%	14/09/26	1,600	1,600
10/01/23	BankVic	TD	4.65%	09/01/24	1,000	-
18/01/23	Westpac Banking Corporation	TD	4.56%	17/01/24	2,000	-
24/01/23	BankVic	TD	4.50%	23/01/24	2,000	-
25/01/23	Auswide Bank	TD	4.60%	18/01/24	2,000	-
31/01/23	Great Southern Bank	TD	4.69%	25/01/24	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
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

9.2 Investment Summary - December 2023 and January 2024

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	31 December \$'000	31 January \$'000
04/04/23	Auswide Bank	TD	4.90%	10/04/24	1,000	1,000
23/05/23	Great Southern Bank	TD	5.11%	21/05/24	2,000	2,000
30/05/23	MyState Bank Ltd	TD	5.10%	28/05/24	2,000	2,000
31/05/23	Great Southern Bank	TD	4.70%	04/06/24	2,000	2,000
21/06/23	Australian Unity Bank	TD	5.60%	18/06/24	2,000	2,000
27/06/23	Commonwealth Bank of Australia	TD	5.50%	25/06/24	3,000	3,000
27/06/23	National Australia Bank	TD	5.40%	09/01/24	3,000	-
28/06/23	MyState Bank Ltd	TD	5.50%	18/01/24	3,000	-
28/08/23	Commonwealth Bank of Australia	TD	5.41%	26/08/24	3,000	3,000
29/08/23	Commonwealth Bank of Australia	TD	5.41%	27/08/24	4,000	4,000
27/09/23	National Australia Bank	TD	5.32%	23/09/24	2,000	2,000
05/10/23	ING Bank (Australia) Ltd	TD	5.27%	01/10/24	4,000	4,000
17/10/23	ING Bank (Australia) Ltd	TD	5.20%	15/10/24	2,000	2,000
01/11/23	ING Bank (Australia) Ltd	TD	5.47%	29/10/24	3,000	3,000
08/11/23	ING Bank (Australia) Ltd	TD	5.48%	06/11/24	2,000	2,000
08/11/23	Australian Unity Bank	TD	5.48%	12/11/24	1,000	1,000
29/11/23	Auswide Bank	TD	5.50%	26/11/24	1,000	1,000
05/12/23	BankVic	TD	5.47%	03/12/24	2,000	2,000
06/12/23	BankVic	TD	5.47%	03/12/24	2,000	2,000
12/12/23	Beyond Bank	TD	5.40%	10/12/24	2,000	2,000
19/12/23	AMP Bank	TD	5.25%	17/12/24	4,000	4,000
22/12/23	AMP Bank	TD	5.35%	19/12/24	1,000	1,000
02/01/24	ING Bank (Australia) Ltd	TD	5.32%	02/01/25	-	4,000
09/01/24	BankVic	TD	5.23%	07/01/25	-	1,000
09/01/24	Defence Bank Ltd	TD	5.23%	07/01/25	-	3,000
10/01/24	ING Bank (Australia) Ltd	TD	5.22%	08/01/25	-	2,000
18/01/24	Auswide Bank	TD	5.25%	15/01/25	-	2,000
23/01/24	National Australia Bank	TD	5.15%	23/01/25	-	7,000
29/01/24	Suncorp-Metway Limited	TD	5.20%	27/01/25	-	4,000
	Total				102,900	108,900
	TD=Term Deposit; FRN=Floating Rate Note					

RECOMMENDATION

That Council notes the report of banking and investments for December 2023 and January 2024

Attachment(s)

Nil

9.3 Councillor Expenses - Six Monthly Review

9.3 Councillor Expenses - Six Monthly Review

Delivery Program

Governance

Objective

To report on Councillor Expenses for the six month period to 31 December 2023.

Background

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

The purpose of this report is to comply with the policy.

Key Issues

- Councillor expenses and facilities expenditure
- Compliance with Council policy

Discussion

This report details the expenditure incurred for the period 1 July to 31 December 2023.

The expenditure is based on claims submitted and paid. It excludes the Councillor and Mayor annual allowances.

Councillor Expenses and Facilities Expenses (\$ excl GST) 1 July to 31 December 2023

Councillor	General Travel Expenses	Professional Development / Conferences	ICT	Home Office	Incidental	Mayor Vehicle (1)	Carer	Planning Panel (NRPP)	Subs	Totals
Cadwallader	1,937	2,764	227	0	237	6,000	0	600	227	11,992
Dicker	760	(2) 5,135	0	0	0	0	634	0	227	6,756
J Johnson	0	0	0	0	0	0	0	1,200	227	1,427
Chate	900	2,981	460	0	0	0	0	0	227	4,568
E Johnston	292	0	0	0	0	0	0	0	227	519
McCarthy	0	2,742	177	0	0	0	0	1,200	0	4,119
Buchanan	0	0	0	0	0	0	0	0	0	0
Ramsey	1,218	2,588	294	0	0	0	0	0	227	4,327
Meehan	150	618	218	65	0	0	0	0	0	1,051
Bruem	140	2,570	0	0	30	0	0	0	227	2,967
									Total	37,726

(1) Six-month internal plant charge for the provision of the Mayoral vehicle, which is offset by Mayoral contributions of 25% of the standard vehicle lease fee paid by Council staff – Mayoral contributions total - \$1,218.08.

(2) Arrangements have been made for the overpayment to be reimbursed.

9.3 Councillor Expenses - Six Monthly Review

The Councillor Expenses and Facilities policy provides the following limits (all monetary values are excluding GST):

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

Delivery Program Strategy / Operational Plan Activity

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

Community Consultation Policy

The Councillors Expenses and Facilities Policy must be reviewed within 12 months of an election. The last review of this policy occurred in 2022.

Financial / Risk Considerations

Council has funding allocated for this expenditure.

Options

This report is for noting.

RECOMMENDATION

That Council notes the contents of this update on Councillor expenses, as required by the Councillor Expenses and Facilities Policy, for the period 1 July to 31 December 2023.

Attachment(s)

Nil

9.4 Tender - Tamar Street Bus Interchange Upgrade

9.4 Tender - Tamar Street Bus Interchange Upgrade

Section Project Management Office

Objective To report the outcomes of the tender evaluation for the Tender - Tamar Street Bus Interchange Upgrade

Background

The works to be undertaken under this contract are Tamar Street Bus Interchange Upgrade.

Tenders were called on 8 December 2023 and at the close of tenders on 25 January 2024, two 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

Eighteen companies downloaded the documentation with tenders received from:

- AGS Commercial Pty Ltd
- Durack Civil Pty Ltd

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

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

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

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

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

Delivery Program Strategy / Operational Plan Activity

This project is included in Council's current Delivery Program and Operational Plan (DPOP) Capital Expenditure – Other Road Infrastructure.

Community Engagement Strategy

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

Financial / Risk Considerations

The allocated budget to the project is \$1.3m excluding GST. The total cost of the preferred tender is \$ 1.226m, excluding GST.

Options

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

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

(a) accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or

(b) decline to accept any of the tenders.

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

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 AGS Commercial Pty Ltd. for the Tender - Tamar Street Bus Interchange Upgrade for the total amount of \$1,226,320.38 (excluding GST).
2. That Council authorises the General Manager to sign the contract documents.

Attachment(s)

1. Confidential memorandum - Tender Report - Tamar Street Bus Interchange Upgrade (Under separate cover) (Confidential)

9.5 Tender - Ballina Coast and Estuary Coastal Management Program

9.5 Tender - Ballina Coast and Estuary Coastal Management Program

Section Public and Environmental Health

Objective To report the outcomes of the tender evaluation for the Tender - Ballina Coast and Estuary Coastal Management Program

Background

The works to be undertaken under this contract are Ballina Coast and Estuary Coastal Management Program (CMP) - Stage 2.

This CMP is required to identify and address, current and future risks, and to enhance the coordinated management of the coastal zone within the Ballina Shire.

The scope of this CMP includes Ballina Shire's open coast beaches from Patches to Seven Mile Beach, in addition to Shaws Bay, and the lower reaches of the Richmond River and North Creek.

The Stage 2 Studies were identified as knowledge gaps in the Stage 1 Scoping Study, that need to be completed to progress to Stages 3 and 4 of the CMP.

These studies include:

Stage 2 Task 1 - Coastal Hazard assessment

The objectives of the Coastal Hazard Assessment are to:

- i. Understand the nature and extent of risks to public safety, built assets, coastal land for infrastructure, cultural heritage/features, ecosystem health and recreational amenity from coastal hazards.
- ii. Understand the factors that contribute to vulnerability and to current and future risks.

Stage 2 Task 2 – Shoaling Assessment

Objectives of the Shoaling Assessment are to:

- i. Increase understanding of historical and current trends and increases in shoaling in the lower reaches of the Richmond River and North Creek Estuary.
- ii. Assist in identification of risks and threats related to shoaling to inform stages 3 and 4 of the CMP.

Stage 2 Task 3 – Coastal and Estuarine Habitat and Biodiversity Assessment

The objectives of the Coastal and Estuarine Habitat and Biodiversity Study are to:

9.5 Tender - Ballina Coast and Estuary Coastal Management Program

- i. Undertake a comprehensive assessment of the threats and stressors affecting coastal and estuarine habitats and biodiversity across the Coastal Management Areas within the Ballina Shire LGA (excluding the Shaws Bay CMP extent and Lake Ainsworth CMP extent) – to understand their respective causes and impacts.
- ii. To identify and assess opportunities and management actions to address these stressors, and in doing so meet the objectives of the CM Act.
- iii. Engage with relevant stakeholders regarding threats and stressors, and opportunities for action, including Traditional Owner Groups; State Government Agencies (including DPE, DPI Fisheries, NPWS, LLS); NGOs and community groups (Richmond Landcare etc.).

The project also includes:

Stage 2 Task 4 - Risk Assessment and Stage 2 Synthesis

The objectives of the Risk Assessment and Stage 2 Synthesis are to:

- i. Refine the risk assessment prepared for the Stage 1 scoping study through a detailed process, which incorporates additional information from studies prepared in Stage 2.
- ii. Highlight priorities for management actions.

Stage 2 Task 5 – Coastal Vulnerability Area (CVA) Mapping Development

The objectives of the CVA Mapping Development are to:

- i. Develop CVA mapping for the Ballina Shire LGA.

CVA mapping will be undertaken for the Ballina Shire LGA in accordance with the CM Act and CM SEPP.

The development of the CVA map will include consideration of coastal hazards contained in the Coastal Hazard Assessment, including:

- Beach erosion
- Shoreline recession
- Coastal lake or watercourse entrance instability
- Coastal inundation
- Coastal cliff or slope instability
- Tidal inundation
- Erosion and inundation under tides, waves, and catchment floodwaters.

Tenders for these services were called on 3 November 2023 and at the close of tenders on 8 December 2023, three 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

Twelve companies downloaded the documentation with tenders received from:

- Bluecoast Consulting Engineers Pty Ltd
- Hydrosphere Consulting
- Royal Haskoning

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

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

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

- | | |
|--|-----|
| • Pricing Structure | 45% |
| • Capability, Methodology and Experience | 40% |
| • Social and Community | 15% |

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

Delivery Program Strategy / Operational Plan Activity

The works and services are identified in Council's adopted Delivery Program and Operational Plan per HE1.2a – Implement Healthy Waterways Strategy.

Community Engagement Strategy

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

Financial / Risk Considerations

The total budget available for the stage 2 project is \$484,000. This is based on a 2:1 ratio under the State Government's Coastal and Estuary Grant Program where the State is providing \$323,000 and \$161,000 is provided by Council.

The total cost of the preferred tender is \$320,062, excluding GST.

Options

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

9.5 Tender - Ballina Coast and Estuary Coastal Management Program

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

Based on the tender evaluation, it is recommended that Council accept the tender from Bluecoast Consulting Engineers Pty Ltd.

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 Bluecoast Consulting Engineers Pty Ltd for the Tender - Ballina Coast and Estuary Coastal Management Program for the total amount of \$320,062.60 (excluding GST).
2. That Council authorises the General Manager to sign the contract documents.

Attachment(s)

1. Confidential memorandum - Tender Report - Ballina Coast and Estuary CMP - Stage 2 (Under separate cover) (Confidential)

9.6 Tender - Wastewater Mains Relining

Section Water and Wastewater

Objective To report the outcomes of the tender evaluation for the Tender - Wastewater Mains Relining

Background

The works to be undertaken under this contract are Wastewater Mains Relining.

Tenders were called on 15 November 2023 and at the close of tenders on 15 January 2024, four 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

Twenty companies downloaded the documentation with tenders received from:

- Abergeldie Rehabilitation Pty Ltd
- Interflow Pty Limited
- Pipe Management Australia Pty Ltd
- Veolia Environmental Service Pty Ltd

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

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

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

- Pricing Structure 70%
- Methodology and Capability 15%
- Local and Community 15%

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

Delivery Program Strategy / Operational Plan Activity

Wastewater relining is identified within Council's adopted Delivery Program and Operational Plan. The project is linked to Strategy HE2.1 Implement total water cycle management practices.

Community Engagement Strategy

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

Financial / Risk Considerations

There is currently \$300,000 identified within the 2023/24 financial year budget. This project is not considered to impose any additional financial risk to Council. Interflow's submission is below the pre-tender estimate.

The total cost of the preferred tender is \$265,243.22, excluding GST.

Options

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

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

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

Based on the tender evaluation, it is recommended that Council accept the tender from Interflow Pty Limited.

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 Interflow Pty Limited for the Tender - Wastewater Mains Relining for the total amount of \$265,243.22 (excluding GST).
2. That Council authorises the General Manager to sign the contract documents.

Attachment(s)

1. Confidential Memorandum - Tender Report - Wastewater Mains Relining (Under separate cover) (Confidential)

9.7 Tender - Ross Lane Safety Improvements

9.7 Tender - Ross Lane Safety Improvements

Section Project Management Office

Objective To report the outcomes of the tender evaluation for the Tender - Ross Lane Safety Improvements

Background

The works to be undertaken under this contract are Ross Lane Safety Improvements.

The proposed works include shoulder widening, asphalt overlays, signage and line marking installation and stormwater works. These road safety improvements are funded by the Transport for NSW Safer Roads Program.

Tenders were called on 24 May 2023 and at the close of tenders on 5 July 2023, three tender submissions were received.

The reporting of the tender submissions has been delayed due to Council applying for a grant variation of \$1.2m to allow the works to proceed.

Transport for NSW confirmed in February 2024 that the variation has been approved.

This report outlines the results of the tender process.

Key Issues

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

Discussion

Twenty companies downloaded the documentation with tenders received from:

- Winslow Infrastructure Pty Ltd.
- Durack Civil Pty Ltd.
- CD Civil Pty Ltd.
- Quickway Constructions Pty Ltd

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

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

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

9.7 Tender - Ross Lane Safety Improvements

- Pricing Structure 60%
- Capability and Experience 25%
- Local and Community 15%

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

Delivery Program Strategy / Operational Plan Activity

This project is included in Council's current Delivery Program and Operational Plan (DPOP) as a capital expenditure project.

Community Engagement Strategy

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

Financial / Risk Considerations

The allocated budget to the project is currently \$3,386,006 excluding GST available from Safer Roads Grant Funding.

The total cost of the preferred tender is \$3,429,661 excluding GST.

This means there is an approximate short fall of \$50,000. To fund this shortfall, it is proposed to allocate \$50,000 from the Regional Emergency Road Repair Fund.

This is a program where Council has been allocated two grants of \$1.3m and \$1.8m. These grants are for maintenance rehabilitation and upgrade works.

Shoulder sealing and carriageway widening are eligible activities.

This would mean the project would proceed without any contingency for variations. Accordingly, there is some risk that there will be a need for further budget adjustments later in the project.

As the project has been fully designed and we have a tender price, it is reasonable to expect that any further budget adjustments, if required, will be of a scale that can be managed within the overall adjustments that are typically undertaken within the roads program during the year.

Options

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

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

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

9.7 Tender - Ross Lane Safety Improvements

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

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 Durack Civil Pty Ltd. for the Tender - Ross Lane Safety Improvements for the total amount of \$3,429,661 (excluding GST).
2. That Council notes that \$50,000 from the Regional Emergency Road Repair Fund will be allocated to the budget for this project.
3. That Council authorises the General Manager to sign the contract documents.

Attachment(s)

1. Confidential Memorandum - Tender Report - Ross Lane Safety Improvements (Under separate cover) (Confidential)

9.8 Policy (Review) - Property Investment and Development

Section Governance

Objective To review the Property Investment and Development Policy.

Background

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

The purpose of this report is to review the Property Investment and Development Policy.

Council first adopted this policy in 2007.

The policy provides a framework to guide Council's commercial property development activities.

A copy of the current policy is attached to this report.

Key Issues

- Whether the policy meets the requirements of Council and current legislation
- Objectives and risk parameters

Discussion

The key part of the policy is the Risk Determination Matrix that provides benchmarks for the type of return Council should be pursuing based on the nature of the investment. That matrix is as follows:

Level of Risk	Benchmark Above 90 Day BBSW
Low	< 2%
Medium	2% to 5%
High	5% to 10%
Speculative	> 10%

Even with interest rates having risen during the past 12 – 18 months, the matrix is still relevant, and no changes are recommended.

The balance of the property regarding objectives, principles and the policy statement also reflect current practices and no changes are recommended.

Delivery Program Strategy / Operational Plan Activity

Council's commercial property activities generate significant revenues that support many of the Council services that operate at a net cost to the community, as outlined in the Delivery Program and Operational Plan.

Community Engagement Strategy

With no changes identified 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

Commercial property development carries an element of financial risk and the risk matrix in the policy provides guidance for managing that risk.

Options

Council may adopt the policy as presented or make changes to further improve the policy.

The recommendation is that the policy be adopted as presented, with it also being placed on public exhibition.

If no submissions are received from the exhibition process, no further action will be required.

RECOMMENDATIONS

1. That Council adopts the Property Investment and Development 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) - Property Investment and Development [↗](#)

9.9 Policy (Review) - Risk Management

Section Governance

Objective To review the Risk Management Policy.

Background

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

The purpose of this report is to review the Risk Management Policy to ensure that it is contemporary and aligns with the new Risk Management and Internal Audit Guidelines.

Council first adopted this policy in November 2014 with the most recent review in January 2020.

The purpose of this policy is to express Council's commitment to implementing organisation-wide risk management principles, systems and processes that ensure the consistent, efficient and effective assessment of risk in all Council's planning, decision-making and operational processes.

In December 2022, the Office of Local Government released the first draft *Risk Management and Internal Audit for local government in NSW Guidelines*. The final guidelines were released in November 2023. These Guidelines replace the NSW Government's Internal Audit Guidelines for Local Government in NSW issued in 2010.

The new Guidelines also include a Model Risk Management Policy. The Model Risk Management Policy outlines the purpose, importance, and role of risk management within Council. The revised Policy has embraced recommendations within the Model.

Key Issues

- Compliance with Local Government (General) Regulation
- Guidelines for Risk Management and Internal Audit for Local Government in NSW
- Whether the policy meets the requirements of Council and current legislation

Discussion

In November 2023, the Office of Local Government (OLG) released the Guidelines for Risk Management and Internal Audit for Local Government in NSW.

The Local Government (General) Regulation 2023 (the Regulation) has been amended to give statutory force to key elements of the OLG Guidelines for Risk Management and Internal Audit for Local Government in NSW (the Guidelines).

9.9 Policy (Review) - Risk Management

The Guidelines have been updated to reflect the regulation amendments and to support councils commence implementing the new requirements. The Guidelines also include a Model Risk Management Policy.

The OLG Guidelines for Risk Management and Internal Audit for Local Government in NSW are located on Office of Local Government's website as per the following link:

<https://www.olg.nsw.gov.au/councils/governance/risk-management-audit-and-internal-controls/risk-management-and-internal-audit-framework-for-local-councils-in-nsw/>.

Council must comply with the Guidelines from 1 July 2024.

The review of this policy identified the following changes:

- Inclusion of wording from the model template from Office of Local Government
- Clarification of roles and responsibilities

The additions to the policy wording have been marked in yellow with the deletions highlighted in red.

A copy of the amended policy is attached to the report.

Delivery Program Strategy / Operational Plan Activity

The Risk Management Policy is a critical component of ensuring accountability and transparency in Council's decision making, fraud and corruption prevention, and reporting processes. The Policy aligns with Strategy EL2.3 Provide effective risk and safety practices.

Community Engagement Strategy

The Audit Risk and Improvement Committee has been consulted on the proposed changes to the Risk Management Policy and are supportive of the policy being recommended to Council for adoption.

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

Managing risk is a legal requirement for Council, which requires appropriate level of resources to manage.

Failure to have adequate risk management will lead to financial implications such as increased insurance premiums and costs.

Options

Council may accept or amend the proposed changes to the policy.

The amendments align the policy to the Guidelines for Risk Management and Internal Audit for Local Government, and it is recommended that the policy be adopted as presented.

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

RECOMMENDATIONS

1. That Council adopts the amended Risk Management 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) - Risk Management [⇒](#)

9.10 Policy (Review) - Fraud and Corruption Control

9.10 Policy (Review) - Fraud and Corruption Control

Section Governance

Objective To review the Fraud and Corruption Control Policy.

Background

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

The purpose of this report is to review the Fraud and Corruption Control Policy to ensure that it is contemporary and aligns with the Risk Management Framework and Internal Audit Guidelines released by the Office of Local Government.

Council first adopted this policy in 2002 with the most recent review in January 2020.

The purpose of this policy is to express Council's commitment to implementing organisation-wide risk management principles, systems and processes that ensure the consistent, efficient and effective assessment of risk in all Council's planning, decision-making and operational processes.

Key Issues

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

Discussion

This review of this policy identified changes such as updating terminology, including relevant related documents and policy name changes.

The policy has been reported to the Audit Risk and Improvement Committee (ARIC) and reviewed by Council's Internal Auditors, Grant Thornton. Their feedback has also been incorporated into the review of this policy.

Additions are marked in yellow while deletions are in red.

The policy is still considered to be contemporary and reflects current legislation. A copy of the amended policy is attached to the report.

Delivery Program Strategy / Operational Plan Activity

The Fraud and Corruption Control Policy is an important component of ensuring accountability and transparency in Council's decision making, fraud and corruption prevention, and reporting processes.

The Policy aligns with Strategy EL2.3 *Provide effective risk and safety practices.*

Community Engagement Strategy

The Audit Risk and Improvement Committee has been consulted on the proposed changes to the Fraud and Corruption Control Policy and are supportive of the policy being recommended to Council for adoption.

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

Managing risk is a legal requirement for Council, which requires appropriate level of resources to manage.

The policy looks to provide a framework of controls to prevent financial loss and reputational risks resulting from corrupt behaviour.

Options

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

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

RECOMMENDATIONS

1. That Council adopts the Fraud and Corruption Control 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) - Fraud and Corruption Control [⇒](#)

9.11 Legal Matters - Update

9.11 Legal Matters - Update

Section Governance

Objective To provide the quarterly update on Council legal matters.

Background

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

This report focuses on Council's planning, building and compliance activities.

Key Issues

- Type, outcomes and cost of litigation

Discussion

A summary of current and recent legal cases follows.

Council Legal Rep	Applicant	Description	Estimate (\$)	Actual (\$)
Parker and Kissane Solicitors	Ooh! Media Assets Pty Ltd v Ballina Shire Council	Land and Environment Court - Class 1 Appeal Proceedings – Deemed refusal of development application 2022/33	50,000	95,000
Comment <p>DA 2022/33 involves the erection of an advertising structure for the purposes of digital advertising on land at 44 Bangalow Road, Ballina (Ballina Central).</p> <p>The matter was the subject of a section 34 conciliation conference on 28 February 2023. This conference was terminated, and a hearing was set for 3 and 4 August 2023.</p> <p>This hearing was adjourned pending the parties preparing additional information concerning the permissibility of the proposed development.</p> <p>A new hearing date has been set for 11 and 12 March 2024.</p>				
Lindsay Taylor Lawyers	Impact Property Consultancy Ptd Ltd v Ballina Shire Council	Land and Environment Court - Class 1 and 2 Appeal Proceedings – Deemed refusal of development application 2021/420 and section 68 applications relating to DA 2018/51 and 2022/284.	75,000	50,000

9.11 Legal Matters - Update

Council Legal Rep	Applicant	Description	Estimate (\$)	Actual (\$)
Comment DA 2020/284 and DA 2018/51 relate to approved subdivisions and DA 2021/420 to a proposed subdivision at 20 North Creek Road, Lennox Head (The Crest). The appeals relate to a deemed refusal of section 68 applications associated with subdivision works certificates for DA 2020/284 and DA 2018/51 and a development application for additional lots and lots redesign under DA 2021/420. A section 34 conciliation conference was held on 1 December 2022. Further site investigations and design documentation were undertaken by the applicant in advance of the section 34 conference resuming on 26 April 2023. The investigations revealed that Council's concerns were well founded necessitating a revised design. Following the cancellation of the conciliation conference and a revised set of plans, the matter was heard from 4 to 11 December 2023. The class 1 appeal (deemed refusal of DA 2021/420) was terminated by the applicant at the commencement of the hearing. After six days of evidence predominantly in relation to engineering, hydrological and ecological issues, the commissioner reserved judgment on both class 2 matters (deemed refusals of section 68 applications for DA 2018/51 and 2020/284).				
Lindsay Taylor Lawyers	GTH Resorts v Ballina Shire Council	Land and Environment Court - Class 1 Proceedings – Deemed refusal of development application 2022/721	500,000	109,000
Comment DA 2022/721 for the development of 148 independent living units for a seniors housing community with associated manager's residence, community facilities, infrastructure and services at 550-578 River Street, Ballina. At the first directions hearing on 21 August 2023 a section 34 conciliation conference was scheduled for 8 March 2024. A second directions hearing is set for 18 March 2024.				
Lindsay Taylor Lawyers	Alstonville Agricultural Society Inc. v Ballina Shire Council	Land and Environment Court - Class 1 Proceedings – Order Issued for Unauthorised Works	35,000	2,500
Comment Council issued an Order under Schedule 5 of the Environmental Planning and Assessment Act 1979 on 21 September 2023 to the Alstonville Agricultural Society Inc. regarding the unlawful erection of stock holding yards at the Alstonville Showground. At the first directions hearing on 6 November 2023, a section 34 conciliation conference was scheduled for 30 April 2024. A second directions hearing is set for 6 May 2024.				
Lindsay Taylor Lawyers	Trevor Brand	Land and Environment Court – Class 1 Proceedings – Refusal of development application 2022/333 – 43 Ballina Street, Lennox Head	50,000	0
Comment This relates to a Class 1 Appeal against Council's refusal of DA 2022/333 for alterations and additions to an existing dwelling house, two lot strata subdivision and construction of a new dwelling at 43 Ballina Street, Lennox Head. The matter is listed for hearing on 29,30 and 31 July 2024.				

Delivery Program Strategy / Operational Plan Activity

Legal cases are linked to Delivery Program strategies such as:

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

Community Consultation Policy

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

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

Financial / Risk Considerations

The following table provides a summary of planning related legal costs for recent years including costs for 2023/24 to mid-February 2024.

Table 1 – Legal Expenditure 2021/22 to 2023/24

Description	2021/22	2022/23	2023/24
DA 2017/244 - Skennars Head – Aureus – Intrapac	32,000	0	0
The Beach House	4,000	14,400	0
DA 2018/321 - Palm Lake	3,000	0	0
DA 2018/381 - 404 Old Byron Bay Road (White)	7,100	0	0
DA 2020/49 – 38 Newrybar Swamp Road (Anderson)	13,700	0	0
DA 2020/192 – GTH Resorts (GemLife)	307,300	0	0
DA 2021/137 – 10 Old Pacific Highway (Newrybar Pty. Ltd)	0	26,100	0
DA 2021/605 – 38 Dress Circle Drive (Snashall)	0	114,000	0
DA 2022/33 – Bangalow Road (Advertising Sign)	0	18,000	77,100
DA 2022/284 – The Crest (DA 2018/51 and 2021/420)	0	16,100	33,800
DA 2022/469 – 404 Old Byron Bay Road (New DA)	0	11,800	0
DA 2022/721 – GTH Resorts (GemLife)	0	0	108,700
DA2023/504 – Alstonville Showground	0	0	2,500
Compliance – 19 Old Pacific Highway, Newrybar	22,800	3,800	0
Compliance – Coolgardie Road	0	10,800	0
Compliance – Swimming Pools	37,100	26,300	0
Compliance – 254 Hutley Drive, Lennox Head	0	17,800	0
Other Compliance, Insurance and Planning Agreements	44,000	38,200	30,900
Total Actual Expenditure	471,000	297,300	253,000
Legal Expenditure Budgets	465,000	315,000	300,000
Expenditure Budget Result – Surplus / (Shortfall)	(6,000)	17,700	67,000
Legal Actual Income from Costs Recovered	364,000	8,000	3,000
Legal Income Budget	160,000	120,000	80,000
Income Budget Result – Surplus / (Shortfall)	204,000	(112,000)	(77,000)
Net Budget Result – Surplus / (Shortfall)	198,000	(94,300)	(10,000)

Legal expenditure can vary significantly from year to year as shown in the next table, which provides an eight year summary of actual results.

Table 2 – Legal Expenditure – Period 2015/16 to 2022/23 (\$'000)

Year	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
Expense	88	353	967	503	1,042	736	471	297
Income	20	90	108	61	157	539	364	8
Net Cost	68	263	859	442	885	197	107	289

Legal expenditure has been trending down in recent years, although there is now the court case with GTH Resorts (GemLife), which has a total estimate of \$500,000 and costs incurred to date of \$109,000.

This will result in a budget variation this financial year, which is included in the report titled “Financial Year 2023/24 – 31 December 2023 Review”, later in this agenda.

Option

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

RECOMMENDATION

That Council notes the contents of this Legal Matters – Update report.

Attachment(s)

Nil

9.12 Financial Year 2023/24 - 31 December 2023 Review

Section Financial Services

Objective To provide a quarterly review of the 2023/24 financial year based on the known results to 31 December 2023.

Background

In accordance with Clause 203 of the Local Government (General) Regulations, the Responsible Accounting Officer of a council must, not later than two months after the end of each quarter, prepare and submit to the council a budget review statement that shows a revised estimate of the income and expenditure for that year.

This report provides the second quarterly review for the 2023/24 financial year.

Key Issues

- Variations to the budget and financial performance of Council

Discussion

The purpose of this report is to provide information on how the financial forecast is tracking compared to budget and to confirm any known budget variances, as at 31 December 2023.

The format of the report complies with the Quarterly Budget Review Statement Guidelines set down by the Office of Local Government (OLG).

To comply with these guidelines an Operating Statement, Capital Budget, Cash and Investment Statement, Key Performance Indicators, Contractors, Consultants, Legal Information and Certification by the Responsible Accounting Officer are required.

A brief overview of the information provided in the report is as follows:

Section One – General Fund Long Term Financial Plan (LTFFP)

This section provides an overview of the General Fund including a high-level summary of the ten-year Long Term Financial Plan.

Section Two - Operating Income and Expenditure Budgets 2023/24

Outlines the 2023/24 operating income and operating expenditure budgets for the Funds (General, Water and Wastewater).

Section Three - Capital Budgets 2023/24

Outlines the 2023/24 capital expenditure budgets.

Section Four - Cash and Investment Statement

Provide details of the projected movements in the cash reserve balances.

Section Five - Key Performance Indicators

The ratios provide an indication of the financial health of the organisation.

Section Six - Contractors/Consultants/Legal Expenses

Details expenses incurred.

Section Seven– Certification

This is a Statement by the Responsible Accounting Officer as to whether the current year's estimated financial performance is or is not satisfactory.

Section One – General Fund Long Term Financial Plan

The following table provide an overview the General Fund Long Term Financial Plan (LTFP) with the inclusion of the changes listed in this report.

General Fund - LTFP Forecasts December 2023 Review (\$'000)

Year	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33
Operating Income	92,565	90,930	94,599	98,161	102,041	105,764	109,678	113,649	117,851	121,899
Operating Exps	71,759	72,150	73,631	75,495	77,749	80,146	81,998	84,348	87,134	89,795
Result before Non-Cash items	20,806	18,780	20,968	22,666	24,292	25,618	27,680	29,301	30,717	32,104
Less Depreciation and Non-cash	22,790	22,849	23,610	24,395	24,414	25,224	26,062	26,925	27,814	28,729
Surplus/(Deficit)	(1,984)	(4,069)	(2,642)	(1,729)	(122)	394	1,618	2,376	2,903	3,375
Work Cap Result	(330)	(546)	(382)	(158)	296	573	1,016	1,579	2,155	2,504
WC Balance	1,425	879	497	339	635	1,208	2,224	3,803	5,958	8,462

This forecast shows the General Fund reaching an operating surplus in 2028/29.

The following section provides commentary in relation to the forecast changes impacting on the General Fund.

Section Two – Operating Income and Expenditure Budgets 2023/24*General Fund – Operating Income and Expenses*

This section deals with the General Fund operations.

The **Forecast Operating Result**, as at **December**, is a loss of \$1.984m.

This compares to a forecast loss of \$4.3m following the September 2023 review as reported to the November 2023 Ordinary meeting.

The estimated movement in **Unrestricted Working Capital**, as at December, is a deficit of \$330,000. This compares to a forecast surplus of \$180,000 following the September 2023 review as reported to the November 2023 Ordinary meeting.

The next two tables detail operating income and operating expenses including recommended variations to budget, as per the “Changes for Approval” column.

General Fund – Operating Income (\$'000)

Operating Income	Original Budget	Sept Budget	Other Approved Changes	Revised Budget	Changes for Approval	Dec Budget	Actual to Dec
Planning and Environmental Health Division							
Strategic Planning	305	873	0	873	233	1,106	144
Development Services	2,692	2,692	0	2,692	(150)	2,542	1,224
Environment / Public Health	695	725	0	725	35	760	656
Community Gallery	125	125	0	125	0	125	65
Open Spaces	2,483	1,393	0	1,393	37	1,430	840
Sub Total	6,300	5,808	0	5,808	155	5,963	2,929
Civil Services Division							
Infrastructure Planning	275	275	0	275	(50)	225	49
Roads and Bridges	5,094	5,278	0	5,278	2,093	7,371	5,768
Emergency Services	327	417	0	417	0	417	20
Landfill and Resource Mgmt	12,700	12,384	0	12,384	(580)	11,804	6,189
Domestic Waste Mgmt	9,258	8,793	0	8,793	0	8,793	8,730
Sub Total	27,654	27,147	0	27,147	1,463	28,610	20,756
Corporate and Community Division							
Governance	0	0	0	0	0	0	0
Comms / Customer Service	9	92	0	92	0	92	9
Financial Services	35,646	36,791	0	36,791	70	36,861	29,099
Information Services	233	233	0	233	0	233	110
People and Culture	205	205	0	205	0	205	200
Property Management	3,088	3,268	0	3,268	0	3,268	2,037
Airport	8,980	8,980	0	8,980	0	8,980	5,239
Community Facilities	951	961	0	961	(125)	836	454
Facilities Management	47	237	0	237	150	387	372
Library Services	134	134	0	134	59	193	193
Swimming Pools	1,169	1,209	0	1,209	90	1,299	787
Tourism	230	230	0	230	(16)	214	171
Plant Operations	5,369	5,424	0	5,424	0	5,424	2,779
Sub Total	56,061	57,764	0	57,764	228	57,992	41,450
Total Operating Income	90,015	90,719	0	90,719	1,809	92,565	65,135

General Fund – Operating Expenses (\$'000)

Operating Expenses	Original Budget	Sept Budget	Other Approved Changes	Revised Budget	Changes for Approval	Dec Budget	Actual to Dec
Planning and Environmental Health Division							
Strategic Planning	649	938	0	938	130	1,068	185
Development Services	3,773	3,798	0	3,798	30	3,828	2,065
Environment / Public Health	3,044	3,154	0	3,154	15	3,169	1,617
Community Gallery	446	507	0	507	0	507	231
Open Spaces	7,747	6,663	0	6,663	227	6,890	3,512
Sub Total	15,659	15,060	0	15,060	402	15,462	7,610
Civil Services Division							
Infrastructure Planning	1,483	1,483	0	1,483	0	1,483	678
Roads and Bridges	9,083	9,558	(93)	9,465	(429)	9,036	5,034
Emergency Services	886	976	0	976	0	976	433
Landfill and Resource Mgmt	12,963	12,409	0	12,409	(580)	11,829	6,001
Domestic Waste Mgmt	8,900	8,400	0	8,400	100	8,500	4,147
Sub Total	33,315	32,826	(93)	32,733	(909)	31,824	16,293
Corporate and Community Division							
Governance	1,190	1,237	0	1,237	0	1,237	1,234
Comms / Customer Service	600	707	0	707	0	707	328
Financial Services	726	726	0	726	0	726	372
Information Services	3,261	3,429	0	3,429	0	3,429	2,740
People and Culture	401	431	0	431	0	431	757

9.12 Financial Year 2023/24 - 31 December 2023 Review

Operating Expenses	Original Budget	Sept Budget	Other Approved Changes	Revised Budget	Changes for Approval	Dec Budget	Actual to Dec
Property Management	1,985	2,075	0	2,075	0	2,075	1,173
Airport	6,258	6,258	0	6,258	0	6,258	3,310
Community Facilities	1,117	1,117	0	1,117	25	1,142	628
Facilities Management	751	751	0	751	0	751	577
Library Services	1,830	1,830	0	1,830	59	1,889	1,371
Swimming Pools	1,802	1,842	0	1,842	90	1,932	936
Tourism	654	654	0	654	(46)	608	312
Plant Operations	3,288	3,288	0	3,288	0	3,288	1,990
Sub Total	23,863	24,345	0	24,345	128	24,473	15,728
Total Operating Expense	72,837	72,231	(93)	72,138	(379)	71,759	39,631
Op Result Before Dep	17,178	18,488	93	18,581	2,225	20,806	25,504
Depreciation and Non-Cash	21,202	22,790	0	22,790	0	22,790	11,395
Net Operating Result	(4,024)	(4,302)	93	(4,209)	2,225	(1,984)	14,109

The larger adjustments to the General Fund Operating Result include:

- An income budget of \$1,827,000 is raised for grant funding received under the Regional and Local Roads Repair Program, with this amount transferred to road reserves for expenditure under this program in future years

This income has, for the interim, been recorded as operating income and has had a significant impact (improvement) on the forecast operating result. Confirmation as to whether this funding should be transferred to capital income will be made once an assessment of the works program and deliverables is completed

- Roads Grant Income budgets also increased by \$412,000, being a further amount received from Public Works during the quarter. This amount is also transferred to road reserves as reimbursement for expenditure in previous years
- Net amounts totalling \$383,000 are transferred back to stormwater reserves from adjustments made to Floodplain Management Plan and Preparing Australian Communities Flood Protection Planning budgets
- Forecast Interest income has been reviewed following a further Reserve Bank interest rate change. A recalculation of estimates results in a proposed total increase to General Fund interest income of \$133,000. This amount is allocated to the section 7.11 reserves.
- Development Services income have been revised down by \$150,000 based on trend
- Community Facilities income has been revised down by \$125,000 based on trend
- Insurance proceeds, within the Facilities Management section are revised up by \$150,000, with those amounts transferred to reserves. This income relates to 71 Tamar Street property (flood), the Rotary lookout at East Ballina (fire), and a progress payment from Statewide Mutual as part of the 2022 flood claim.

9.12 Financial Year 2023/24 - 31 December 2023 Review

- Open Spaces expenditure budgets have been revised up by \$227,000 based on trend
- Burns Point Ferry expenditure budgets have been revised up by \$100,000 based on trend
- Landfill and Resource Management income budgets have been revised down by \$580,000, offset by an offsetting reduction of \$580,000 to expenditure budgets.

General Fund Working Capital Movements (\$'000)

Item	Original Budget	Sept Budget	Other Approved Changes	Revised Budget	Changes for Approval	Dec Budget	Actual to Dec
Increase / (Decrease)	(992)	180	0	180	(510)	(330)	N/A

Working capital is a measure of short-term liquidity and as a rule Council aims to target a break-even result for the General Fund.

This review provides a deterioration to the forecast movement in working capital.

A key issue that remains in the forecast operating deficit, inclusive of non-cash items such as depreciation.

Comments on the main budget variations are as follows.

General Fund - Operating Income

Planning and Environmental Health Division

Strategic Planning

Income budgets for this section includes interest earned on section 7.11 reserve balances, rezoning fees, and grant funding.

Interest earned is allocated at the end of the financial year and is based on total actual income earned and the balances of the reserves.

The current interest budget for this section is \$797,000.

This budget is to be increased by \$133,000 to a revised budget of \$930,000. This adjustment increases the transfer to section 7.11 reserves.

This increase is due to increases in interest rates since the last calculation completed. Further comment on interest on investments is provided in the Financial Services section later in this report.

A contract of \$100,000 has been confirmed from the Department of Planning and Environment, for Council to oversee the restoration of a minimum of 50 hectares of koala habitat in the Ballina Local Government Area, by partnering with landholders to successfully deliver on-ground habitat restoration.

An income budget of \$100,000 is raised, with these funds already received by Council, with a corresponding expenditure budget also raised.

Development Services

This section has adopted income budgets totalling \$2,692,000.

The larger revenue streams are Development and Town Planning Fees, budget of \$780,000, Plumbing/Drainage Application Fees, budget of \$550,000, Construction Certificate Fees, budget of \$250,000 and Section 7.11 Admin Fees, budget of \$175,000.

Several revenue streams are trending well down, including Development and Town Planning Fees, Construction Certificate Fees, Subdivision Final Plan Fees and Sewer Plan Fees.

Decreases totalling \$150,000 across these various income streams are proposed.

Plumbing/Drainage Application Fees and Section 7.11 Administration Fees are on track to budget.

Environment/Public Health

The income budget for Parking Fines is increased by \$20,000, to a revised budget of \$240,000, based on trending.

The income budget for Public Order Fines is increased by \$15,000, to a revised budget of \$22,000, based on actual fines income raised to date.

Open Spaces

The forecast for NDIS Nursery income budgets have been increased \$37,000, to a revised budget of \$167,000, following updated NDIS plans.

Civil Services Division

Infrastructure Planning

Forecast income for Development Engineer Inspection Fees has been revised down by \$50,000 to a revised budget of \$185,000.

This proposed reduction is a conservative assessment based on the income received to date and a further revision may occur at the next quarterly budget review.

The cyclic nature of land development has seen construction work peak over the past two to three years to provide supply into a market with high demand (and prices). This exhausted much of the land supply, and we are now in the DA approval phase for the next areas to be released. This means a reduction in construction work and inspections until the next stages are approved. It is anticipated that income from development engineer inspections will continue at a significantly reduced level for the remainder of this year and into next year.

Roads and Bridges

An income budget of \$1,827,000 is raised for grant funding received under the Regional and Local Roads Repair Program.

The total funding to be received under this tranche is \$3,131,579, with the payment of \$1,827,000 representing a part payment in advance. These amounts are to be allocated for pavement stabilisation works and will require investigation, design and contract works. It is not anticipated that there will be any major expenditure within the 2023/24 year, so the amount received to date is placed into reserves.

A full review of the planned program of works will be undertaken with the forthcoming review of the long-term financial plan and associated capital works programs, which will be presented to the April 2024 Finance and Facilities Committee meeting.

Roads Grant Income budgets are also increased by \$412,000, being a further amount received from Public Works during the quarter. This receipt finalises Council's claim with Public Works for reimbursement of approved clean-up costs incurred by Council in relation to expenditure incurred following the March 2022 storm event. An amount of \$1,239,000 had already been received and placed into reserves as part of the September 2023 quarterly budget review.

This second receipt, as with the first receipt, is placed into Roads Reserves as most of the events clean-up costs were incurred in that section and the roads contingency reserve was depleted as at 30 June 2023.

Within Stormwater and Environmental Protection budgets, Council has existing budgets for the Floodplain Management Plan, which are based on a 2:1 funding contribution from (the previously named) Department of Planning and Environment.

A review of expected timeframes proposes the income budget of \$130,000 for the current year be revised down to \$60,000 to align with a proposed reduction in the current year expenditure budget from \$225,000 to \$90,000.

The difference of \$65,000 (representing Council co-contribution) is transferred back to reserves.

Also within this section are existing budgets under the Preparing Australian Communities Flood Protection Planning funding.

The income budget for the current year is revised down by \$76,000 to \$280,000. The corresponding expenditure budget is revised down by \$394,000 to \$280,000. The revised income and expenditure budgets for 2023/24 are matched, at \$280,000 each, based on 100% grant funded program for the current year's proposed expenditure. The difference of \$318,000 is transferred back to reserves.

Landfill and Resource Management (LRM)

Income budgets have been revised down by a net \$580,000.

This is mainly due to lower than predicted volumes of waste being received by both internal and external customers at the Resource Recovery Centre (RRC) resulting in lower gate fee income generated.

Internal waste volumes received are lower because of lower than predicted volumes of domestic recyclables, residual red bin and park waste collected through our kerbside collection operations and deposited at the RRC. It is estimated volumes will be 600-700 tonnes less than predicted, resulting in reduced annual gate fee income of \$350,000.

Additionally, our Engineering Works team continue to improve their resource recovery activities which results in lower waste volumes being generated through our capital works projects. This is a very positive outcome for Council as it reduces project expenditure on waste gate fees, whilst also facilitating the beneficial reuse of fill material in our project as opposed to sending the material to landfill. It is anticipated to reduce gate fee income by \$100,000.

The volumes of waste material deposited by external customers is also trending lower than anticipated, resulting in an anticipated reduction to the annual gate fee income of \$250,000.

These lower volumes of waste material also result in a corresponding decrease in forecast operational expenditure associated with lower gate fees charged to the Domestic Waste Management (DWM) budget and the handling of less material at the RRC, as explained and quantified in the expenditure section of the report.

Income generated by the sale of scrap metal deposited at the facility is projected to increase by \$120,000. This due to the sustained increase in commodity value for scrap metal coupled with continued increase in volumes collected since the gate fee for delivering scrap metal to the facility was reduced to nil from 2020/21.

Corporate and Community Division

Financial Services

Due to one further increase to the Reserve Bank cash rate since the September quarterly review, a further recalculation has been completed for the December 2023 budget review, revising Council's total net income up by \$173,000 to \$5,110,000.

Allocation between the funds and various reserves is then calculated using the estimated average reserve balances.

The Financial Services section includes interest on investments income and an offset (negative) interest paid by Council, if applicable, on the release of bond money held by Council.

The income budget for interest on investments within this section has been increased by \$50,000, to a revised budget of \$1,450,000.

The budget for interest paid on trust deposits (an expense) has been increased by \$50,000 to a revised budget of \$60,000.

This increase is based on actual amounts paid to date, with a couple of particularly large bond releases relating to the Banyan Hill estate occurring in the year to date.

The impact of these two adjustments within this section net out to nil.

The remaining proposed interest income adjustments are \$133,000 to General Fund Reserves, \$19,000 to Water Fund and \$21,000 to Wastewater Fund.

Ordinary Rates Income has been increased by \$40,000, based on actuals from the Rates and Charges third instalment.

The budget for rates interest income has been increased by \$30,000, to a revised budget of \$79,000, based on trend.

The adopted budget appears low considering actual income to date, noting also actual income of \$59,000 was received for the 2022/23 year and the interest rate charged for this year is higher than the previous year.

Community Facilities

Income budgets for this section as a whole have been decreased by \$125,000.

Forecast income for the Lennox Head Cultural Centre has been reduced by \$75,000, to a revised budget of \$220,000, based on trend. The adopted budgets for 2023/24 was optimistic but thought at the time may be achievable off the back of a rebounding from downturns experienced for the first couple of years of the Covid pandemic.

The actual income achieved for the 2022/23 year was \$256,000.

Forecast income for the Ballina Surf Club operations has been reduced by \$40,000, to a revised budget of \$142,000, consisting of hire fee income of \$60,000 and kiosk rental income of \$82,000.

The reduction to budget is for forecast hire income, which is trending low.

Forecast income for the Ballina Indoor Sports Centre has been reduced by \$20,000, to a revised budget of \$248,000, consisting of stadium hire fee income of \$190,000, room hire fees of \$50,000 and other revenue of \$8,000.

The reduction to budget is for forecast stadium hire fee income, which is trending low.

Forecast income for the Richmond Room is increased by \$10,000, to a revised budget of \$35,000, based on trend with the income received to date exceeding the adopted budget.

Facilities Management

The income budget for Property Insurance proceeds is increased by \$150,000, to a revised budget of \$350,000, to match with insurance settlements received.

This total income includes \$150,000 for the 71 Tamar Street property, \$100,000 for the Rotary lookout at East Ballina, and a \$100,000 progress payment from Statewide Mutual as part of the 2022 flood claim.

This amount has been placed into the Administration Building and Depot Reserve.

Library Services

Funding from the Library Council of New South Wales has been confirmed, with total funding of \$192,700 received.

That receipt comprises the annual funding of \$133,300 and funding of Local Priority Grant projects of \$59,400.

A new budget of \$59,000 has been raised for the Local Priority Grant funding received.

A corresponding expenditure budget has also been raised for the Local Priority Grant projects.

Swimming Pools

Income for both the Ballina Memorial Pool and the Alstonville Aquatic Centre continue to trend very well for the first two quarters of this year.

Income budgets have been increased for Ballina pool and Alstonville pool, by \$60,000 and \$30,000, respectively.

These income adjustments, totalling \$90,000, are offset by proposed increases to expenditure budgets noted later in this report.

A further review will be completed for the March quarter, when trending for nine months will provide a more reliable measure of forecast total income and expenditure for the year.

Tourism

The publication of a Visitor Information Guide is overseen by Council's Tourism team approximately every four years.

The adopted budgets for 2023/24 included \$124,000 within expenditure budgets for the production costs of the guide, with a matching income budget of \$124,000 for advertising income associated with the guide.

The Ballina Coast and Hinterland Visitor Guide was released in January 2024.

The income budget for the Visitor Information Guide has been reduced by \$56,000, to a revised budget of \$68,000, which represents the actual income that has been achieved.

An equivalent decrease has been made to the expenditure budget.

The budget for Merchandise Sales has been increased by \$40,000, to a revised budget of \$131,000, a conservative increase only based on trend.

These sales continue to perform strongly, with the actual sales achieved to date having already reached the originally adopted budget.

General Fund - Operating Expenses

Planning and Environmental Health Division

Strategic Planning

An expenditure budget of \$100,000 for the Koala Habitat Restoration works to be overseen by Council, as noted earlier within the Income section of the report.

The budget for Section 7.11 plan reviews is increased by \$30,000 for 2023/24 to a revised budget of \$50,000.

This increase is to allow the commencement of the process to update the Roads Contribution Plan.

The first stage of the process is to obtain current traffic count data.

Council has accepted a quotation to obtain updated traffic counts at 70 sites across the road network, with this work expected to be completed by April 2024.

Stage two of the process is for completion of the road network modelling, which will involve a tender process anticipated to take place in quarter four.

The increase to the 2023/24 budget will fund the stage one costs and a small amount towards the start of the modelling process.

The LTFP review, to be considered by Council at the April 2024 Finance and Facilities committee meeting, will incorporate the anticipated budgets required for 2024/25.

Salaries budgets in this section continue to trend down significantly, with savings likely to be realised in this financial year. No adjustment to budgets has been proposed in this review, however noting for information and a likely budget adjustment for the March quarterly budget review, when quantification will be more known.

Development Services

The expenditure budgets in this section include a budget of \$320,000 for legal costs. Expenditure incurred for the year to 31 December is \$253,000.

Council has a busy court schedule in relation to current court appeals, and as such an increase to this budget of \$30,000 is proposed, to a revised forecast of \$350,000.

This increase is funded from the Salaries/Legals/Revaluation reserves that had been put aside from favourable budget adjustments in previous years.

Environment/Public Health

A new expenditure budget of \$15,000 is raised for the Rutherford Street Parking Design Works. This is a conceptual project to improve the infrastructure in this highly utilised area of Lennox Head.

This budget is funded from the Coastal Management Plan Reserves.

Open Spaces

Expenditure budgets across this section as a whole have been increased \$227,000, with the allocation being \$150,000 to Open Space budgets, \$40,000 to Public Amenities and \$37,000 to Nursery Operations.

Open Space operation expenditures have required revision upwards \$150,000.

This revision is due to increased operating costs associated with mowing and maintenance of roadside vegetation, additional open spaces areas under Council management and tree maintenance.

The increase to public amenities budgets is to meet increased expenditure required from a combination of vandalism, use of consumables, staff costs and maintenance.

The increase to nursery operation expenses is required based on the expected trend of expenditure incurred to date.

Civil Services Division

Roads and Bridges

As noted earlier, within the Income section of this report, the expenditure budgets for the Floodplain Management Plan and Preparing Australian Communities Flood Protection Planning have been revised down by \$135,000 and \$394,000, respectively, to revised budgets of \$90,000 and \$280,000, respectively.

Ferry expenditure budgets have been revised upwards \$100,000.

Ferry operation and maintenance expenditure is trending upwards due to training burden of new staff, alteration to scheduling of maintenance activities to reduce impact on service to customers, preparatory and residual works for the slip, and an uptick in all material costs over and above CPI.

Landfill and Resource Management (LRM)

Expenditure budgets have been revised downwards by net \$580,000 in total.

This is mainly due to lower than predicted volumes of waste being received by internal and external customers at the Resource Recovery Centre (RRC), as discussed previously in this report.

The lower volume of waste received results in reduced operational expenditure associated with handling, transport and disposal of the waste material. As a result, forecast annual expenditure is predicted to be \$740,000 lower than originally predicted.

A budget of \$75,000 has been allocated for a new operational function at the RRC. This funds a staff member to be permanently located at the “back of house” customer drop off areas at the rear of the RRC which has historically been unsupervised.

The additional staff resource increases customer contact, supervision, engagement and promotes additional resource recovery operations.

A budget of \$100,000 has been raised for the disused Wardell landfill management plan. This is to fund a consultant to conduct a site assessment of the old landfill site at Wardell and develop a costed long term management plan for the site.

This project is required to deliver on an outstanding financial audit requirement to determine the provision for rehabilitation amount required to satisfy our legislative requirements for the long-term management of this historic landfill site.

Combined with the adjustments proposed to LRM income budgets, there is not net impact on the LRM reserve.

Domestic Waste Management (DWM)

Expenditure budgets have been revised upwards by a net \$100,000.

An additional \$260,000 has been raised for payment of recyclable material gate fees to the materials recycling facility (MRF) facility at Chinderah. This increase is a factor of the changed operational and recyclables ownership models associated with transition to a fully contracted kerbside bin collection service delivered by Solo which commenced on 6 November 2023.

Under the new contract, Solo now owns the recyclable material as soon as it collected at the kerbside.

Solo direct haul the recyclables in the collection vehicles to the materials MRF in Chinderah and are responsible for all costs associated with its transport, processing, contamination etc.

This change means that the recyclables collected at the kerbside are no longer delivered to the Resource Recovery Centre. Rather, the DWM is now responsible for the direct payment to Solo for the volume of recyclable material that they collect and deposit at the Chinderah MRF.

A budget of \$75,000 has been raised to account for the final procurement of garbage bins required for provision of new services and old bin replacements.

The provision of bins is now the responsibility of Solo under the contracted kerbside bin collection service model. However, a final stock take of bins was required prior to contracting out the service.

Expenditure associated with gate fees for kerbside waste collected from the domestic red bins and delivered to the Resource Recovery Centre is revised down by \$235,000. This is due to lower than anticipated residual waste volumes being generated by the community.

Corporate and Community Division

People and Culture

The expenditure section of the budget manages, amongst other things, staff leave, superannuation, recoupment of on-costs (a negative expense) and workers compensation for the entire organisation. The budgets for staff leave were increased in the September quarterly review. Leave are still trending a high, to be reassessed again in the March quarterly review.

No adjustments are proposed for this December quarterly review.

Community Facilities

Expenditure budgets for this section as a whole have been increased by \$25,000. Increases are proposed for the Lennox Head Cultural Centre Electricity budget and Security budget, of \$15,000 and \$10,000, respectively, based on trend of actuals to date.

Library Services

An expenditure budget of \$59,000 has been raised, corresponding to the Local Priority Grant funding noted earlier in this report.

The nominated projects for this allocation are:

Description	(\$)
Technology	
Monitor Print Management System	10,000
Door counter for Ballina Library	2,400
Door counter for Lennox Head Library	2,400
Collections	
Story Time puppets for all branches	350
Building	
Height adjustable desk and chairs for Ballina Library workroom	2,350
Floor mat and cushions for Alstonville Library	3,415
Chairs for Lennox Head Library	2,200
Contribution towards new Alstonville Library costs	30,317
Promotion	
Library program supplies, crafts, refreshments	6,000
Total	59,432

Any amounts unexpended at the end of the financial year would be placed into the Library Special Projects reserve at that time.

Swimming Pools

The Alstonville pool operating budgets are increased by \$50,000 based on seasonal trending, with chemicals and plant maintenance running high. The Ballina pool operating budgets are increased by \$40,000 based on seasonal trending, predominantly due to chemicals expenditure running high.

Tourism

As noted earlier, within the Income section of this report, the income and expenditure budgets for the Visitor Information Guide have both been reduced by \$56,000, to revised budgets of \$68,000.

The budget for marketing expenses has been increased by \$10,000, to a revised budget of \$78,000. This increase is to fund the Destination Development budget for the Lennox Head Golden Ticket Campaign that was held in 2023.

Water Operations

This next section of the report deals with Water Operations. The following table details the forecast operating result for the Water Fund.

Water - Statement of Operating Income and Expenses (\$'000)

Item	Original Budget	Sept Budget	Other Approved Changes	Revised Budget	Changes for Approval	Dec Budget	Actual to Dec
Operating Income	15,219	15,610	0	15,610	219	15,829	7,706
Operating Expenses (excl. dep)	14,403	13,819	(400)	13,419	0	13,419	6,655
Operating Result Before Dep	816	1,791	400	2,191	219	2,410	1,051
Depreciation and Non-cash	2,268	2,268	0	2,268	0	2,268	1,134
Net Operating Result	(1,452)	(477)	400	(77)	219	142	(83)

The **Forecast Operating Result** (inclusive of depreciation) **as at December** is a surplus of \$142,500, with an improvement of \$219,000 from changes identified within this report.

The budget for non-residential access charges is increased by \$200,000 based on trending of levied amounts for quarter one of this year.

The current year budget was adopted before finalisation of the 2022/23 actual incomes.

Based on the review of interest income noted earlier in this report, forecast interest income for the Water fund has been increased by \$19,000.

No other budget adjustments are proposed for this review.

Wastewater Operations

This next section of the report deals with Wastewater Operations.

The following table details the forecast operating result for the Wastewater Fund.

Wastewater - Statement of Operating Income and Expenses (\$'000)

Item	Original Budget	Sept Budget	Other Approved Changes	Revised Budget	Changes for Approval	Dec Budget	Actual to Dec
Operating Income	23,331	23,833	0	23,833	271	24,104	20,338
Operating Expenses (excl. dep)	14,980	14,516	(400)	14,116	0	14,116	6,413
Operating Result Before Dep	8,351	9,317	400	9,717	271	9,988	13,925
Depreciation and Non-cash	5,359	5,190	0	5,190	0	5,190	2,595
Net Operating Result	2,992	4,127	400	4,527	271	4,798	11,330

The **Forecast Operating Result** (inclusive of depreciation) **as at December** is a surplus of \$4,798,000, with an improvement of \$271,000 from changes identified within this report. The budget for residential access charges is increased by \$250,000 based on amounts levied for quarter one of this year. Based on the review of interest income noted earlier in this report, forecast interest income for the Wastewater fund has been increased by \$21,000.

No other budget adjustments are proposed for this review.

Section Three – Capital Budgets 2023/24

This section of the report looks at capital expenditure.

General Fund - Capital Budget - Source and Application of Funds (\$'000)

Capital Funding / Expenditure	Original Budget	Sept Budget	Other Approved Changes	Revised Budget	Changes for Approval	Dec Budget	Actual to Dec
General revenue	8,062	8,424	(140)	8,284	0	8,284	
Reserves	19,421	27,703	(1,760)	25,943	18	25,961	
Loans	8,164	5,164	0	5,164	0	5,164	
Section 7.11 contributions	2,703	3,136	(175)	2,961	0	2,961	
Grants and contributions	21,440	28,312	(2,722)	25,590	0	25,590	
Total Funding	59,790	72,739	(4,797)	67,942	18	67,960	32,935
Planning and Environmental Health Division							
Strategic Planning	0	66	0	66	0	66	66
Environmental Health	2,182	2,311	0	2,311	0	2,311	282
Open Spaces	7,311	12,622	(3,120)	9,502	0	9,502	3,637
Civil Services Division							
Infrastructure Planning	0	178	0	178		178	0
Roads and Bridges	27,563	29,865	(165)	29,700	0	29,700	13,391
Emergency Services	2,010	2,080	0	2,080	0	2,080	1,371
Waste Management	850	959	(135)	824	0	824	99
Domestic Waste Management	950	0	0	0	0	0	0
Corporate and Community Division							
Property Development	8,630	5,910	0	5,910	0	5,910	1,681
Airport	4,200	12,825	0	12,825	18	12,843	10,922
Facilities Management	3,526	2,950	(1,365)	1,585	0	1,585	426
Swimming Pools	378	238	0	238	0	238	178
Tourism	0	120	(12)	108	0	108	0
Plant Operations	2,190	2,615	0	2,615	0	2,615	882
Total Expenditure	59,790	72,739	(4,797)	67,942	18	67,960	32,935

General Fund

A review of the capital works program is presented in the report titled “Capital Expenditure Program – 31 December 2023 Review”, which is a separate report to this meeting. The “Other Approved Changes” in the previous table are based on the proposed budget adjustments within that report.

Further adjustments to capital budgets proposed in this report are as follows.

Airport

A new budget of \$18,000 is raised for the purchase of a line marker machine for the airport. This is expected to reduce future operational maintenance costs, with line marking to be completing using council staff rather than the engagement of contractors.

Water Fund

Water - Capital Budget - Source and Application of Funds (\$'000)

Capital Funding / Expenditure	Original Budget	Sept Budget	Other Approved Changes	Revised Budget	Changes for Approval	Dec Budget	Actual to Dec
Funding							
Reserves	2,749	2,923	(30)	2,893	0	2,893	
Section 64 contributions	760	860	400	1,260	180	1,440	
Grants and contributions	0	0	37	37	0	37	
Total Funding	3,509	3,783	407	4,190	180	4,370	2,259
Capital Expenditure	3,509	3,783	407	4,190	180	4,370	2,259

A review of the Water capital works program is presented in the report titled “Capital Expenditure Program – 31 December 2023 Review”, which is a separate report to this meeting.

The “Other Approved Changes” in the previous table are based on the proposed budget adjustments within that report.

Further adjustments to capital budgets proposed in this report are as follows:

Description	(\$)
Hutley Drive and Liana Terrace-Stoneyhurst Reservoir Pressure Zone Augmentation, funded by s64 reserve	180,000
Total	180,000

Wastewater Fund

Wastewater - Capital Budget - Source and Application of Funds (\$'000)

Capital Funding / Expenditure	Original Budget	Sept Budget	Other Approved Changes	Revised Budget	Changes for Approval	Dec Budget	Actual to Dec
Funding							
Reserves	5,793	6,780	(548)	6,232	143	6,375	
Section 64 contributions	7,012	4,982	(2,170)	2,812	0	2,812	
Total Funding	12,805	11,762	(2,718)	9,044	143	9,187	2,172
Capital Expenditure	12,805	11,762	(2,718)	9,044	143	9,187	2,172

9.12 Financial Year 2023/24 - 31 December 2023 Review

A review of the Wastewater capital works program is presented in the report titled "Capital Expenditure Program – 31 December 2023 Review", which is a separate report to this meeting.

The "Other Approved Changes" in the previous table are based on the proposed budget adjustments within that report.

Further adjustments to capital budgets proposed in this report are as follows:

Description	(\$)
Acquisition of Land, Ferngrove easement and land acquisition, funded by wastewater reserve	120,000
Acquisition of Land, Fishery Creek Road, funded by wastewater reserve	23,000
Total	143,000

Section Four – Cash and Investment Statement

The next table shows the forecast for externally and internally restricted reserves.

The "Other Approved Changes" in the following table are as per the separate report to this meeting, titled "Capital Expenditure Program – 31 December 2023 Review".

Forecast Restricted Reserves as at 30 June 2024 (\$'000)

Reserve Title	Sept Budget	Other Approved Changes	Revised Budget	Changes for Approval	Dec Budget
Externally Restricted					
Section 7.11	20,585	175	20,760	133	20,893
Domestic Waste Management	2,400	0	2,400	(100)	2,300
Section 64 Water	12,235	(400)	11,835	(167)	11,668
Water	7,289	430	7,719	206	7,925
Section 64 Wastewater	10,208	2,170	12,378	13	12,391
Wastewater	13,854	948	14,802	115	14,917
Total Externally Restricted	66,571	3,324	69,895	200	70,095
Internally Restricted					
Council Elections	265	0	265	0	265
Financial Assistance Grant	5,670	0	5,670	0	5,670
Local Government Recovery Grant	195	1,652	1,847	0	1,847
Bushfire Recovery Grant	3	0	3	0	3
Legal / Audit / Revaluations	350	0	350	0	350
Employee Leave Entitlements	2,994	0	2,994	0	2,994
Risk Management Projects / Insurance	181	0	181	0	181
Community Infrastructure Reserve	3,862	0	3,862	0	3,862
Property Development Reserve	446	0	446	0	446
Wigmore Arcade	892	0	892	0	892
Crown Properties Rental	77	0	77	0	77
Flat Rock Tent Park	181	0	181	0	181
Quarries	503	0	503	0	503
Airport	1,251	0	1,251	(18)	1,233
Facilities Management	1,028	160	1,188	0	1,188

9.12 Financial Year 2023/24 - 31 December 2023 Review

Reserve Title	Sept Budget	Other Approved Changes	Revised Budget	Changes for Approval	Dec Budget
Library Special Projects	291	0	291	0	291
Plant Renewal / Replacement	1,060	0	1,060	0	1,060
Admin Building and Depot	199	405	604	150	754
Other Corporate and Community	141	0	141	0	141
Strategic Planning Studies and Proposals	439	0	439	0	439
Section 7.11 Plan Reviews	388	0	388	(30)	358
Other Planning and Environmental Health	180	0	180	(30)	150
Public Art	103	0	103	0	103
Public Order	2	0	2	0	2
Quarry Compliance	43	0	43	0	43
Healthy Waterways and Other Projects	767	0	767	0	767
Coastal Management Plans	324	0	324	(15)	309
Vegetation Works	640	0	640	0	640
Public Amenities	160	0	160	0	160
Open Spaces	1,037	0	1,037	0	1,037
Sports Fields	470	200	670	0	670
Cemeteries	404	(200)	204	0	204
Stormwater Capital	867	(200)	667	0	667
Stormwater and Environ Mgmt Plans	175	0	175	383	558
Canal Dredging	118	0	118	0	118
Bypass Funds	3,420	0	3,420	0	3,420
Road Works	1,715	(100)	1,615	2,239	3,854
Other Civil	130	0	130	0	130
Ancillary Footpaths	251	(59)	192	0	192
Boat Ramps and Infrastructure	60	0	60	0	60
Landfill and Resource Management	1,129	135	1,264	0	1,264
Total Internally Restricted	32,411	1,993	34,404	2,679	37,083
Total Restricted	98,982	5,317	104,299	2,879	107,178

Statements

1. Council's investments are all in accordance with the Local Government Act, the regulations and Council's investment policy.
2. As per the investment summary for 31 December 2023, funds invested amounted to \$102,900,000. All restricted monies are included in these investments.
3. Cash has been reconciled to the bank statement as at 31 December 2023 to the amount of \$11,141,106.
4. Actual year to date cash and investments amounted to \$114,041,106 at 31 December 2023.

This amount includes cash at bank of \$11,141,106 and funds invested of \$102,900,000 which has been reconciled to the bank statements and investment reports.

Comment on Cash and Investment Position

The changes in this report increase the reserves by a net \$2.879m resulting in the current forecast restricted reserves of \$107.178m. All changes to reserves made as part of this review have been noted earlier in this report within either 'Section One-Operating Income and Expenditure' or 'Section Two – Capital Budgets'.

The changes made as part of this report are summarised as follows.

Section 7.11

There is an increase of \$133,000 to these reserves resulting from an increase to forecast interest on reserve balances.

Domestic Waste Management

There is a decrease of \$100,000 to this reserve, being the adjustments to the operating result noted within this report.

Water Reserves

There is an increase of \$39,000, being the net of adjustments to the operating result and capital budgets noted within this report.

Wastewater Reserves

There is an increase of \$128,000, being the net of adjustments to the operating result and capital budgets noted within this report.

Airport

There is a decrease of \$18,000, being an increase to capital expenditure.

Admin Building and Depot

There is an increase of \$150,000 from property insurance proceeds noted within the Facilities Management section of this report.

Section 7.11 Plan Reviews

There is a decrease of \$30,000, to fund the first stage of the roads contribution plan review.

Other Public and Environment Health Reserve

There is a decrease of \$30,000, being an increase to the legals budget.

Coastal Management Plans

There is a decrease of \$15,000, for the expenditure budget noted within the Environment/Public Health section.

Stormwater Reserves

There is an increase of \$383,000, from net amounts transferred back to reserves as noted earlier in this report.

Roadworks

There is an increase of \$2,239,000, being the funds of \$1,827,000 received under the Regional and Local Roads Repair Program and \$412,000 received from Public Works in relation to costs incurred by Council following the March 2022 storm event.

Section Five - Key Performance Indicators

This section of the report takes selected financial benchmarks and compares the 30 June 2022 and 2023 ratios with the forecast at December to 30 June 2024. The performance indicators have a short-term focus, which suits the quarterly review.

Each ratio typically contains numerous variables, and the forecast should be viewed as a guide only.

Key Performance Indicators - Description

1. **Operating Performance Ratio** – Total continuing operating revenue (excluding capital grants/contributions and fair value adjustments) less operating revenue (excluding capital items and profit or loss on sale) as a percentage of continuing operating revenue (less capital items and fair value adjustments).

Purpose: this percentage measures whether the Council is sustainable in terms of its operating result.

Council should not be recording recurring operating deficits or funding operating results from capital revenue.

Indicator type: Financial Performance

Benchmark: $= > 0$ (NSW Code of Accounting Practice)

2. **Unrestricted Current Ratio** - Unrestricted current assets divided by unrestricted current liabilities.

Purpose: this ratio is used to measure Council's ability to meet short term liabilities with available short-term assets.

Indicator type: Financial Position

Benchmark: > 1.5 (NSW Code of Accounting Practice)

3. **Debt Service Cover Ratio** – Operating result (excluding fair value adjustments, capital grants/contributions, depreciation/amortisation, interest expense and profit or loss on sale) as a percentage of loan interest and capital payments.

Purpose: The purpose of this percentage is a measure of whether Council has excessive debt servicing costs relative to the adjusted operating result.

Indicator type: Financial Position

Benchmark: >2 (NSW Code of Accounting Practice)

Benchmark Indicators – General Fund

1. Operating Performance Ratio – General Fund

Benchmark: >0

2021/22	2022/23	2023/24 Dec
Actual	Actual	Estimate
-4.34%	-3.49%	-2.22%
Fail	Fail	Fail

Comment

This is a key ratio for “Fit for the Future” assessments and has historically been a difficult benchmark to achieve. The General Fund failed this benchmark in 2021/22 and 2022/23. The current LTFP forecasts this benchmark will not be met until 2027/28. The strategy to improve this ratio is to reduce operating expenses and increase income.

2. Unrestricted Current Ratio – General Fund

Benchmark: >1.5

2021/22	2022/23	2023/24 Dec
Actual	Actual	Estimate
2.87	2.52	1.95
Pass	Pass	Pass

Comment

The General Fund is expected to continue to meet this benchmark.

3. Debt Service Cover Ratio – General Fund

Benchmark: > 2

2021/22	2022/23	2023/24 Dec
Actual	Actual	Estimate
3.65	4.36	2.02
Pass	Pass	Pass

Comment

This ratio has moved just above the benchmark of 2. Proceeds from sales generated from Boeing Avenue, Wollongbar Urban Expansion Area and Russellton developments will repay loans and the current LTFP shows this ratio will continue to steadily improve.

The strategy to continue to meet the benchmark is to limit further borrowings, unless matched by offsetting revenues, and strengthen the operating result by increasing income and decreasing expense.

Benchmark Indicators – Water**1. Operating Performance Ratio - Water**

Benchmark: > 0

2021/22	2022/23	2023/24 Dec
Actual	Actual	Estimate
-3.41%	5.64%	3.74%
Fail	Pass	Pass

Comments

The Water Fund achieved this target in 2022/23 and is currently forecast to meet this target in 2023/24.

2. Unrestricted current ratio - Water

Benchmark: >1.5

2021/22	2022/23	2023/24 Dec
Actual	Actual	Estimate
27.60	39.73	46.52
Pass	Pass	Pass

Comments

The ratio meets the benchmark comfortably as the Fund has reasonable reserves and no debt.

3. Debt Service Cover Ratio - Water

Benchmark: >2

2021/22	2022/23	2023/24 Dec
Actual	Actual	Estimate
0.0	0.0	0.0
N/A	N/A	N/A

Comments

The Fund has no external borrowings.

Benchmark Indicators – Wastewater**1. Operating Performance Ratio - Wastewater**

Benchmark: >0

2021/22	2022/23	2023/24 Dec
Actual	Actual	Estimate
18.76%	21.55%	19.91%
Pass	Pass	Pass

Comments

The Wastewater Fund has achieved a positive operating performance ratio and this trend is expected to continue for future years.

2. Unrestricted current ratio - Wastewater

Benchmark: >1.5

2021/22	2022/23	2023/24 Dec
Actual	Actual	Estimate
2.87	2.42	2.65
Pass	Pass	Pass

Comments

The Wastewater Fund met this benchmark in 2022/23 and it is anticipated that the Fund will meet the benchmark in future years.

3. Debt Service Cover Ratio - Wastewater

Benchmark: > 2

2021/22	2022/23	2023/24 Dec
Actual	Actual	Estimate
1.97	2.05	2.00
Fail	Pass	Pass

Comments

The Wastewater Fund has had difficulty in meeting this ratio for several years due to high debt levels, but the ratio has generally been improving year on year, as the level of debt continues to fall. The ratio looks to be borderline to meet the benchmark in 2023/24 and is subject to any changes in the forecast operating result.

Section Six – Contractors/Consultants/Legal Expenses

Contractors

Contracts (over \$50,000) entered during the quarter are as follows.

Contractor Name	Purpose	Amount (GST Excl)	Award Date	Contract Duration	Incl in Budget
Panel Contract (13 members)	Bush Regeneration, Restoration and Planting	Schedule of Rates	01/01/2024	4 years	Y
Civil Contractors (Aust) Pty Ltd	Russellton Industrial Estate Subdivision Civil Construction	\$4,925,615	04/10/2023	6 months	Y
Bishopp Airport Advertising (AU) Pty Ltd	Terminal Advertising – Ballina Byron Gateway Airport	Schedule of Rates	01/01/2024	5 years	Y

Consultants

The Office of Local Government defines a consultant as:

A consultant is a person or organisation engaged under contract on a temporary basis to provide recommendations or high-level specialist or professional advice to assist decision making by management. Generally, it is the advisory nature of the work that differentiates a consultant from other contractors.

Expenditure to 31 December 2023 on consultants is as follows:

Item	Expenditure YTD (excl GST) (\$)	Included in Budget
Consultancies	2,374,460	Yes

Legal Expenses

The next table summarises the expenditure incurred to the end of December 2023 on legal fees. Legal fees have been included where there is a dispute situation.

This includes, for example, recovery of rates not paid but excludes processing of infringement notices (no dispute at this point) and amounts paid to legal firms that may be related to the creation of a lease or sale of land.

Item	Expenditure YTD (excl GST) (\$)	Included in Budget
Legal Fees	323,661	Yes

Section Seven- Certification

The following statement is made in accordance with clause 203(2) of the Local Government (General) Regulations 2021.

It is my opinion that the Quarterly Budget Review Statement for Ballina Shire Council for the quarter ended 31 December 2023 indicates that Council's projected financial position at 30 June 2024 is satisfactory, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

The satisfactory position is based on the short term (twelve month) outlook.



Signed Linda Coulter, Responsible Accounting Officer

Delivery Program Strategy / Operational Plan Activity

The content of this report relates directly to the financial sustainability of Council. This is identified within Council's adopted Delivery Program, under Direction 4: Engaged Leadership.

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

Community Consultation Policy

This report has been prepared to inform the community of budget variations. Staff have been consulted in the preparation of this report.

Financial / Risk Considerations

This report details financial results to date in comparison to budget.

Options

Council may approve the budget amendments proposed or make further changes.

The proposed changes reflect Council resolutions or adjustments based on the trending of actual income and expenses.

RECOMMENDATION

That Council notes the contents of this report for the December 2023 Quarterly Financial Review and approves the budget changes identified within the report.

Attachment(s)

Nil

9.13 Delivery Program and Operational Plan - 31 December 2023 Review

Section Governance

Objective To provide an update on the implementation of the 2023/24 to 2026/27 Delivery Program and 2023/24 Operational Plan.

Background

Section 404 (5) of the Local Government Act states as follows:

Delivery Program

"The general manager must ensure that regular progress reports are provided to the council reporting as to its progress with respect to the principal activities detailed in its delivery program. Progress reports must be provided at least every 6 months".

The preferred approach is to provide quarterly reports to ensure the information is timely.

This report represents the second review of the 2023/24 to 2026/27 Delivery Program and 2023/24 Operational Plan, with the information based on the six month period to 31 December 2023. The review is included as Attachment 1 to this report.

The attachment provides an overview of all the actions and indicators included in the Delivery Program and Operational Plan (DPOP), with comments provided by the Director and / or Section Manager. The DPOP is available on Council's website and is also accessible on the Councillor iPads.

Key Issues

- Outcomes achieved

Discussion

The DPOP is the corporate document that outlines Council's goals and priorities, with a four-year forecast for the Delivery Program and a one-year action list for the Operational Plan.

The attachment provides an update on all the adopted actions and indicators in the DPOP. The attachment has two main sections:

- Program Actions – Outlines the status of all the adopted actions in the Operational Plan.
- Service Delivery Indicators – Measures actual results as compared to the adopted indicators in the Operational Plan.

9.13 Delivery Program and Operational Plan - 31 December 2023 Review

All items are marked with a green (on track for this financial year) amber (behind schedule or trending below target / benchmark) or red (off track or well below target / benchmark) traffic light.

There are 99 program actions listed in the Operational Plan and the following two tables provide an overview of the status of the actions on a number and percentage basis.

Program Actions Summary - By Division and Number

Division / Status	C&C	Civil	PEH	Total
Green	20	23	46	89
Amber	3	2	4	9
Red	0	0	1	1
Total	23	25	51	99

Program Actions Summary - By Division and Percentage

Division / Status	C&C	Civil	PEH	Total
Green	87	92	90	90
Amber	13	8	8	9
Red	0	0	2	1
Total	100	100	100	100

Many items remain on track and items of interest in the attachment include:

- Progress Ballina Marina (Trawler Harbour) Master Plan (page 2) – After some interest in this plan from the State Government during 2022, the State Government preference is for Council to undertake further preliminary assessments of the site prior to committing to any form of equity agreement. This matter was reported to the February 2024 Commercial Services Committee meeting seeking direction from Council.
- Progress availability of land at the Russellton Industrial Estate and Southern Cross Industrial Estate (page 2) – Works now commenced at Russellton and works almost complete at Boeing Avenue for the Southern Cross Industrial Estate.
- Progress development of Wollongbar Residential Land Holding (page 2) – Council now in the process of confirming preferred approach in respect to the sale and / or development of this land.
- Participate in and leverage opportunities to market the Ballina Coast and Hinterland (page 3) – Completed Lennox Head Golden Ticket marketing campaign with over 65,000 accounts reached.
- Seek approval for a non-compulsory dividend from Wastewater (page 5) – For the first time, Council is trying to secure a non-compulsory dividend from the Wastewater Fund to fund additional stormwater works.

This is reliant on approval from the State Government (WaterNSW) and there is a risk that the dividend may not be secured this financial year, to allow the funding to be applied in 2024/25. This will be pursued until the dividend is approved, albeit it may not be available until 2025/26.

9.13 Delivery Program and Operational Plan - 31 December 2023 Review

- Implement Urban Stormwater Management Plan and Programs (page 8) – Council approved a program of works at the October 2023 Ordinary meeting.
- Deliver Lennox Head Town Centre Village Renewal (page 9) – Work now well advanced on the Open Spaces component for the Lennox Park refurbishment, with this anticipated to be completed by March 2024.
- Implement Healthy Waterways Strategy, Implement Shaws Bay Coastal Management Plan, Implement Lake Ainsworth Coastal Management Plan, Complete and Implement North Creek Coastal Management Plan (pages 15-16) – Numerous actions continue to be implemented for these programs, which again highlights the benefits that can be generated from a significant recurrent revenue stream, such as the Healthy Waterways Program.
- Implement Northern Rivers Community Gallery Creative Action Plan (page 17) – The Gallery continues to undertake a wide range of community activities, with the very successful Ballina Contemporary Art Market held on 14 October 2023.
- Support delivery of commercial and retail shops in the Ballina Heights Estate (page 20) – The LEP amendment to support this project proceeding has now been finalised.
- Implement Wardell Town Centre Master Plan (page 20) – Following extensive consultation Council adopted the Master Plan at the November 2023 Ordinary meeting.

In respect to Service Delivery, there are a total of 90 indicators identified in the Operational Plan.

The following two tables provide an overview of how the indicators are tracking against the benchmark, again on a number and percentage basis.

Service Indicators Summary - By Division and Number

Division / Status	C&C	Civil	PEH	Total
Green	33	16	20	69
Amber	9	6	4	19
Red	0	0	2	2
Total	42	22	26	90

Service Delivery Indicators Summary - By Percentage

Division / Status	C&C	Civil	PEH	Total
Green	79	73	77	77
Amber	21	27	15	21
Red	0	0	8	2
Total	100	100	100	100

9.13 Delivery Program and Operational Plan - 31 December 2023 Review

The primary purpose of each indicator is to provide a guide, as to how a service may be tracking compared to previous years, or against a preferred benchmark, with some indicators beyond the control of Council. Items of note include:

- Number of passengers for Airport (page 22) – Annualised figure remains above 630,000 and indicates that demand for the Ballina Byron Gateway airport continues to remain strong.
- Community Facilities (pages 24-25) – Usage levels for some of the community facilities has dropped from 2022/23, however libraries are starting to trend higher, following a significant downturn in recent years.
- Development Services (pages 33-34) – Processing times remain below the preferred targets, with some recent improvements and the number of applications under assessment trending downwards. A comprehensive report on the work in progress in respect to development assessment is included earlier in this agenda.

Delivery Program Strategy / Operational Plan Activity

This report provides a status report on all the adopted activities in the 2023/24 Operational Plan.

Community Consultation Policy

This report provides the community with information on how Council is performing in respect to the Delivery Program and Operational Plan.

Financial / Risk Considerations

The Delivery Program and Operational Plan identify the allocation of Council's resources and finances.

Options

The report is for noting with the information highlighting the many activities undertaken by Council.

RECOMMENDATION

That Council notes the contents of this report on the second quarterly review of the implementation of the 2023/24 to 2026/27 Delivery Program and 2023/24 Operational Plan.

Attachment(s)

1. Delivery Program and Operational Plan - 31 December 2023 Review [⇒](#)

9.14 Capital Expenditure - 31 December 2023 Review

Section Governance

Objective To provide a status report on the delivery of the 2023/24 capital expenditure program.

Background

Council has a significant capital expenditure program included in the annual Operational Plan.

Due to the magnitude of the program, status reports are provided on a quarterly basis.

The status report provides details on key milestones, along with a comparison between budget and actual expenditure.

This is the second report for 2023/24 and outlines work undertaken to 31 December 2023.

Key Issues

- Status of works

Discussion

To assist in understanding the delivery of the capital works program the attachments to this report provide information on the following items for the major capital projects:

- Total Project Value – As projects can be delivered over a few budget years, this column identifies the total project value. This may include expenditure from previous years or estimated expenditure for future years.
- Original 2023/24 Estimate - Represents the original 2023/24 estimate as per the adopted Operational Plan.
- Carry Forwards - Includes budgets carried forward from the previous financial year, approved by Council at the August 2023 Ordinary meeting.
- Approved Variations – Other variations approved by Council, either through a Quarterly Budget Review, or a separate report on a project.
- 2023/24 Estimate - Sum of the original estimate plus variations.
- Expended This Year - Expenditure to 31 December 2023 on a cash basis. This figure excludes commitments and accruals.
- % Expended - Percentage of budget expended to 31 December 2023 based on the cash expenditure figures.
- Milestone Dates - Target dates for the major milestones such as completion of design and / or planning approval, as well as construction commencement and completion dates.
- Status – Provides space for any additional comments.

The attachments are split into the areas undertaking the works: i.e., Planning and Environmental Health Division (Open Spaces, Public and Environmental Health), Corporate and Community Division (Commercial Services, Facilities Management) and Civil Services Division (Asset Management, Emergency Services, Resource Recovery, Water, Wastewater and Engineering Works). Points of interest are as follows.

Open Spaces (attachment one)

Lennox Park, Lennox Head – Works now well advanced.

Pop Denison – Senior Playground – Project completed and operational.

Ballina Pump Track – Tender still to be called for this project, with the funding now deferred to 2024/25.

Sharpes Beach Master Plan – Council currently consulting on an updated master plan. Based on the timing needed for the consultation, adoption and tender process for the works, the funding has been deferred to 2024/25.

Community Assets Program - \$2m – This grant funded series of projects has been deferred to 2024/25 with the agreement still to be finalised with the State Government.

Sports Fields – Kingsford Smith Reserve – Project now complete.

Sports Fields – Williams Reserve – Preliminary quotations for this irrigation project have come in over budget and the project is currently under review. Funding deferred to 2024/25.

Commercial Services (attachment two)

Airport - The Airport runway strengthening works have been completed with the installation of improved lighting still to be finalised. Investigations are on-going in respect to an expansion of the airport car parking.

Property – The construction of 12 Southern Industrial lots at Boeing Avenue is close to being finalised.

Council approved the tender for the construction of 27 industrial lots at the Russellton Estate, at the September 2023 Ordinary meeting, with works now underway.

Facilities Management (attachment two)

Based on forecast cash flows, funding for the Alstonville Cultural Centre, Depot Administration Building and Depot – Fuel System are deferred to 2024/25.

Urgent works are required on the concertina wall at the Ballina Surf Club, with \$40,000 transferred from reserves to fund this project.

The demolition of the building at 71 Tamar Street, Ballina has been completed, with the surplus funds transferred back to reserve until planning commences on the replacement office building.

Asset Management, Emergency Services and Resource Recovery (attachment three)

Construction of the Lennox Head Rural Fire Service shed is now well advanced.

The design for the Ballina SES building is close to completion. The preparation of this design has included ongoing consultation with the SES.

Consultants are now preparing the development assessment documentation, and this is expected to be completed during the next few months.

For Resource Recovery the major variation is funding deferred for the Front of House Project to 2024/25 with design and planning consent scheduled for the current financial year.

Water and Wastewater Operations (attachments four and five)

Water and Wastewater Operations – Water is tracking well with 53% of the budget expended, whereas Wastewater is at 20%.

A major budget change is the deferral of \$2m for the Ballina Wastewater Treatment Plant Rectifications to 2024/25, based on forecast cash flows.

Engineering Works (attachment six)

More than \$13m expended to date, out of a large program.

Major projects completed include the Lennox Village Vision (LVV) Renewal, as well as the installation of traffic lights and associated road works at the intersection of Bentinck and Kerr Streets and Brunswick / Tweed and Kerr Streets.

The LVV budget is significantly over-expended, and the funding and expenditure is being reviewed in conjunction with the Lennox Park Open Space works that form part of the overall LVV project.

Other projects may need to be deferred to fund this budget variation, once the exact variation is confirmed following completion of the Lennox Park works.

Funding is deferred for certain projects based on forecast cash flows, and there is a combination of budgets adjustments up and down to balance the funding required for various projects.

Part funding for the Wardell Town Centre Master Plan works is deferred to 2024/25 based on forecast cash flows, with the works scheduled to be completed by the end of 2024.

Delivery Program Strategy / Operational Plan Activity

The Operational Plan includes references to infrastructure delivery particularly:

EL3.3h - Monitor capital works to ensure they are completed on time and within budget

Community Consultation Policy

This report is presented for public information. Many of the projects reflect feedback from community engagements.

Financial / Risk Considerations

All the projects carry a degree of risk, financial and management, with risk management forming a major component of any construction works. The following table provides the individual budget adjustments outlined in the attachments to this report.

Table 1 – 31 December 2023 Capital Expenditure – Budget Variations

Item	Current Budget	Variation	Revised Budget	Comment
Open Spaces – Playground Equipment and Embellishments				
Ballina Pump Track	734,000	(700,000)	34,000	Defer to 2024/25
Sharpes Beach Master Plan	1,350,000	(1,300,000)	50,000	Defer to 2024/25
EA Brown Park Master Plan	100,000	0	100,000	\$50,000 transferred from LRCI 4 EA Brown Park and then \$50,000 transferred to Gawandii Beach
Elizabeth Anne Brown Park	50,000	(50,000)	0	Transfer to EA Brown Master Plan – LRCI funded
Lighthouse Beach Reserve	20,000	(20,000)	0	Defer to 2024/25
Coastal Rec Path Reserve	100,000	(100,000)	0	Defer to 2024/25
Commemoration Park Reserve	100,000	(100,000)	0	Defer to 2024/25
Lake Ainsworth Reserve	900,000	(900,000)	0	Defer to 2024/25
Gawandii Beach Remediation	0	50,000	50,000	Funded from EA Brown Park Master Plan
Cemetery Master Plan	0	200,000	200,000	Trans from Cemeteries Reserve
Sub Total – Open Spaces	3,354,000	(2,920,000)	434,000	
Open Spaces – Sports Fields				
William Reserve - Irrigation	200,000	(200,000)	0	Defer to 2024/25
Facilities Management				
Ballina Surf Club - Concertina	0	40,000	40,000	Trans from Building Assets Renewal Reserve
Alstonville Cultural Centre	230,000	(200,000)	30,000	Defer to 2024/25
Admin Centre – 71 Tamar	200,000	(100,000)	100,000	Trans to Admin Centre and Depot Reserve
Depot – Admin Building	1,000,000	(800,000)	200,000	Defer to 2024/25
Depot – Fuel System	405,000	(305,000)	100,000	Defer to 2024/25
Sub Total – Facilities Mgmt	1,835,000	(1,365,000)	470,000	
Tourism				
Historical Riverfront Walk	120,000	(12,000)	108,000	Defer to 2024/25 based on grant conditions
Resource Recovery				
Front of House	411,000	(111,000)	300,000	Defer to 2024/25
Haulage and Drainage	443,000	27,000	470,000	Trans from LRM Reserve
Amenities	45,000	(45,000)	0	Trans to LRM Reserve
Skip Bins	60,000	(20,000)	40,000	Trans to LRM Reserve
Hydra Tarp System	0	14,000	14,000	Trans from LRM Reserve
Sub Total – Res Recovery				
Water Operations				

9.14 Capital Expenditure - 31 December 2023 Review

Item	Current Budget	Variation	Revised Budget	Comment
Main Renewals – Martin St etc	500,000	(20,000)	480,000	Saving – Trans to Reserve
Main Renewals – Tamar Street	100,000	42,000	142,000	Trans from Reserve
Main Renewals – Crane Street	330,000	(165,000)	165,000	Defer to 2024/25
Water Loss – Skennars Head	0	150,000	150,000	25% Grant funding from Dept of Planning and Environment and balance from Reserves
Reservoir – Pacific Pines	600,000	400,000	1,000,000	Tran from Section 64 Developer Contributions
Sub Total – Water Operations	1,530,000	407,000	1,937,000	
Wastewater Operations				
Main Renewals – Alston / Woll	200,000	(170,000)	30,000	Defer to 2024/25
Rising Main – Skinner Street	50,000	(50,000)	0	Trans to Reserve
Recycled – Prospect Bridge	570,000	25,000	595,000	Trans from Reserve
Recycled – West Ballina	40,000	(3,000)	37,000	Trans to Reserve
Recycled – Wollongbar Fields	100,000	30,000	130,000	Trans from Reserve
Recycled – Henderson Farm	100,000	(100,000)	0	Trans to Reserve
Recycled – Palm Lake	250,000	(250,000)	0	Trans to Reserve
Treatment – Ballina Rectification	4,582,000	(2,000,000)	2,582,000	Defer to 2024/25
Treatment – Lennox Chlorinator	250,000	250,000	500,000	Trans from Reserve
Treatment – A'ville – Biosolids	200,000	(200,000)	0	Trans to Reserve
Treatment – Lennox Belt	200,000	(200,000)	0	Defer to 2024/25
Treatment – Catch Pond	100,000	(100,000)	0	Trans to Reserve
Treatment – A'ville Chlorinator	0	50,000	50,000	Trans from Reserve
Sub Total – Wastewater Ops	6,642,000	(2,718,000)	3,924,000	
Engineering Works				
Urban Roads				
Safer Roads – Kerr / Bentinck	340,700	170,000	510,700	Funded by \$77K Block Grant and \$93K RLRR Program
River St – 4 Lanes - Brunswick	364,000	75,000	439,000	Trans from Sec 7.11 Roads
Northumberland Avenue	530,000	(85,000)	445,000	Trans to Burnet Street
Reseals Urban	683,000	(45,000)	638,000	Trans to Bolding Street
Wardell Town Centre	1,066,000	(900,000)	166,000	Defer to 2024/25
Raglan Street	40,000	(30,000)	10,000	Trans to Burnet Street
Temple Street	100,000	(90,000)	10,000	Trans to Henry Philp Ave
Henry Philp Avenue	480,000	90,000	570,000	Trans from Temple Street
River St – 4 Lanes - Barlows	66,000	50,000	116,000	Trans from Sec 7.11 Roads
Coast Road, Skennars Head	300,000	(290,000)	10,000	Defer to 2024/25
Bolding Street	250,000	45,000	295,000	Trans from Reseals
Burnet Street	230,000	115,000	345,000	Trans from Northumberland and Raglan
Rural Roads				
Safer Roads – Ross Lane	2,305,000	1,200,000	3,505,000	Additional grant funding
Wardell Road	193,000	(20,000)	173,000	Trans to Old Pacific Highway
Teven Road	300,000	(150,000)	150,000	Trans to Stormwater Dalwood Road
Moylans Lane	936,000	(70,000)	866,000	Trans to Old Pacific Highway
Old Pacific Highway	380,000	90,000	470,000	Trans from Wardell Road and Moylans Lane
Cemetery Road	60,000	3,000	63,000	Trans from Uralba Road
Uralba Road	34,000	(3,000)	31,000	Trans to Cemetery Road
Footpaths and Shared Paths				
Shared Path – East Coast Road	0	59,000	59,000	Trans from Reserve

9.14 Capital Expenditure - 31 December 2023 Review

Item	Current Budget	Variation	Revised Budget	Comment
Old Pacific Highway	28,000	(28,000)	0	Trans to Pearces Creek
Manly Street	22,000	(22,000)	0	Trans to Pearces creek
William Street	40,000	20,000	60,000	Trans from Compton Drive
Greenwood Place	38,000	40,000	78,000	Trans from Compton Drive
Compton Drive	120,000	(100,000)	20,000	Trans to William St, Greenwood Pl, Pearces Ck (\$10K) and Patches Car Park
Burnet Street	40,000	(40,000)	0	Trans to Martin Street
Pearces Creek Road	120,000	60,000	180,000	Trans from Old Pacific Highway, Manly Street and \$10K from Compton Drive
Canal Road	50,000	(50,000)	0	Trans to Chickiba Drive
Chickiba Drive	90,000	50,000	140,000	Trans from Canal Road
Martin Street	60,000	40,000	100,000	Trans from Burnet Street
Ancillary				
Ballina Heights Drive Median	0	100,000	100,000	Trans from Roads Contingency Reserve
Patches Beach Car Park	75,000	30,000	105,000	Trans from Compton Drive Path Project
Stormwater				
Wardell	400,000	(360,000)	40,000	Defer to 2024/25
West Ballina	280,000	(260,000)	20,000	Defer to 2024/25
Mellis Circuit	296,000	(240,000)	56,000	Defer to 2024/25
Kawana Street Basin	120,000	(100,000)	20,000	Defer to 2024/25
Dalwood Road Culvert	0	150,000	150,000	Trans from Rural Roads Teven Road
Transport for NSW				
Regional Roads Reseals	219,000	(77,000)	142,000	Trans to Safer Roads / Kerr Street / Bentinck Streets
Sub Total – Eng Works	10,655,700	(573,000)	10,082,700	

Options

This report provides an overview of the implementation of the 2023/24 capital expenditure program. Cash expenditure to 31 December 2023 is \$37m on a cash basis, out of a total budget of \$83m, as per the following summary.

**Table 2 - Capital Works Summary by Section and Division
31 December 2023 (\$'000)**

Section Results	Budget (\$)	Expended (\$)	% Expended
Open Spaces	9,492,200	4,484,300	69%
Public and Env Heath	2,311,000	282,200	12%
Commercial Services	18,735,000	11,814,200	63%
Facilities Management	4,438,000	1,702,000	38%
Asset Mgmt and Emergency Services	2,258,000	1,370,700	61%
Resource Recovery	824,000	98,600	12%
Water Operations	4,190,000	2,235,700	53%
Wastewater Operations	11,462,000	2,347,300	20%
Engineering Works	29,700,100	13,100,800	44%
Total	83,410,300	37,435,800	45%
Division Results			
Planning and Environmental Health	11,803,200	4,766,500	40%
Civil Services	48,434,100	19,153,100	40%
Corporate and Community	23,173,000	13,516,200	58%
Total	83,410,300	37,435,800	45%

As in recent years, Council has a very large capital expenditure program to deliver, with grants continually being secured. Expenditure to 31 December 2023 of \$37m is well above historical trends, with total expenditure in recent years being \$52m (2022/23), \$41m (2021/22) and \$31m (2020/21).

The recommendation is for noting the contents of this report, along with approving the budget variations, as per the attachments to this report, and as summarised in Table 1 in the report.

RECOMMENDATIONS

1. That Council notes the contents of this report regarding the 2023/24 capital expenditure review for the period ending 31 December 2023.
2. That Council approves the budget variations, as per Table 1 of this report.

Attachment(s)

1. Capital Expenditure - Open Spaces and Public and Environmental Health [⇒](#)
2. Capital Expenditure - Commercial Services and Facilities Management [⇒](#)
3. Capital Expenditure - Asset Management, Emergency Services, and Resource Recovery [⇒](#)
4. Capital Expenditure - Water Operations [⇒](#)
5. Capital Expenditure - Wastewater Operations [⇒](#)
6. Capital Expenditure - Engineering Works [⇒](#)

10.1 Lennox Head Shared Path - Park Lane to Cooper Close - Options

10. Civil Services Division Reports

10.1 Lennox Head Shared Path - Park Lane to Cooper Close - Options

Section	Engineering Works
Objective	To present the route options assessment report for the Lennox Head Shared Path Project - Park Lane to Cooper Close, and to endorse the next stage of the project by adopting the preferred route for detail design and approval documentation.

Background

The Lennox Head shared path project (LHSP) forms part of the planning for Council's footpath and shared path network.

The corridor for a footpath generally along Byron Street, Byron Bay Road and Ross Lane and extending further to the CURA B precinct has been identified in Council's forward planning documents for footpath infrastructure, i.e.

- Pedestrian Access and Mobility Plan (2018)
- Bike Plan (2017)

Council has also dealt with several Delivery Program and Operational Plan (DPOP) community submissions requesting a footpath link between Lennox Head and Fig Tree Hill.

The latest Council resolution dealing with this matter was adopted at the June 2020 Ordinary meeting, i.e.

- "1. That Council confirm a preferred design for a cycleway connection to Lennox Head from Sanctuary Village / Fig Tree Hill Drive.*
- 2. That as part of this investigation the use of Cooper Close and the existing fire trail / road reserve, which has a hotmix surface be considered.*
- 3. That Council seek grant funding for this cycleway through State Government grant programs, as opportunities arise."*

In response to the above resolution Council secured a Transport for NSW (TfNSW) grant of \$40,000 as co-funding for the investigation of a shared path connection from Park Lane, Lennox Head to Fig Tree Hill Drive.

The investigation comprises a route options assessment, the completion of a detail design of a preferred route and the preparation of planning application documentation in readiness for future construction funding opportunities.

Council's budget allocation for this phase of the project is \$75,000, with \$52,000 remaining this financial year.

The Request for Quotation for undertaking this investigation was awarded to Planit Consulting.

10.1 Lennox Head Shared Path - Park Lane to Cooper Close - Options

This report presents the findings of the route options assessment report by Planit Consulting, which identified four possible route options.

The assessment of the four route options used several criteria to score each of the options (multi criteria assessment), and then form a recommendation for the preferred route.

During the latter part of 2023, Councillor briefing sessions were held to advise of the four route options identified during the early part of study and to confirm the options presented for community feedback, and to advise on the community feedback received.

Key Issues

- Route alignment
- Approvals, design, and construction

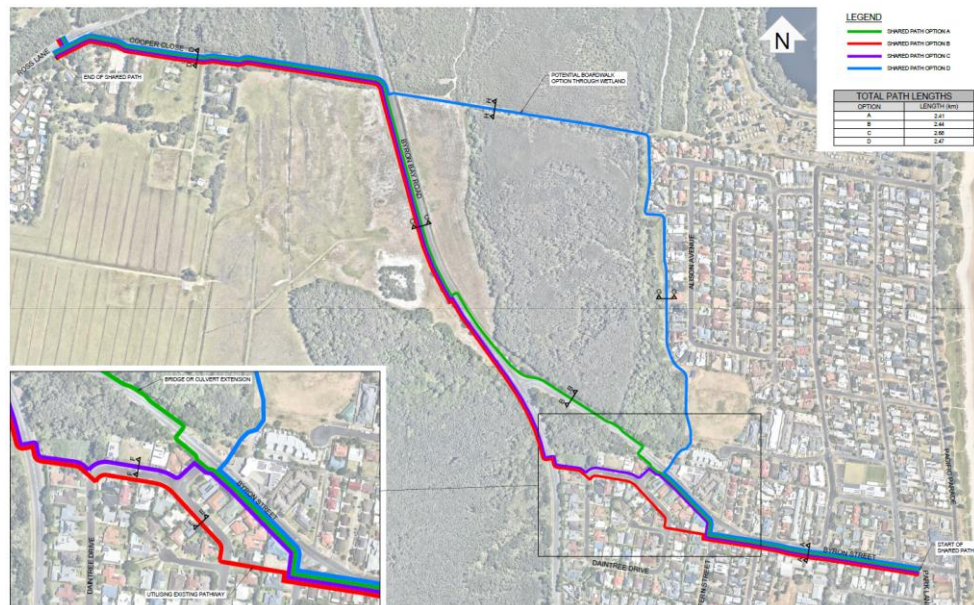
Discussion

The early part of the study identified four options for the shared path between Park Lane, Lennox Head and Fig Tree Hill.

The four options were presented during the Councillor briefing sessions held 7 June 2023 and 16 October 2023.

The four options were also presented as part of the community consultation process.

The options are shown as follows.



- Option A – Green
- Option B – Red
- Option C – Purple
- Option D – Blue

Each of the routes was assessed according to relevant criteria (multi criteria assessment) and this process is summarised in the Executive Summary of the Planit Consulting report and is reproduced as follows.

“This report presents an assessment of the opportunities, constraints and costs associated with the four nominated route options. The criteria considered as part of this assessment are as follows:

Road Safety of each route option was assessed using the Bicycle Safety Audit Checklist included in Appendix D of Austroads Guide to Road Design 6A – Paths for Walking and Cycling (AGRD06A).

Environmental, Ecological and Heritage Impacts: A preliminary field inspection (on the 26th May 2023) was undertaken of the proposed route to gain an appreciation of the existing site condition and confirm the absence / presence of remnant vegetation communities at mapped locations. Score was given based on impacts observed on expected flora and fauna expected from online mapping.

Town Planning: The required Planning Pathways and associated documentation, program (considering the maximum i.e., worst case scenario) and the cost (considering the maximum i.e., worst case scenario) were obtained for each of the routes.

Preferred Route: The preferred route assessment was undertaken with consideration against Austroads Guide to Road Design 6A – Paths for Walking and Cycling safety considerations; minimum width (AGRD06A table 5.3), minimum clearance (AGRD06A fig 5.7) and preferred clearance (AGRD06A fig 4.37). These items were assessed as these infrastructure items have been identified as ‘things that make cycling difficult’ in the Bike Plan (2017). In addition, the scenic value (i.e., scenic / shady with trees on either side of the path) was also assessed within the preferred route analysis.

Flooding: The alignments of each route option were assessed against the current publicly available flood maps from the BSC IntraMaps. Each option route was checked for any encroachment into the mapped flooding for the 1% AEP event (100-year event).

Community Support: Community feedback was sought through Councils ‘Your Say’ Page, where the community were provided with the concept design plans of the route options and asked to nominate their preferred route and note reasons why.

Construction Cost: A preliminary assessment of construction costs associated with each of the options was undertaken and are based on Planit’s understanding of typical market rates at the time of preparation of this report. These rates are subject to fluctuation and may differ if BSC decides to complete the works in-house.

10.1 Lennox Head Shared Path - Park Lane to Cooper Close - Options

Each of the above criteria were scored and ranked in a multi-criteria assessment process”.

The criteria was scored for each option, and this is described in the body of the Planit Consulting Options Assessment report, included as Attachment.

The scored comparison of options is provided in section six of the Planit Consulting report and is reproduced as follows.

***Planit Consulting - Table 6-1 Comparative Assessment of Route Options
(pages 48-49)***

Criteria	Requirements	Option A	Option B	Option C	Option D
Road Safety (20%)	Austroads Appendix D (Part 6A: Paths or walking & cycling)	13.04	11.30	10.43	13.04
Flooding (5%)	Desktop assessment of flood risk	4.00	3.00	3.00	3.00
Environment, Ecological & Heritage Impacts (20%)	Assessment of likely ecological impacts	6.00	4.00	4.00	0.00
Town Planning, Approvals & Timing (5%)	Likely planning pathway (Exempt, REF, EIS)	5.00	2.50	2.50	0.0
Preferred Route (15%)	Based on achieved route width clearance to traffic, & scenic value	8.75	9.30	9.59	12.29
Community support (15%)	Based on online survey	4.43	1.25	0.80	8.52
Cost (20%)	High level cost estimate using market rates	15.57	20.00	19.69	0.00
Total		56.79%	51.35%	50.01%	36.86%
Rank		1	2	3	4

The multi criteria assessment process has ranked Option A as the most favourable. It can be seen from the summary table that the high ranking is attributable to having scored good comparative outcomes with respect to road safety, environment, ecology and cultural heritage, town planning approvals and timing and project cost.

Based on this it is recommended that Council proceed to detail design for Option A, including the preparation of planning documentation in readiness for future construction funding opportunities.

In addition to this, whilst the above investigation has been underway two further TfNSW grants have also been approved for Council within the study area.

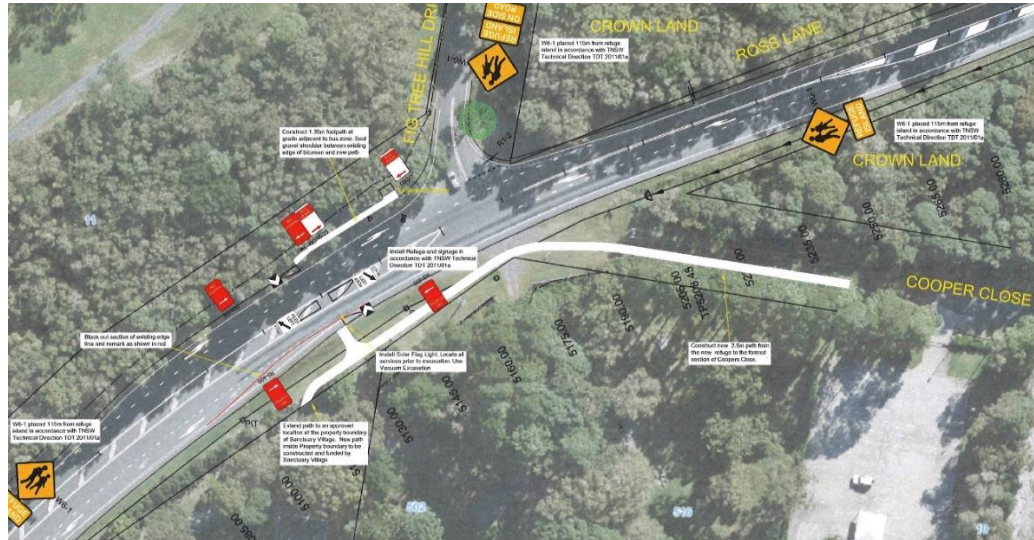
One grant is for the installation of a pedestrian refuge along Ross Lane (\$99,000) at the location of Fig Tree Hill Drive.

This is located at the western end of the study area and provides for the path end treatment of this section of path.

10.1 Lennox Head Shared Path - Park Lane to Cooper Close - Options

There is no impact to this project as it is a crossing treatment common to all options, however it brings forward the construction of this section of path at this location to mid-2024.

The following is a site map for this project.



The second grant is for the installation of a roundabout at the intersection of Byron Bay Road and Byron Street, Lennox Head (\$1.533m).

This roundabout project is under development with planning and design investigations in progress and with construction planned for 2024/25.

An element of this design will be the provision of the path under Option A, and the inclusion of a crossing location at the roundabout.

This will alter the current arrangement shown in Option A for a crossing location further north of this intersection along Byron Bay Road.

Delivery Program Strategy / Operational Plan Activity

Implementing Council's PAMP and Bike Plan programs are activities identified in the Delivery Program and Operational Plan.

The activities are CC3.3m and CC3.3n which sit within the strategy CC3.3 Support improved health outcomes by providing equitable access to sporting, recreational and community facilities.

Community Engagement Strategy

Following the identification of the four route options a "Have Your Say" online questionnaire was prepared regarding the four options with an invitation for community feedback.

Prior to this a letter box delivery was made to adjoining residences along the four route option corridors including the Fig Tree Hill precinct to advise of the Have Your Say opportunity.

10.1 Lennox Head Shared Path - Park Lane to Cooper Close - Options

The Have Your Say was open to the public for comment during the month of August 2023 and approximately 132 responses were made.

The results of the Have Your Say were presented to the Councillor briefing held on 16 October 2023 and the summary data is provided in Appendix G of the Planit Consulting report.

The Have Your Say data was included in the multi criteria assessment, and the individual responses are provided as separate attachments to this report (Attachments 2 and 3).

Financial / Risk Considerations

This report provides an update of the investigations comprising a route options assessment, which is to be followed by the detail design of a preferred route and the preparation of planning approval documentation.

This phase of the project is included in the current Delivery Program and Operational Plan and Planit Consulting will be completing the project under the current budget allocation.

Options

Option 1 - Proceed with detailed design and preparation of planning approval documentation for Option A, as recommended by the multi criteria assessment and documented by the Planit Consulting options assessment report. This is the recommended option.

Option 2 – Amend the preferred Option A to another alternative option. This is not recommended as Option A has been identified and assessed as the preferred option.

RECOMMENDATION

That Council adopts Option A of the Planit Consulting Options Assessment Report, as per Attachment 1 to this report, as the preferred route for the Lennox Head Shared Path – Park Lane to Cooper Close project and authorises the General Manager to proceed with the detail design and preparation of planning approval documentation to assist with securing funding for this project.

Attachment(s)

1. Lennox Head Shared Path - Options Assessment Report - Planit Consulting [⇒](#)
2. Submissions - Lennox Head Shared Path - Park Lane to Cooper Close [⇒](#)
3. Confidential Submissions - Lennox Head Shared Path - Park Lane to Cooper Close [⇒](#)

10.2 Ballina CBD Parking Study - Public Exhibition

Section	Infrastructure Planning
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Objective	To consider submissions arising from the public exhibition of the updated Ballina CBD Parking Study
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Background

In response to business community concerns about the availability of on-street parking, Council commissioned Eppell Olsen & Partners (Transportation and Traffic Specialists) to conduct Ballina CBD Parking reviews in 2003 and 2004.

Council exhibited the reviews together with associated submissions from businesses and the public at a number of Council meetings in 2003, 2004 and 2007. The current timed parking controls in the CBD were substantially determined by a Council meeting held 22 February 2007.

Bitzios Consulting was engaged in 2022 to prepare an updated Ballina CBD parking study to review and optimise the current timed parking provisions.

Detailed parking data was collected Tuesday 29 November 2022 with a final report and recommendations provided May 2023. The study included all on street and public off-street parking in the CBD area, and for comparison purposes, four representative private off street parking areas.

The study was reported to the 27 July 2023 Ordinary meeting and Council resolved to exhibit the study and invite submissions on the recommendations.

The public exhibition was conducted in November 2023 and 179 submissions were received. This report considers the submissions and Council's options to improve Ballina CBD parking.

Key Issues

- Optimum balance of parking options
- Balancing customer needs and employee needs

Discussion

The objective of short time restricted CBD parking is to ensure optimum turnover to support customer access to CBD businesses and business turnover/profitability. A consequence of short time restricted parking in the higher demand CBD areas is displacement of employees and other longer term parking users to the more distant areas of the CBD and fringe residential areas.

The updated Ballina CBD Parking Study was conducted to review the on-street parking controls to ensure they are the optimum mix to provide the best level of service for CBD businesses and their customers.

Parking Study Recommendations

There are three main recommendations:

1. Changes to time-restricted parking to encourage higher turnover of premium parking spaces, whilst ensuring there is sufficient off-street parking for staff within reasonable walking distance.
2. Implementation of in-ground parking sensors within 1/2P time-restricted car spaces to assist with improved parking enforcement.
3. Line marking delineation of angled on-street parking areas to maximise parking within the study area.

Recommendation 1 seeks to provide short term, high turnover (1/2P) parking in the core CBD area, River Street (Moon to Cherry Street) and Moon Street (River to Tamar Street).

Medium term/turnover parking is provided in the adjoining area and Longer term/Unlimited parking in the fringe areas.

Diagram Showing Study Area and Recommended Parking Durations



Recommendation 1 is a significant change to the existing timed parking zones that were determined by Council in 2003, 2004 and 2007.

Recommendation 2 is aimed at providing more effective and cost-efficient timed parking compliance by Council's Rangers.

Recommendation 3 seeks to maximise the number of car parking space availability by providing line marking (of unmarked spaces) to fully utilise the existing on street parking areas in the CBD and immediate surrounds.

10.2 Ballina CBD Parking Study - Public Exhibition

Exhibition and Responses

The Study and recommendations were exhibited on Council's website during November 2023 and hard copy letters advising of the exhibition and call for submissions were distributed to businesses, owners and occupiers in the study area. An online proforma questionnaire was provided which asked for responses on each study recommendation (agree, disagree, reasons, preference etc) as well as general free form feedback. Respondents were also asked to indicate their interest category (CBD business owner, CBD worker, Ballina Shire resident, other).

179 (176 proforma and three other) responses were received. For analysis, the submissions have been sorted into four categories being - business owners; CBD workers; Ballina Shire residents; and others. The Study as exhibited, and copies of the submissions are included as Attachments 1 and 2 to this report.

Study Recommendation 1 – Proposed Changes to Time Restricted Parking

Recommendation 1 is summarised in the following table.

Table 4.1: Proposed Changes to Parking Restriction

Road	Block	Side of road	Existing parking supply		Proposed parking supply	
			Restriction	Quantum	Restriction	Quantum
River Street	Moon St to Cherry St	North & South	1P	64 spaces	1/2P	64 spaces
River Street	Kerr St to Grant St	North & South	2P	53	Unrestricted	53
Tamar Street	Grant St to Moon St	Centre	Unrestricted	55	2P	55
Tamar Street	Tamar Village Car park	NA	Unrestricted	56	2P	56
Tamar Street	Cheery St to Martin St	North	Unrestricted	27	2P	27
Kerr Street	River St to Winton Ln	East & West	2P	5	Unrestricted	5
Kerr Street	Winton Ln to Tamar St	East & West	2P	12	Unrestricted	12
Moon Street	River St to Winton Ln	West & Centre	1P	16	1/2P	16
Moon Street	Winton Ln to Tamar St	East, West & Centre	2P	21	1/2P	21
Moon Street	Holden Ln to Crane St	East	2P	11	Unrestricted	11
Cherry Street	Fawcett St to River St	East, West & Centre	1P	33	2P	33
Cherry Street	River St to Winton Ln	East & West	1P	7	1/2P	7
Cherry Street	Winton Ln to Tamar St	East & West	1P	17	2P	17
Cherry Street	Tamar St to Crane St	East	2P	9	Unrestricted	9
Fawcett Street	Cherry St to Martin St	North, South & West	Unrestricted	19	2P	19

10.2 Ballina CBD Parking Study - Public Exhibition

Note: The reference to “Tamar Village Car park” in the study is an error and should refer to the public car parking area off the west side of Moon Street (between River Street and Tamar Street).

Study Recommendation 1 – Responses from Business Owners

There were 28 online proforma responses and two others from business owners. Four responses agreed with the recommendation, 26 responses opposed the recommendation.

The main sources of concern and typical comments were:

- Proposed 1/2P zone in the core CBD area not enough time for clients.
- 1/2P was insufficient time for a wide range of customers including medical/dental patients, shoppers, café visits, chemist prescriptions, elderly persons, hairdressing etc
- Min 1/2P isn't long enough to shop or have breakfast/lunch so would have a negative impact on most businesses
- How could reducing anything below 1H in the CBD help any business or consumer, proposals don't make sense
- Proposed 1/2P (currently 2P) is unreasonable and perilous for medical clients in Moon Street
- I fear proposed parking restrictions will cause River Street to die with customers preferring Ballina Fair
- Proposed unrestricted parking in River Street (Kerr to Grant Street) would be detrimental to our businesses and customers.

The Chamber of Commerce advised as follows:

We recognise the findings in the study that parking is currently constrained during peak periods, and we accept the suggestion in the study that there are some instances of business workers overstaying in time-restricted spaces. However, we believe these instances of overstay by workers, or others, could be alleviated by initiatives that do not require adjustments to the parking restrictions.

Firstly, improving walkability, and particularly street lighting, around the CBD, allowing employees to feel safer walking to and from unrestricted parking zones around the fringes of the CBD. Many CBD workers have concerns about lack of adequate street lighting, especially in winter months, around the parking areas on the edges of the CBD. Improving the lighting would help address these concerns.

Secondly, an education program followed up with highly visible enforcement activities should prompt people to rethink any overstaying habits that may have developed and address the high levels of overstaying that the study has identified. The Chamber acknowledges the cost of enforcement that Council may face and would suggest that highly-visible and regular (but still unpredictable) education and enforcement 'blitzes' would achieve the desired adjusted behaviour in this regard.

Aside from these initiatives, should Council wish to proceed with the recommendations in the study we'd like some aspects to be very carefully considered.

We strongly believe that 30 minutes is an insufficient amount of time for most visitors to the CBD to complete their business transactions and appointments. Reducing the study recommendations to changes time limits from 1 or 2 hours down to just 30 minutes, would negatively impact many businesses, as customers will not have enough time to browse, shop, attend appointments, or conduct their affairs. This could lead to business losses and diminish the status and attraction of Ballina CBD needlessly.

Clearly, in the absence of comprehensive public transport services in Ballina, and with our town's increasing role as a regional centre for medical and professional services, all day parking options for CBD workers will continue to be an issue. Many staff have difficulty finding suitable all-day parking that does not occupy 'premium' parking spaces that would be best used by business customers. We welcome the study's recommendations that an exploration of options for additional all day CBD worker parking is required. We believe our suggestion above to improve walkability and street lighting for safety will help here.

Whilst most responses opposed the proposed shortened times in the core CBD, there was also opposition from adjacent businesses to proposed unrestricted (now 2P) parking in the outer (west) end of River Street.

These businesses have concerns that unrestricted parking adjacent to their businesses will be occupied all day by displaced workers from closer to the core CBD, thereby denying spaces for their customers.

Study Recommendation 1 – Responses from CBD Workers

There were 79 online proforma responses from CBD workers.

10.2 Ballina CBD Parking Study - Public Exhibition

Four responses agreed with the recommendation, 75 responses opposed the recommendation.

It is an inevitable consequence of both the current and recommended timed parking restrictions that the shortened times in the CBD core favour high turnover customer/business needs and promote displacement of longer-term users and workers to the outer areas of the CBD and fringing residential areas.

This displacement of workers is unsurprisingly reflected in their mostly negative responses to the recommendation which shortens times even more than the current times in the CBD core.

Typical issues raised and comments by workers included:

- Need all day parking or pay yearly fee
- More unrestricted parking, moving cars every 2H is unrealistic, annoying and insulting
- Retain current configuration
- Prefer Council to build multi storey all day parking for workers
- Workers pushed further out in CBD, where are they supposed to park, workers unsafe after dark
- All day or 6H for workers especially hospitality who work 12H days
- Vulnerable workers, working until after dark, particularly in winter feel unsafe to walk several blocks to fringe areas on poorly lit streets
- Difficult for staff parking, resents time being unrestricted around Council Chambers
- Please leave existing all day parking in Tamar Street
- Leave as is or more 4H. 2H is a joke. I would even pay a fee to park
- Prefer unlimited parking in Tamar Street. I work in training business, unlimited parking beneficial for customer base
- No timed restrictions in Tamar Street. From Kerr to Moon Street should be all day unrestricted
- Please don't change
- Leave Moon Street at 2H for well-being of patients
- 1H should remain in main block (Moon to Cherry)
- Keep centre as it is. Need loading zones and staff all day parking
- Customers need at least 1H
- Multistorey carpark should be developed behind Wigmore Arcade

- No changes to unrestricted zone in Tamar Street. We rely on parking here for all day students
- Need full day car park. Crane Street residents would be annoyed by workers parking
- Need more unrestricted or longer-term parking for personal services/hairdressing clients

Study Recommendation 1 – Responses from Residents

There were 58 online proforma responses and one other submission from Ballina Shire residents.

Seven responses agreed with the recommendation, 52 responses opposed the recommendation.

Typical issues raised and comments by residents included:

- Change to 1/2H in no one's interests. Elderly need longer times. Leave min 1H
- At least 1H. 1/2H insufficient for café and aged shoppers
- Need min 2H to support businesses. Any less insufficient to visit multiple shops/businesses
- Leave it alone
- Shortened times or paid parking not a good idea. Need longer term for staff
- Multi storey car park at back of arcade. Free for staff/owners and small fee for shoppers
- Local residents should have permits to park longer than posted
- Min 2H to shop or eat, otherwise won't come to CBD
- Current times are suitable
- Continue unrestricted parking Tamar Street and carpark adjacent to Moon and Tamar Streets
- Leave as it is
- No change, it is difficult enough now for doctor appointment, shopping or café visit
- Parking changes ridiculous, will lose customers and how can staff afford to park
- Leave as is, it works fine

10.2 Ballina CBD Parking Study - Public Exhibition

- Would like all day parking for employees. There is lack of loading zones in CBD
- 1/2H too short for medical appointments.

Recommendation 1 – Responses from Others

There were nine online proforma responses from others. One response agreed with the recommendation, eight responses opposed the recommendation.

Typical issues raised and comments by “others” included:

- Preference 2H
- Leave as is
- Mix of timed parking from 1/2H to 2H, clearly marked and colour coded would be good
- Leave unrestricted area adjacent to River Street, Tamar Street and Tamar Village car park. Min 2H elsewhere
- Business will find changes supportive.

Study Recommendation 1 – Summary of Submissions

There was little support, and overwhelming opposition from all submission categories to the recommended timed parking changes. Whilst opposition from workers (who would be further displaced to the fringe areas) is understandable, the majority of business owner respondents and the Ballina Chamber of Commerce also opposed the changes.

Whilst the majority of opposition was to shortened parking times, there was also opposition to proposed unrestricted parking (now 2H) in River Street (Kerr Street to Grant Street) as businesses feared parking by displaced workers from the CBD core would occupy spaces needed by their customers.

Shorter term parking with high turnover has traditionally been considered beneficial to adjacent businesses.

The submissions indicate that this situation may have shifted as the CBD caters for longer lasting transactions involving hospitality (cafes etc), longer bank visits, medical/dental appointments, hair dressing, window shopping, training sessions and the like.

This shift may have been influenced by the growth of online shopping, competition from large “box” shopping centres with unlimited parking and a view that a visit to the CBD is a form of outing, particularly for the growing elderly portion of the population.

Given that the objective of CBD timed parking is to ensure optimum turnover to support customer access to CBD businesses and business turnover/profitability, there seems little point in pursuing changes that are not supported by businesses and believed by a significant majority of responding businesses to be detrimental to their ongoing viability.

Study Recommendation 2 – Increased Enforcement/Parking Sensors

The parking study advised

“The duration of stay parking data indicated that there is a widespread issue of parking overstay in time restricted spaces. It is noted that one of the largest constraints of parking enforcement is availability of staff. As such, it is recommended that in-ground parking sensors are installed in 1/2P spaces. Benefits of adopting parking sensors are outlined below:

- *Parking sensors allow Council officers to accurately determine how long a car has been parked, allowing for a more efficient enforcement of time-restrictions.*
- *Parking sensors provide real time data and trend around usage patterns to inform policy decisions and can also be linked to dynamic parking availability signage.*
- *The sensors can be used to produce an updated report on parking utilisation*
- *Enforcement information captured has been used as evidence in appeals of fines, and is reliable*
- *Increases the efficiency of enforcement, increasing revenues and reducing exposure of enforcement officers to passing vehicles and complaints.”*

Study Recommendation 2 – Responses

Business Owners - There were 28 online Yes/No proforma responses to this recommendation. 10 responses agreed with the recommendation, 18 responses opposed the recommendation.

The Chamber of Commerce responded with the following view:

In relation to the sensor-based parking enforcement, the Chamber believes careful economic viability assessment would be required to validate any decision on this matter. With that said, the introduction of 'smart technology' features into our CBD is something that we believe Council should be considering and were Council to invest in such technology for parking enforcement it should be considered in the context of a comprehensive smart city management plan. Of great interest here is opportunities for the introduction of CCTV. As I'm sure Council are aware other opportunities exist within this realm such as real-time signage for parking/events/warnings, flood/drain/air quality sensors, traffic analytics, electric vehicle charging spot occupancy & availability and also waste management matters.

CBD Workers - There were 79 online Yes/No proforma responses to this recommendation. 13 responses agreed with the recommendation, 66 responses opposed the recommendation.

Ballina Shire Residents - There were 58 online Yes/No proforma responses to this recommendation. 13 responses agreed with the recommendation, 45 responses opposed the recommendation.

Other Responses - There were 12 online Yes/No proforma responses to this recommendation. Three responses agreed with the recommendation, five responses opposed the recommendation.

Typical issues raised and comments in regard to Recommendation 2 included:

- Just revenue raising
- Unnecessary and costly
- Money better spent providing more parking spaces
- Support sensors so more customers can park
- Prefer to keep people employed and spaces turning over
- Have lost customers due to parking fines
- Good use of technology to improve compliance
- No leeway for persons a few minutes late
- Sensors will discourage people from CBD
- Cost to ratepayers a concern
- Would support if more unrestricted areas to park
- Put people out of jobs, unfriendly welcome to Ballina Shire Council
- Disruptive roadworks for installation
- It's unfair
- Damage in king tides
- Prefer paid parking to fines
- Too invasive, big brother
- Support because policing parking now nonexistent in our area.

Study Recommendation 2 – Summary of Submissions

Overall 39 responses supported the recommendation for inground sensors and 133 were opposed.

Much of the opposition was attributed to high installation and maintenance costs of the devices and a preference to allocate available Council funds elsewhere.

Issues of job losses, privacy, unfairness and unfriendliness were also a concern.

Support was largely based on providing improved customer parking turnover, more efficient compliance and better use of technology.

Recommendation 2 is aimed at providing more effective and cost-efficient timed parking compliance by Council's Rangers.

The use of technology for improving the cost efficiency and effectiveness of the Rangers compliance activities is an operational matter that has been under active investigation for some time by Council's Public and Environmental Health Section.

This has included a recent trial of number plate recognition equipped vehicles. Increased use of this technology is being integrated into Council's parking enforcement program.

Investigations regarding sensors are ongoing. Separate reporting will be provided to Council in relation to sensor costing in the event that sensors are ultimately recommended for installation.

Study Recommendation 3 – Line-Mark Unmarked Bays

The parking study advised that to ensure kerbside parking on streets within the commercial hub is used most efficiently, it is recommended that parking spaces are line marked in unmarked sections of the following streets:

- River Street, between Kerr Street and Grant Street
- River Street, between Martin Street and Norton Street
- Tamar Street, between Kerr Street and Martin Street

Study Recommendation 3 – Responses

Business Owners - There were 28 online Yes/No proforma responses to this recommendation. 22 responses agreed with the recommendation, six responses opposed the recommendation.

CBD Workers - There were 78 online Yes/No proforma responses to this recommendation. 61 responses agreed with the recommendation, 17 responses opposed the recommendation.

Ballina Shire Residents - There were 57 online Yes/No proforma responses to this recommendation. 42 responses agreed with the recommendation, 15 responses opposed the recommendation.

Other Responses - There were nine online Yes/No proforma responses to this recommendation. Seven responses agreed with the recommendation, two responses opposed the recommendation.

Typical issues raised and comments in regard to Recommendation 2 included:

- More parking, more efficient
- Fit more vehicles
- Assist maximising parking spaces

- Less waste more cars can park
- People can't park properly
- Not parking properly can throw whole area out
- Unnecessary
- Easier to park
- People constantly take up two spaces
- Works fine as is. Lines not good for trailers
- Generally lines marked too close for doors to open and exit
- It needs doing
- Just makes sense
- Improved efficiency
- Would fit more cars
- Seems pointless, a lot of unmarked areas on grass
- Parking more orderly.

Study Recommendation 3 – Summary of Submissions

Overall 131 responses supported the recommendation for line marking unmarked bays and 40 were opposed.

Support was attributed to reducing wastage of space, providing more parking spaces, more orderly, efficient and easier parking.

Submissions opposing mostly considered line marking unnecessary and one submission considered line marking unsuitable for vehicles with trailers.

This recommendation was well supported by all categories of respondents who saw this as a low cost, efficient way of ensuring maximum utilisation of the limited available parking space.

Implementation of this recommendation will also require the Local Traffic Committee to formally support provision of angle parking in those unmarked areas where angle parking is practiced, but the necessary authorisation has not yet been provided.

The study limits its recommendation to line marking unmarked bays in River Street and Tamar Street.

However, given that the data shows a substantial proportion of workers displaced from the central CBD are parking in fringe residential areas like Crane Street, it may be useful over the longer term to formalise (through the Local Traffic Committee) in these streets (where practical, dependent on road geometry/widths etc), the current unlawful, but widespread angle parking, provide associated parking signage, line mark bays and progressively reconstruct and seal unsealed shoulders.

Free Form Feedback

Typical comments provided not already covered in responses to the study recommendations include:

- Would be great if CBD workers could pay for parking so would not have to move cars during working hours
- Need all day multi storey parking facility for workers, long term customers and students (possibly rear of Wigmore Arcade)
- Council needs to consider employees and business owners safety
- One day parking data sample is insufficient and not indicative of actual parking behaviour. Needs to be collected at an agreed time to get fair and true outlook of what it is today
- Should be untimed parking permits (even with small fee) for unit residents
- Encourage walking and cycling
- Provide for staff parking either close by or using shuttle bus service
- Provision of residents only parking areas
- No consideration for increasing accessible parking spaces
- I don't feel safe walking from Tamar Street to Crane Street in the dark
- Can owners be encouraged to provide more spaces at the rear of their premises, or discuss with RSL use of the back section of their car park
- More options needed for additional parking, eg between end of Fawcett St and the CWA
- Local residents frustrated by workers parking outside their homes
- Parking should be assessed around same time of year, annually
- Study ignores defacto privately owned car park on corner of Cherry and Crane Streets
- Additional loading zones for freight trucks
- Making River Street 4 lanes from Kerr to Grant Street will take valuable parking space.

The provision of additional and time unlimited parking, particularly for employees and their safety) is the most frequent issue raised.

Whilst the study has identified that parking average and peak occupancy has increased since the last study (2004/05), it also indicates that at all times (including peak occupancy times), substantial unoccupied parking areas remain in fringe areas.

Provision of funding for additional Ballina CBD parking supply has not been a Council funding priority. There is no funding provision for this infrastructure in Council's Long Term Financial Plan.

Some submissions suggest paid parking permits for workers and others. This would be costly to administer but could raise some net revenue.

However it does not increase parking supply and provision of permit reserved spaces would further reduce parking supply for non-permit holders.

If Council was interested in this direction, the next step would be to assess the costs and determine if the net revenue could viably support more parking infrastructure or another desired but unrelated program of Council.

The Chamber of Commerce suggestion for improved walkability and street lighting from the CBD to fringe parking areas could assist addressing the issue raised of walking safety in the dark for vulnerable employees, albeit the overall crime statistics for Ballina Shire, including the CBD, are relatively very low when benchmarked to other areas.

The study data and submissions have identified the presence of under-utilised fringe CBD private car parking areas that may be partially utilised for daytime parking for CBD workers.

Provision of annual/monthly paid parking permits or similar for reserved parking spaces on these areas may be a cost-effective way of utilising the land.

Further consideration of this matter is beyond the scope of this report and is a matter for individual landowners.

Provision of additional special spaces for disabled parking, loading zones and the like have not been specifically investigated in this study.

These matters are raised from time to time with the Local Traffic Committee and are dealt with on a case-by-case basis.

The provision of on street "permit" parking for adjacent multi storey unit residents has also been considered by the Local Traffic Committee but has not been supported due to; very high administrative costs; and on-site parking (at least one per residence) being already provided within multi storey unit developments.

The proposed lane duplication of River Street between Kerr Street and Grant Street and associated reduction in parking spaces to accommodate the extra lane of traffic will be addressed in a future Council report.

Provision of Multi Storey Car Parking Facility

This facility was frequently requested in many submissions, particularly from CBD workers.

The “Ballina Shire Parking Contributions Plan 2014” has provision for a 255 space, multi-storey car park at the rear of the Wigmore Arcade.

The estimated cost in the Contributions plan is \$6,500,000 (\$25,490 per space).

The ABS non-building construction cost index (NSW and Qld) show a cost rise of over 40% since these estimates were prepared in 2014.

The contributions plan is not designed to provide net additional parking supply for the Ballina CBD.

It is established to enable new developments to be approved, that have insufficient site area, to contribute to a funding pool (for future car park construction by Council), as an alternative to providing on-site parking.

The current contribution rate in the plan for each “unsupplied” parking space is \$31,635.

At 30 June 2023 there was a total of \$810,000 in the funding pool for parking in the Ballina CBD, this was an increase of \$26,000 during 2022/23.

This level of contributions does not indicate there will be sufficient funds for a likely start of construction in the foreseeable future.

If a multistorey car park is to be provided to increase the CBD parking supply for current users, this would be outside the scope of the Contributions Plan and additional sources of funding would be required.

Delivery Program Strategy / Operational Plan Activity

The optimisation of parking opportunities and associated regulation in the Ballina CBD is consistent with the Delivery Program Strategy PE2.1 which is to ‘Provide an efficient and cost-effective regulatory environment for doing business’ and Delivery Program Strategy EL3.3 which is to ‘Deliver responsive and efficient services’.

Community Engagement Strategy

The Study and recommendations were publicly exhibited on Council’s website during November 2023 and hard copy letters advising of the exhibition and call for submissions were distributed to businesses, owners and occupiers in the study area.

The exhibition website was visited 1,166 times and the number of submissions and comments received indicated widespread engagement.

Financial / Risk Considerations

Implementation of the Study recommendations for changed time parking zones and signage, marking/remarking parking bay edge lines, installation of parking sensors and changes to associated enforcement practice would require funding in future budgets.

Failure to determine the best mix of parking arrangements may result in sub-optimal parking management of public parking spaces in the Ballina CBD and the associated risk of not providing appropriate support for CBD businesses and customers.

Options

The study has provided valuable data of current parking behaviour and occupancy of Ballina CBD streets and off-street parking areas in half hour steps during a reasonably typical 2023 weekday.

The subsequent submissions have identified that whilst there is substantial agreement for the line marking recommendation, there is widespread opposition from all identified groups to the recommendations for timed parking changes and provision of parking sensors. Difficult trade-offs are also identified between the interests of businesses and the amenity/welfare of workers.

Whilst the study recommendations could, despite the opposition, be adopted in full as being the best way to improve parking turnover, there is considered to be sufficient evidence provided in submissions to justify adopting a modified form of the recommendations.

Accordingly, the options available to Council are:

Option 1 – Adopt the study recommendations in full

As well as the widespread community opposition, the evidence provided in submissions, particularly from business owners and the Chamber of Commerce, indicates that proposed changes to timed parking will not benefit and will be detrimental to business.

As the principal objective of Council for Ballina CBD parking management is to support business, unmodified adoption of the study recommendations is not considered to be in the interests of these key stakeholders

Option 2 – Adopt a modified version of the study recommendations:

This modified version arising from consideration of submissions includes:

- Take no action on proposed changes to timed parking zones
- Integration of technology that supports the efficiency and effectiveness of Council's parking enforcement program. Sensors may form part of this approach

- Adopt the proposal, to within the study area, line mark unmarked parking spaces in River Street and Tamar Street. In addition progressively line mark, provide signage, shoulder seal, and seek Local Traffic Committee support for formal angle parking (where street geometry suitable) in Crane Street and connecting streets to the Ballina CBD
- Investigate and provide cost estimates for improving walkability and street lighting for pathways connecting the CBD to unrestricted parking areas in fringe residential streets.

Option 3 – Take no further action

If Council is satisfied that the operation of the CBD parking does not need any changes now, it is an option to take no further action, noting the contents of the Study and submissions and retain as a reference for a time when making some changes are appropriate.

RECOMMENDATIONS

1. That based on the submissions outlined in this report Council take no action on implementation of the study recommendation for proposed time parking zone changes.
2. That Council continues to seek opportunities for the use of technology to support efficient and effective implementation of Council's parking enforcement program.
3. That subject to funding in future budgets, Council approves within the study area, the proposed line marking of unmarked parking spaces in River Street and Tamar Street.
4. That subject to funding in future budgets, Council progressively line mark, provide signage, shoulder seal and seek Local Traffic Committee support for formal angle parking (where the street is geometry suitable) in Crane Street and connecting streets to the Ballina CBD.
5. That Council investigate cost estimates for improving walkability and street lighting for pathways connecting the CBD to unrestricted parking areas in fringe residential streets for consideration in future budgets.

Attachment(s)

1. Ballina CBD Parking Study - 23 May 2023 [⇒](#)
2. Ballina CBD Parking Study - Submissions Report [⇒](#)

10.3 Policy (Review) - Road Closing Applications for Public Roads

10.3 Policy (Review) - Road Closing Applications for Public Roads

Section Infrastructure Planning

Objective To review the Road Closing Applications for Public Roads Policy.

Background

All of Council's existing policies are progressively reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Road Closing Applications for Public Roads policy.

Council first adopted this policy on 26 June 2008.

The policy describes the road closing application process and provides the criteria used to assess applications.

Key Issues

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

Discussion

This review of this policy identified changes as follows:

- There are multiple word and format changes to the existing policy to make the policy easier to understand.
- Additional sections are added to explain when applications will be considered suitable, the assessment criteria have been expanded and when exceptions may be applicable.
- The intent of the policy has not changed, with the emphasis on assessing applications to ensure council owned public road reserves are preserved for future uses where appropriate.

The changes have been marked in yellow.

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

A copy of the amended policy is attached to the report.

Delivery Program Strategy / Operational Plan Activity

This policy forms part of broader road asset management initiatives (EL2.1k).

Community Engagement Strategy

Although there are multiple format changes, the changes are to clarify and expand the intent of the existing policy and 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

There are only a few road closing applications assessed each year which meet Council's eligibility criteria.

The fee for these applications is not significant.

The risk is low as all costs are met by the applicant.

Options

Council may accept or amend the proposed changes to the policy.

The changes included are 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, that no further action is required.

RECOMMENDATIONS

1. That Council adopts the amended Road Closing Applications for Public Roads 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) - Road Closing Applications for Public Roads [⇒](#)

10.4 Policy (Review) - Footpaths and Cycleways - Inspection and Maintenance

10.4 Policy (Review) - Footpaths and Cycleways - Inspection and Maintenance

Section	Engineering Works
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Objective	To review the Footpaths and Cycleways - Inspection, Evaluation and Maintenance 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 Footpaths and Cycleways – Inspection, Evaluation and Maintenance policy.

The policy outlines the risk management-based strategy for the public path network in the shire.

Council first adopted this policy in December 2003, and it was last reviewed in January 2020.

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

Key Issues

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

Discussion

This policy was created following the creation of the Civil Liability Act in 2002.

This Act provides councils with certain defences for public liability claims.

In very general terms one of the defences available to a council is the decision to allocate resources and prioritise a level of program delivery based on the allocated funds, and this is a decision only a council can make considering all of the circumstances.

In other words councils have limited resources and maintenance needs to be balanced against those limited resources.

After the creation of the Act, it was recommended that councils adopt policies and procedures that demonstrate how the council has turned its mind to allocating resources and prioritising programs, as this would provide further support the application of the statutory defence, when responding to a claim.

With the maturing of Council's planning under the integrated planning framework, the policy can now be considered redundant as the objectives of the policy are now achieved across a broader range of documents. There is a risk that as these documents continue to be updated, the application of the policy becomes confusing within the hierarchy of documents or worse, generates a level of inconsistency in the documentation.

10.4 Policy (Review) - Footpaths and Cycleways - Inspection and Maintenance

These other documents include:

- Strategic Asset Management Plan
- Asset Management Plan – Roads and Transport
- Long Term Financial Plan
- Pedestrian Access and Mobility Plan
- Bike Plan
- Footpath and Cycleway Inspections Procedure.

These documents, as a framework, are reviewed against the Statewide Mutual (Council's insurer) Best Practice Manual – Footpaths to ensure the framework follows the recommendations of the manual.

These documents are reviewed and updated as required.

Importantly, the Footpath and Cycleway Inspections Procedure covers programming inspections, determines defect intervention levels, recording and prioritising defects and generating work requests in response.

The other documents respond to the need to determine budget allocation and program priorities.

In light of the above, the recommendation to this report is to rescind the policy.

In case Council prefers to retain the policy, a revised policy document has been prepared and a copy of this is included as Attachment 2.

The changes in the updated policy include:

- the title changed to Footpaths and Shared Paths Management
- administrative changes to the format and wording of the policy to clarify the objectives of the policy; to note the full scope of existing Council documents that make up the paths management strategy; and to make the policy easier to understand
- inclusion of references and descriptions of all Council documents and legislation that relate to the management of the public path network

Delivery Program Strategy / Operational Plan Activity

This policy forms part of broader built infrastructure (CC1.3), connectivity (PE3.3) and road asset management (EL2.1-3) initiatives.

Community Engagement Strategy

If Council proposes to continue with a policy, it is recommended that Council adopt the draft updated policy as presented and exhibit for public comment. If any submissions are received, they can be reported back to Council. There will not be a need for a further report if there is no public comment.

Financial / Risk Considerations

It is important Council's documents follow the recommendations in our insurer's Best Practice Manual for risk management for footpaths and Guidance Notes for shared paths.

10.4 Policy (Review) - Footpaths and Cycleways - Inspection and Maintenance

The recommended approach supports this direction enabling Council to consider within a framework and on an ongoing basis, the financial and resource implications, and limitations of careful and considered risk management and delivery activities to ensure paths are safe, maintained and enhanced.

Options

It is recommended, for the reasons documented, that this policy be rescinded.

If Council retains a preference for a policy, an updated draft policy has been provided. Council may accept, or amend, the proposed changes to the policy and place this policy on exhibition in the usual process, with the policy considered adopted with no further actions required if there are no submissions.

RECOMMENDATION

That Council approves the rescission of the Footpaths and Cycleways – Inspection, Evaluation and Maintenance Policy, due to Council now having a more comprehensive suite of documents to manage footpaths and cycleways, including the following:

- Strategic Asset Management Plan
- Asset Management Plan – Roads and Transport
- Long Term Financial Plan
- Pedestrian Access and Mobility Plan
- Bike Plan
- Footpath and Cycleway Inspections Procedure.

Attachment(s)

1. Policy (Current) - Footpaths and Cycleways - Inspection, Evaluation and Maintenance ➡
2. Policy (Review) - Footpaths and Shared Paths Management ➡

11. Notices of Motion

Nil Items

12. Advisory Committee Minutes

12.1 Commercial Services Committee Minutes - 14 February 2023

Attendance

Crs Sharon Cadwallader (Mayor - in the chair), Kiri Dicker (on-line), Simon Chate, Eoin Johnston, Stephen McCarthy, Nigel Buchanan (on-line), Eva Ramsey, Phillip Meehan and Rodney Bruem.

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

There were no people in the gallery at this time.

1. Acknowledgement of Country

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

2. Apologies

An apology was received from Cr Jeff Johnson.

RECOMMENDATION

(Cr Simon Chate/Cr Eva Ramsey)

That such apology be accepted and leave of absence granted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson

3. Declarations of Interest

Cr Stephen McCarthy – later in the meeting declared an interest in Item 5.2 – Debtor Write-offs. (Nature of Interest: non significant, non pecuniary – FSG Australia was one of his tenants at one time). He remained in the meeting while the matter was discussed and voted on the matter.

Cr Eoin Johnston – later in the meeting declared an interest in Item 5.5 – Industrial Land Subdivision – Lot 1 Boeing Avenue, Ballina – Update. (Nature of Interest: non pecuniary, non significant– his son is a Real Estate Agent). He left the meeting while the matter was discussed.

4. Deputations

Nil

5. Committee Reports

5.1 Policy (Review) - Commercial Use of Footpaths

RECOMMENDATION

(Cr Stephen McCarthy/Cr Eva Ramsey)

1. That Council adopts the amended Commercial Use of Footpaths Policy, as per Attachment 1 to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received, then no further action is required.
3. That Council receive a further report on the implications of the foreshadowed phase out of kerbside dining.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson

Cr Stephen McCarthy, at this point, declared an interest in Item 5.2. (Nature of Interest: non significant, non pecuniary – FSG Australia was one of his tenants at one time). He remained in the meeting while the matter was discussed and voted on the matter.

5.2 Debtor Write-offs

RECOMMENDATION

(Cr Phillip Meehan/Cr Eoin Johnston)

That Council approves the write-off of \$151,157.66 owed by Virgin Australia and \$2,043.01 owed by FSG Australia as per the contents of this report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson

5.3 Ballina Marina Master Plan

RECOMMENDATION

(Cr Rodney Bruem/Cr Stephen McCarthy)

1. That Council notes the contents of this report in respect to the current status of the Ballina Marina Master Plan.
2. That Council authorises the Mayor to make further representations to the State Government and our local Member to progress the Ballina Marina Master Plan either through State Government agencies or through an equity agreement with Council.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Jeff Johnson

5.4 Southern Cross Expansion Precinct - Rezoning

A **Motion** was moved by Cr Rodney Bruem and seconded by Cr Stephen McCarthy

1. That Council notes the contents of this report regarding the land use planning conflicts between the Southern Cross Expansion Precinct Rezoning and the Ballina Byron Gateway Airport Land Use Plan.
2. That Council authorises the Mayor to make further representations to the State Government and Minister for Planning to identify opportunities that would allow the Southern Cross Expansion Precinct – Rezoning to proceed, to then provide critical employment lands for the Northern Rivers region.

An **Amendment** was moved by Cr Kiri Dicker

1. That Council notes the contents of this report regarding the land use planning conflicts between the Southern Cross Expansion Precinct Rezoning and the Ballina Byron Gateway Airport Land Use Plan.
 - a.
 2. That Council proceed with the Ballina Byron Gateway Airport Land Use Planning project and pause investigations on the Southern Cross Expansion Precinct until we have a better understanding of the flood impacts.
 - b.

The **Amendment LAPSED**.

The **Motion** was **CARRIED**.

RECOMMENDATION

(Cr Rodney Bruem/Cr Stephen McCarthy)

1. That Council notes the contents of this report regarding the land use planning conflicts between the Southern Cross Expansion Precinct Rezoning and the Ballina Byron Gateway Airport Land Use Plan.

2. That Council authorises the Mayor to make further representations to the State Government and Minister for Planning to identify opportunities that would allow the Southern Cross Expansion Precinct – Rezoning to proceed, to then provide critical employment lands for the Northern Rivers region.

FOR VOTE - Cr Sharon Cadwallader, Cr Simon Chate, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nigel Buchanan, Cr Eva Ramsey, Cr Phillip Meehan and Cr Rodney Bruem

AGAINST VOTE - Cr Kiri Dicker

ABSENT. DID NOT VOTE - Cr Jeff Johnson

5.5 Industrial Land Subdivision - Lot 1 Boeing Avenue, Ballina - Update

RECOMMENDATION

(Cr Phillip Meehan/Cr Kiri Dicker)

1. That Council authorises the sale of Lots 1 to 9 (inclusive) in proposed plan of subdivision of Lot 1 DP 1290238 and authorises the General Manager to set the price reserve based on market conditions and the current high level of demand for industrial land.
2. That the contracts for sale of Lots 1 to 9 (inclusive) in point 1, are to include “use it or lose it” provisions to reduce the possibility of land purchase for property speculation and land banking.
3. That Council retain Lots 10 11 and 12 in plan of subdivision of Lot 1 DP 1290238 for potential lease, with the General Manager authorised to undertake a marketing campaign for prospective tenants for the remaining lots, with any proposal to be reported back to Council.
4. That Council notes the preferred approach for the provision of additional car parking and car storage facilities for the Ballina – Byron Gateway Airport (BBGA) is located on BBGA land, as per the contents of this report.
5. That in respect to point 1, the General Manager is authorised to execute all necessary sale documents and affix the Council seal to same.
6. That Council receives a report on the option of Council directly marketing and selling this land.

Cr Eoin Johnston, at this point when discussions revolved around appointment of Real Estate Agents, declared an interest in this item. (Nature of Interest: non pecuniary, non significant– his son is a Real Estate Agent). He left the meeting at 5.36pm

FOR VOTE - Cr Kiri Dicker, Cr Simon Chate, Cr Stephen McCarthy, Cr Eva Ramsey and Cr Phillip Meehan

AGAINST VOTE - Cr Sharon Cadwallader, Cr Nigel Buchanan and Cr Rodney Bruem

ABSENT. DID NOT VOTE - Cr Jeff Johnson

Cr Eoin Johnston returned to the meeting at 5.52pm

5.6 Tender - Key Worker Housing Proposal

A **Motion** was moved by Cr Rodney Bruem and seconded by Cr Simon Chate

1. That Council confirms its preference is to undertake a residential housing development, on a staged basis, as outlined in Table 5, and as outlined in Attachment 2, to this report.
2. Lots 19 to 30 on the plan of subdivision, as per Attachment 1 to this report, are to be retained to allow the completion of Stage 1 (Lots 19, 20,21,22 and 30), with a determination on whether Council proceeds to Stage 2 or Stage 3 dependent on the outcomes secured from Stage 1.
3. That Council approves the sale of lots 1 to 18 on the plan of subdivision, as per Attachment 1 to this report, subject to a further report being presented to Council on the timing and method of sale for those lots.
4. That Council accepts the tender from The Kollektive, as per the confidential memorandum included as Attachment 5 to this report.
5. That Council confirms funding for Stage 1 of the residential housing project is to be sourced from a combination of loan funds, land value and cash held, with that mixture of funding to be confirmed through a future report to Council.
6. That Council approves the attaching of the Council seal to the contract documents as per point 1 and the sale contracts as per point 3.
7. That Council receive a report on the costs and implications of bringing forward the DA for the Council landholding in Lennox Head in the 2024/25 Delivery Program .

An **Amendment** was moved by Cr Stephen McCarthy

1. That Council confirms its preference is to undertake a residential housing development, on a staged basis, as outlined in Table 5, and as outlined in Attachment 2, to this report.
2. Lots 19 to 30 on the plan of subdivision, as per Attachment 1 to this report, are to be retained to allow the completion of Stage 1 (Lots 19, 20,21,22 and 30), with a determination on whether Council proceeds to Stage 2 or Stage 3 dependent on the outcomes secured from Stage 1.
3. That Council approves the sale of lots 1 to 18 on the plan of subdivision, as per Attachment 1 to this report, subject to a further report being presented to Council on the timing and method of sale for those lots.
4. That Council accepts the tender from The Kollektive, as per the confidential memorandum included as Attachment 5 to this report.
5. That Council confirms funding for Stage 1 of the residential housing project is to be sourced from a combination of loan funds, land value and cash held, with that mixture of funding to be confirmed through a future report to Council.

6. That Council approves the attaching of the Council seal to the contract documents as per point 1 and the sale contracts as per point 3.

The **Amendment LAPSED**.

The **Motion** was **CARRIED**.

RECOMMENDATION

(Cr Rodney Bruem/Cr Simon Chate)

1. That Council confirms its preference is to undertake a residential housing development, on a staged basis, as outlined in Table 5, and as outlined in Attachment 2, to this report.
2. Lots 19 to 30 on the plan of subdivision, as per Attachment 1 to this report, are to be retained to allow the completion of Stage 1 (Lots 19, 20,21,22 and 30), with a determination on whether Council proceeds to Stage 2 or Stage 3 dependent on the outcomes secured from Stage 1.
3. That Council approves the sale of lots 1 to 18 on the plan of subdivision, as per Attachment 1 to this report, subject to a further report being presented to Council on the timing and method of sale for those lots.
4. That Council accepts the tender from The Kollektive, as per the confidential memorandum included as Attachment 5 to this report.
5. That Council confirms funding for Stage 1 of the residential housing project is to be sourced from a combination of loan funds, land value and cash held, with that mixture of funding to be confirmed through a future report to Council.
6. That Council approves the attaching of the Council seal to the contract documents as per point 1 and the sale contracts as per point 3.
7. That Council receive a report on the costs and implications of bringing forward the DA for the Council landholding in Lennox Head in the 2024/25 Delivery Program .

FOR VOTE - Cr Sharon Cadwallader, Cr Kiri Dicker, Cr Simon Chate, Cr Eoin Johnston, Cr Stephen McCarthy and Cr Rodney Bruem

AGAINST VOTE - Cr Nigel Buchanan, Cr Eva Ramsey and Cr Phillip Meehan

ABSENT. DID NOT VOTE - Cr Jeff Johnson

5.7 Land Acquisition – Opportunity

RECOMMENDATION

(Cr Phillip Meehan/Cr Stephen McCarthy)

That Council notes the contents of this report, which provides the background to the Land Acquisition – Opportunity report, which is included as a confidential report in this agenda.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Jeff Johnson

6. Confidential Session

RECOMMENDATION

(Cr Simon Chate/Cr Eoin Johnston)

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

6.1 Land Acquisition - Opportunity

Reason for Confidentiality

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as it may compromise negotiations.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Jeff Johnson

(The Council moved into Confidential Session at 6.32pm).

Open Council

RECOMMENDATION

(Cr Rodney Bruem/Cr Simon Chate)

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

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Jeff Johnson

(The Council moved into Open Council at 6.50pm).

Cr Kiri Dicker left the meeting at 06:50 pm

The Mayor reported to the Open Meeting the recommendation made while in Confidential Session:

6.1 Land Acquisition - Opportunity

RECOMMENDATION

(Cr Phillip Meehan/Cr Eva Ramsey)

That Council notes the contents of this report in respect to a possible land acquisition and take no further action.

FOR VOTE - Cr Sharon Cadwallader, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nigel Buchanan, Cr Eva Ramsey, Cr Phillip Meehan and Cr Rodney Bruem
AGAINST VOTE - Cr Kiri Dicker and Cr Simon Chate
ABSENT. DID NOT VOTE - Cr Jeff Johnson

Adoption of Recommendation from Confidential Session

RECOMMENDATION

(Cr Eva Ramsey/Cr Phillip Meehan)

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

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Kiri Dicker and Cr Jeff Johnson

MEETING CLOSURE

6.51pm

RECOMMENDATION

That Council confirms the minutes of the Commercial Services Committee meeting held 14 February 2024 and that the recommendations contained within the minutes be adopted.

Attachment(s)

Nil

13.1 Mayoral Meetings

13. Reports from Councillors on Attendance on Council's behalf

13.1 Mayoral Meetings

Councillor Sharon Cadwallader

Activities I have attended, or propose to attend, as at the time of writing this report, since the December 2023 Ordinary meeting are as follows:

<u>Date</u>	<u>Meeting</u>
15 December	Lennox Head Surf Club 50 th Anniversary event
16 December	Wardell Dinner and Christmas Carols
19 December	NSW Reconstruction Authority meeting
20 December	Alstonville Wollongbar Chamber of Commerce AGM
21 December	NSW Reconstruction Authority meeting – Vision for the Region
25 December	Crowley Village Christmas visit
25 December	St Mary's Christmas visit
<u>2024</u>	
12 January	RHP Property Homes Update – Ballina LGA
16 January	Cr Briefing – State Government Diverse and Well-Located Housing Reforms
18 January	NRCG January Exhibitions Launch
19 January	Community Safety Precinct Committee meeting
22 January	Land use meeting – Teven Road, West Ballina
22 January	Cr Briefing – Pesticide occurrence in a subtropical estuary, Australia: Complementary sampling methods
24 January	Australia Day briefing
24 January	Camp Drewe site visit with new Manager, Samuel Tilley
24 January	Cr Briefing – Fire Ants
24 January	Wardell Community Forum – Fire Ants (Dept of Primary Industries)
25 January	Ballina Shire Council Australia Day ceremony
30 January	Cr Site Inspection – a1 Smiths Lane, Wollongbar (DA 2022/690 - Additions to existing Childcare Centre)
1 February	Airbnb meeting re housing and cost of living challenges
1 February	Resident meeting regarding taxation and housing
5 February	Resident meeting regarding fencing issue
5 February	Lennox Head Residents Association meeting
6 February	Country Mayors AUKUS Forum – Nuclear Taskforce meeting
7 February	ACCA Zoom meeting
7 February	Funeral service for Kevin Geoghan
8 February	Meeting with Dugald Saunders MP, Shadow Minister for Regional NSW and Richie Williamson MP, Member for Clarence
8 February	Meeting with Minister Scully's Planning Policy Advisor re Vision for the Region, flexibility of compliant development codes and land banking
8 February	Meeting with Women's Safety Commissioner Dr Hannah Tonkin
8 February	Meeting with Hon Stephen Kamper MP, Minister for Lands and Property re risk management Seven Mile Beach; the old depot site; West Ballina Marina and Council's request to reopen South Ballina Beach Road
8 February	Meeting with the Treasurer's Senior Policy Officer re emergency services levy, priority investment in the digital divide, tax reforms / affordable housing and electoral funding distribution

13.1 Mayoral Meetings

9 February	National Regional Housing Summit 2024, Canberra
12 February	ACCA Zoom meeting
12 February	Northern Rivers Community Leaders Forum – Mayors and MPs
13 February	Ballina Shire Economic Activation Group
14 February	Local Traffic Committee Meeting
14 February	Resident meeting re screening at Lennox Head
14 February	Commercial Services Committee meeting
16 February	NRJO Board Meeting
17 February	Duck Creek Film Society screening
19 February	Bowls NSW 2025 State Championships meeting
20 February	Ballina Players' returning officer meeting
21 February	Rous County Council meeting
21 February	Wardell Progress Association meeting
22 February	Ordinary meeting

RECOMMENDATION

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

Attachment(s)

Nil

14. Confidential Session

14. Confidential Session

Nil Items